

FIRST PILOT MEETING
NETWORK OF LEGAL COOPERATION
IN FAMILY AND CHILD LAW
November 3 and 4, 2009
Washington DC

OUTLINE OF THE PROJECT

CREATION OF A NETWORK OF INTERNATIONAL LEGAL COOPERATION IN FAMILY AND CHILD LAW WITHIN THE CONTEXT OF THE MEETINGS OF MINISTERS OF JUSTICE OR OTHER MINISTERS OR ATTORNEYS GENERAL OF THE AMERICAS (REMJA)

Purpose

The purpose of the project is to facilitate international cooperation in family and child law in the Americas.

Mandate

The “Seventh Meeting of Ministers of Justice of Other Ministers or Attorneys General of the Americas” (REMJA VII) instructed the Department of International Law of the Secretariat of Legal Affairs of the OAS to implement an Inter-American project of legal cooperation and mutual assistance in family and child law.

Description of the Project

The project aims at the creation of a network of competent authorities on international cooperation in family and child law matters that facilitates secure and efficient cooperation between the member states of the Organization of American States, and that enables ample and free access to all the users of the mechanisms of the Inter-American System for the protection of family and childhood.

Ratification of Treaties and Designation of Authorities

The project has two main stages. The first one concerns the ratification of the treaties and designation of central competent authorities, as described in the present section. The second one concerns the creation of a Network of International Legal Cooperation in Family and Child Law (“Network of International Legal Cooperation”, “Inter-American Network” or simply the “Network”), as described in the present section.

Ratification of Treaties: The Network of Legal Cooperation is based – flexibly, not exclusively – on the four Inter-American conventions approved by the OAS in family and child law. These are:

- Inter-American Convention on Support Obligations
- Inter-American Convention on the Return of Children
- Inter-American Convention on International Traffic in Minors, and
- Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors.

For those states that consider it pertinent, the project promotes the ratification of or adhesion to the Inter-American conventions on the matter with the purpose of establishing rules of international cooperation and of effectively and expediently advancing the promotion and protection of the rights of children and families.

However, international cooperation under the project is understood in the broadest possible way – encompassing every aspect of family and child law, every treaty and international applicable rule on the matter, every bilateral agreement between states, and every local law of the states. In that sense, the Network of Cooperation does not require that the participants be parties to the Inter-American or universal treaties. It only requires the will of the states to participate in an Inter-American network designed to facilitate international cooperation.

Designation of Central/Competent Authorities: For those states that are parties to the Inter-American treaties that so require it, the Network is based on the designation of Central Authorities who, on the one hand, are custodians of the procedures of judicial cooperation, and on the other, would be the authorities designated by their respective country to officially participate in the Inter-American Network.

On the same way, those states that are not parties to the Inter-American treaties, or that prefer to designate a different authority instead of the Central Authorities designated under the Inter-American treaties, are permitted to fully participate in all of the components, functions and activities of the Network by means of the official designation of a Competent Authority for that purpose.

As a result, an essential condition for the functioning of the Network is the creation of a system for the designation, actualization, training, communication and standardization of Central and/or Competent Authorities in family and childhood matters. These Competent/Central Authorities will form the central base of the Network of Cooperation. Additionally, the system will collate and publish the contact information of the governmental agencies and officers that act as Central and/or Competent Authority, to make that information generally and freely available to the public, so that the persons that are in the process of enforcing the rights of families and children in the hemisphere can contact the designated authorities to request their assistance.

Network of International Legal Cooperation

The second (and principal) parte of the project concerns the formal establishment of a Network of International Legal Cooperation. Such Network, integrated by the Central and/or Competent Authorities designated to participate in this project, will be formed by three components:

Public Component: On the first place, the Network will include a public Internet site, available for any person that desires to obtain information regarding the protection and enforcement of the rights of children and families. This site will contain information about the legal framework of every state that participates in the Network, including national legislation, international treaties that the country is a party to, and bilateral agreements that it may have entered into, as well as the information of the Central and/or Competent authorities designated for the Inter-American system. Furthermore, this site, created by the Department of International Law of the OAS but fed and updated primarily by the Central and/or Competent authorities of each site, will include information designed for the individual user, with the final purpose that they learn their rights, learn the principal aspects and legal procedures necessary to enforce them in the international arena, as well as information necessary to contact the authorities that will guide them throughout the process.

