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Side Event. International protection of consumers:

Legislative Project on the Protection of International Consumers

at the Hague Conference on Private International Law

by

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International protection of consumers:

Legislative Project on the Protection of International Consumers

at the Hague Conference on Private International Law

Theme and motivation: The international protection of consumers has been under debate for a long time and in several forums, like the Organization of American States, MERCOSUR, the European Union and, more recently, the United Nations and the Hague Conference on International Private Law.

The development of new tools and mechanisms of communication and its facilitated and expeditious access have boosted international commerce world wide. Not to mention the constant and increasing international tourism since the means of transport have as well become more expeditious and accessible to consumers worldwide. The increasing and inevitable concerns involving themes like data protection, privacy, e-commerce, financial issues and shared economy have certainly contributed to the development of concrete actions on consumer protection in the international field.

Following a South American experience by the members of the Southern Common Market (MERCOSUR) regarding consumer protection focused on the attention to conflict resolution regarding tourist among the country members (which at first even counted with the participation of Venezuela), the Brazilian government with the collaboration of Professor Claudia Lima Marques drafted a proposal of an International Convention in order to protect international consumers.

The Project concerning a possible future Convention on Co-operation and Access to Justice for International Tourists (Tourism Project) originated from the proposal of the Government of Brazil to undertake work in this area (Brazilian Proposal). The Brazilian Proposal was submitted to the Council on General Affairs and Policy (Council) in 2013, together with an explanatory memorandum detailing the rationale for such an instrument.

In 2013, with the support of member states such as Portugal and China (and most of South American countries) the theme was included in the Conference Agenda. The

importance of such inclusion lies on the fact that for the first time in The Hague Conference on Private International Law a theme, proposed by a developing country, was considered to be officially discussed and, therefore included, in the Conference Agenda.

In 2015, the Council decided that the Permanent Bureau (PB) should conduct a study on the desirability and feasibility of further work in the area of co-operation in respect of protection of tourists and visitors abroad, in view of compatibility of the topic with the mandate of the HCCH as well as the work conducted in other for a, such as the World Tourism Organization (UNWTO).

Why the Hague: Using the Hague Conference expertise in building global networks organized by Central Authorities, enhance the accessibility to foreign tourists to the legal assistance and also standard formularies in various languages to help the complains- The Central Authorities are a very good tools to organize networks and to assure mutual assistance, urgent measures and legal information, also to develop formulary in various languages and also to beware and register the complains and the data about it, for purposes of evidence in future complains at the State of origin of the tourist, so it is a instrument that is needed to protect foreign tourists.

Current Stage: Following the report delivered by the expert consultant, Professor Emmanuel Guinchard which concludes that *“that work on the Tourism Project is desirable; is feasible; and that the work of the HCCH and UNWTO neither overlaps nor is it incompatible. To the contrary, the Final Report concludes that the work by the two organizations in this area would be complementary”*, member states have manifested the need of an extension of time for the analysis of such report. The next member states’ experts meeting will be held in August at The Hague.

References:

<https://www.hcch.net/en/projects/legislative-projects/protection-of-tourists>
