

Report from the 2022 Hague Academy Summer Course in PIL



Written by Martina Ticic, University of Rijeka, Faculty of Law; Croatian Science Foundation (HRZZ) doctoral student

For anyone interested in the area of private international law, the Hague Academy of International Law and its Summer Courses on Private International Law have been one of the must-do's ever since the Academy opened its doors in 1923. Each year, hundreds of students, academics and practitioners attend the courses given by renowned lecturers, while the Academy also offers multiple social and embassy visits, an access to the famous Peace Palace Library, as well as ample opportunities for discussion between the attendees who all come from different backgrounds. It seems that this report comes in quite timely as the programme for the 2023 Summer Course has just been announced.

The 2022 edition once again proved the immense value that the Summer Courses offer. From 1 to 19 August, the Academy hosted the attendees of over 60 different nationalities, providing them with lectures and seminars on various relevant topics, some time for research and visits to many of the Hague's international organisations, but also an opportunity for exchange of ideas, networking and creating friendships. As such, the Academy was truly a place to be this summer for everyone wanting to learn more on the matters of private international law, as well as to connect with others who share the same or similar interests.

After the welcome speech by prof. **Jean-Marc Thouvenin**, Secretary-General of the Academy, this year's inaugural lecture was given by Dominique Hascher, judge at the Supreme Judicial Court of France. Judge Hascher opened the Summer Courses with the lecture on 'The Role of International Law in the Review of Awards'.

The General Course was given by **Louis d'Avout**, a professor of private international law at the Université Paris II Panthéon-Assas. Titled 'Towards

Worldwide Law Consistency', the course provided the attendees with an overview of the core idea on which the discipline of conflict of laws was built upon: the coherence of rules of individual conduct on the global level. By analysing the sole definition of private international law, coordination mechanisms, the concept of legal relativity, connecting rules and factors, transnational cooperation and vertical disciplines in the regional context, prof. d'Avout offered a holistic view on the discipline of private international law itself, making the course a necessity for anyone wishing to excel in this area of law, either as a practitioner or as an academic. Through his lecture, prof. d'Avout invited all of the participants, particularly the younger generation of lawyers, to work towards the global coherence of law, as the desirable state of the system of law in general is that of a 'social construction' which guarantees predictability and security for its subjects that are faced with various sources of law and modes of conflict resolution. The course lasted for two weeks, which meant that there was plenty of time for participants to acquaint themselves with the matter at hand. Two of the seminars on the chosen topics were also held in the course of the two weeks.

Prof. **Arnaud Nuyts**, from the Université Libre de Bruxelles, held a Special Course on 'The Forum for Cyber-Torts', which is an excellent topic in today's day and age. He highlighted the diversity of civil cyber-torts, as well as the challenges of locating the torts that are committed on-line. The course also touched particularly upon European legal framework and the guiding principles of its case law, while also analysing the 'trichotomy' of the forum for cyber-torts: the forum for the place of the causal event, the forum for the place of accessibility of the website and the forum for the centre of interests of the victim.

Prof. **Ulla Liukkunen**, from the University of Helsinki, presented her Special Course on 'Mandatory Rules in International Labour Law', another important topic considering the rising number of cross-border workers. As labour law is often connected to domestic rules, it is interesting to observe more closely the relationship between labour law and private international law. Throughout the course, the special nature of cross-border employment was acknowledged and the participants were acquainted with the concepts of triangular contracts, weaker-party protection, International Labour Organisation, the 'decent work' objective, etc. Prof. Liukkunen particularly highlighted the pluralism of regulatory sources in international labour law, and pointed to the fact that labour rights-based approach to decent work in developing regulatory private international law would

advance the necessary protection for workers and ensure decent work for all.

Prof. **Tiong Min Yeo**, from the Singapore Management University, held a Special Course titled 'Common Law, Equity, and Statute: Effect of Juridical Sources on Choice of Law Methodology'. The course offered insight into the topic of choice of law methodology and the analysis that must be done in order to select the applicable law rules. It presented three juridical sources in hierarchy: statute, equity and common law. The analysis of various case law served to explain the effects that these sources have on the choice of law methodology.

Prof. **Kermit Roosevelt III**, from the University of Pennsylvania Carey Law School, presented the topic of 'The Third Restatement of Conflict of Laws'. Throughout this Special Course, the history of American choice of law was examined so as to better understand the context of the Third Restatement of Conflict of Laws, a current project of the American Law Institute. From the beginnings of American choice of law characterised by territorialist approach in the First Restatement and the Second Restatement as a 'transitional document', to the goals and framework of the Third Restatement, the course portrayed the full picture of the American choice of law rules. One of the core ideas that prof. Roosevelt developed throughout the course is that there are two different sets of values that a choice of law system should promote: so-called 'right answer' values and 'systemic' values. While the former one relates to selecting the law of the state with the best claim to regulatory authority, the latter relates to the certainty, predictability, uniformity and ease of application of the system.

