

The Visible College of International Lawyers and the HCCH 2019 Judgments Convention - Conference in Bonn

The HCCH 2019 Judgments Convention has been the subject of an ever-growing body of academic research and discussion ever since it was signed; but due to the pandemic, almost all of it had to happen in writing. Just in time for its entry into force, though, and thus perfectly timed, the first international conference on the HCCH 2019 Judgments Convention Cornerstones - Prospects - Outlook took place a week ago at the University of Bonn, hosted by **Matthias Weller** together with **Moritz Brinkmann** and **Nina Dethloff**, in cooperation with the Permanent Bureau of the HCCH, and with the support of the German Federal Ministry of Justice.

The conference brought together much of the aforementioned discussion between a range of academics, practitioners and policymakers, including the contributors to the book of the same title, edited by **Matthias Weller**, **João Ribeiro-Bidaoui**, **Moritz Brinkmann**, and **Nina Dethloff**, for which the conference doubled as a launch event. It accordingly followed the same structure, organized into seven panels overall that were split into three larger blocks.



The first of those (“Cornerstones”) focused on some of the core concepts underpinning the Convention. **Wolfgang Hau** (LMU Munich) discussed the meaning of ‘judgments’, ‘recognition’, and ‘enforcement’; **Pietro Franzina** (Catholic University of Milan) focused on the jurisdictional filters (with an emphasis on contractual obligations, i.e. Art. 5(1)(g)); and **Marcos Dotta Salgueiro** (University of the Republic of Montevideo) discussed the grounds for refusal. After some lively discussion, the block continued with papers on the Convention’s much-discussed Art. 29 (**Cristina Mariottini** (Luxembourg)) and on its interplay with the 2005 Choice of Court Convention (**Paul Beaumont** (University of Stirling)).

Also in light of some less nuanced recent interventions, Cristina Mariottini’s paper was particularly welcome to dispel some myths surrounding Art. 29. The speaker rightly pointed out that the mechanism is not only very different from the much-criticized bilateralization requirement of the 1971 Convention but can also be found, in one form or another, in a range of other instruments, including the rather successful 1970 Evidence and 1980 Child Abduction Conventions.

A much wider angle was then taken in the second block (“Prospects for the

World”), which brought together perspectives from the European Union (**Andreas Stein** (European Commission)), the US (**Linda Silberman** (NYU)), Canada (**Geneviève Saumier** (McGill University)), the Balkan Peninsula (**Ilja Rumenov** (Skopje University)), Arab countries (Béligh Elbalti (University of Osaka)), Africa (**Abubakri Yekini** (University of Manchester) and **Chukwuma Okoli** (University of Birmingham)), the MERCOSUR Region (**Verónica Ruiz Abou-Nigm** (University of Edinburgh)), the ASEAN countries (**Adeline Chong** (SMU)), and China (**Zheng (Sophia) Tang** (Wuhan University)) in four consecutive panels. While the first block had already highlighted some of the compromises that had to be made during the drafting of the Convention and at the diplomatic conference, it became even clearer that the Convention (or, more precisely, the prospect of its ratification) may be subject to vastly different obstacles and objections in different parts of the globe. While some countries may not consider the Convention to be ambitious enough, others may consider it too much of an intrusion into their right to refuse the recognition and enforcement of foreign judgments - or raise even more fundamental concerns regarding the implementation of the Convention, its interplay with existing bilateral treaties (seemingly a particularly pertinent problem for Arab countries), or with multilateralism in recognition and enforcement more generally. The conference gave room to all of those concerns and provided important context through some truly impressive comparative research, e.g. on the complex landscape of bilateral agreements in and between most Arab states.

The different threads of discussion that had been started throughout the event were finally put together in a closing panel (“Outlook”). **Ning Zhao** (HCCH) recounted the complicated genesis of the Convention and reflected on the lessons that could be learned from them, emphasizing the need for bridging differences through narrowing down the scope of projects and offering opt-out mechanisms, and for enhancing mutual trust, including through post-convention work. She also provided an update on the ongoing jurisdiction project; **José Angelo Estrella Faria** (UNIDROIT) advocated a holistic approach to judicial cooperation and international commercial arbitration; and **Hans van Loon** (HCCH) finally summarized the conference as a whole, putting the emphasis both on the significant achievement that the convention constitutes and the need to put further work into its promotion.

The conference had set out to identify the cornerstones of the 2019 Convention,

to discuss its prospects, and to provide an outlook into the future of the Convention. It has clearly achieved all three of these goals. It included a wide range of perspectives on the Convention, highlighted its achievements without shying away from discussing its present and future obstacles, and thus provided ample food for thought and discussion for both the proponents and the critics of the Convention.

At the end of the first day, **Burkhard Hess** (MPI Luxembourg) gave a dinner speech and reflected on the current shape of the notorious 'invisible college of international lawyers' in private international law. As evidenced by the picture above, the college certainly was rather visible in Bonn.