Private Component: Additionally, a site on the Internet with private information and restricted access will be made available to the Central and/or Designated Authorities, where they will be

able to exchange information regarding cooperation in general and/or with respect to specific cases.

Secure Electronic Communication System: Finally, the Network will include a system of secure electronic mail for the communications between the authorities of the Network. The purpose of this tool is to facilitate fluid communication between the Authorities, as well as the exchange of authentic and confidential information without infringement of the confidentiality of the communications or adulteration of the information conveyed.

Contents of the Public and Private Sites:

The public and private information that will be posted in the components of the Network will be proportioned by the authorities designated by the states to participate in the Network. Initially the states will be requested to furnish the following information and documentation, based on a questionnaire that will be circulated among the participant countries¹:

- Official designation of Central and/or Competent authority to participate in the Network;
- Official form for the request of mutual legal assistance;
- Brief description of the legal framework and procedures necessary to enforce the different rights protected by Family and Child law.
- National and international applicable rules in the state in question in Family and Child law;
- Most relevant cases in the jurisprudence of the state in question;
- Statistics of requests and most frequent cases;
- Statistics about countries with which contact is more frequent and most important topics of legal cooperation and mutual assistance.

Study of the Ratification of Treaties

As an activity of the first stage of the project, the member states received a study about the status of ratifications of or adhesion to the Inter-American Conventions in Family and Child law, as well as about the designation of Central Authorities under those conventions. The study made recommendations directed at enhancing international cooperation and invited the states to participate in a pilot project that will set this Legal Cooperation Network in motion.

Pilot Project

The states that participate in the pilot project will form a workgroup that, together with the Department of International law, will draft and create the instruments and tools that will be used in the Network, as well as the methodology and calendar of activities. The participants will contribute with ideas and input based on their necessities and experiences and will receive training in the use of the Secure Electronic Communication System. The pilot group will start to

¹ The information so obtained will be made available to any user that desires to obtain legal information about the 34 member states in this matter. The public site will include the information related to the legal cooperation in which the procedures of cooperation among states will be described, standard documents or forms for the filing of requests, applicable legislation, jurisprudence and other documents that the country deems appropriate to publish. As an additional step in this model of online database the fundamental legal texts in family and child law of every country will be included, the relevant judicial decisions, the bilateral agreements entered into by the country on the matter and standard documents of procedures.

operate the Network and will keep in touch via the secure electronic system, improving thus the different components that will be incorporated to the Network.

The first in-person meeting of the pilot group will be held at the OAS headquarters in Washington, DC, on November 3 and 4, 2009. The participants of the pilot group will meet each other, will receive presentations about the different components of the Network, will receive training sessions in the use of the secure electronic communication system and will work in the implementation of the different tools of the Network.

Subsequently, the remainder of the member states will start joining the Network.

The pilot project will be undertaken both in Spanish and English language. For this reason a pilot group will be organized per language. To date, Argentina, Colombia, El Salvador, Spain, Mexico and Dominican Republic are part of the Spanish-speaking pilot group.

09/31/09	Last day for expressions of interest in participating in the pilot project in Spanish language
10/31/09	Last day for expressions of interest in participating in the pilot project in English language
11/3-4/09	First in person meeting of the Spanish-speaking pilot group
04/6-7/10	First in person meeting of the English-speaking pilot group
	Pending dates for the preparation of documents

Exhibits

Conclusions and recommendations of REMJA VII
Questionnaire for the public component
Form of Designation of Authorities