Prof. **João Bosco Lee**, from the Universidade Positivo Brazil, presented an arbitration-related topic titled 'The Application of International Conventions by Arbitrators in International Trade Disputes'. On the one hand, this Special Course examined the application of international conventions pertaining to the law applicable to the merits of the dispute in international commercial arbitration, either according to the choice of the parties or by the effect of determination of the lex cause by the arbitrator(s). On the other hand, the participants got the chance to study the cases in which international conventions could intervene in the resolution of international commercial arbitration without being the applicable law on the merits.

Prof. **Marco Frigessi di Rattalma**, from the Brescia University, held a Special Course on the 'New Trends in the Private International Law of Insurance

Contracts'. By focusing on the specific cases that emerged in the recent years in the field of private insurance, the attendees of the course were immersed in diversity of topics relating to jurisdiction and applicable law in the matters of insurance contracts, the specific types of insurance contracts, compulsory insurance against civil liability in respect of the use of motor vehicles, as well as the impact of fundamental rights on such matters. Prof. Frigessi di Rattalma posed various important questions during his analysis of the relevant issues, e.g. what can characterise as an insurance contract; whether EU law may permit derogation from the equal treatment of men and women provided by insurance contracts in accordance with the applicable national law to persist indefinitely; what exactly falls under the notion of 'use of vehicles' in regards to Directive 2009/103 on the insurance against civil liability in respect of the use of motor vehicles; etc.

Additionally, *special lectures were given in tribute to the late Professor Emmanuel Gaillard* who was originally meant to hold the General Course at the 2022 Summer Courses. These lectures were held by **Yas Banifatemi, Diego P. Fernandez Arroyo, Dominique Hascher, Horatia Muir Watt and Luca Radicati di Brozolo** respectively, each of them focusing on a particular issue related to arbitration, the topic most dear to prof. Gaillard, as well as familiarising the attendees with the persona of Emmanuel Gaillard.

In the afternoons, participants could attend seminars and some of the lectures on specific topics which were organised each week, e.g. Lecture on the Permanent Court of Arbitration by Brooks Daly, Lecture on the use of the Library by Candice Alihusain, Lecture on the International Court of Justice by Florence Zaoui, Lecture on 'Fighting Human Trafficking: the Dutch Approach' by Warner ten Kate, Lecture on the Hague Conference on Private International Law by Philippe Lortie, and 'International Commercial Arbitration: the Role of Private International Law in the Lifespan of an Arbitral Procedure' by Gerard Meijer and Camilla Perera-de Wit. For those eager to learn more, two extra short courses were held in addition: one on the law of the European Union held in the span of the first week and given by dr. Thomas Vandamme, and the other on the matters of Comparative Law, held on Saturday of the first week and given by dr. Brooke Marshall.

The participants were also given an opportunity of visiting some of the international organisations that are stationed in the Hague. For this year's

session, the Academy planned visits to the Hague Conference on Private International Law, the International Criminal Court, the Kosovo Specialist Chambers, the Organisation for the Prohibition of Chemical Weapons and the Residual Special Court for Sierra Leone. By visiting various organisations that deal with such variety of matters, the attendees got a truly immersive experience. Besides the international organisations, visits to multiple embassies were organised, so the participants also got the feel of diplomacy. Various other activities were also held, e.g. a reception at the City Hall, Beach Party, Grotius Peace Palace Library Tour and a visit of the extraordinary Peace Palace itself.

During the Courses, the most advanced attendees had the opportunity to attend the Directed Studies sessions which delved deep into many intricate questions of private international law. An even smaller fraction of those students in the end got the chance to participate in the prestigious Diploma Exam of the Academy. In this year's Private International Law session, one Diploma by the Academy was awarded to Ms. Madeleine Elisabeth Petersen Weiner.

As it is obvious from the overview presented above, the 2022 Summer Courses on Private International Law were, as always, a huge success. Over 200 participants from all over the world and from various professional backgrounds got the experience of a lifetime thanks to the Academy, its Summer Courses and all the additional benefits that come with it. For anyone still doubting whether the Summer Courses, or perhaps the newer addition of the Winter Courses, are worth to attend, this post can serve as a clear answer and affirmative one at that.