

# **REQUIEM OR TRANSFORMATION? PERSPECTIVES FOR THE CIEC/ICCS AND ITS WORK**

Hans VAN LOON\* \*\*

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\* Member of the *Institut de Droit International*. Former Secretary General of the Hague Conference on Private International Law.

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## I. Introduction: Global Significance of Civil Status Registration and Circulation of Civil Status Records and Documents

1. “Everyone shall have the right to recognition everywhere as a person before the law.”<sup>1</sup> As a corollary of this right, the basic facts of everyone’s life – birth, being alive, death, name, nationality, marriage and partnership and their dissolution, parenthood, adoption, domicile or residence – should be properly registered, starting with “the immediate registration of a child after birth”.<sup>2</sup> Without such registration and identification documents, as evidence of the recorded data, a human being may not, or not fully, be recognised as “a person before the law”.

2. The need to safeguard *continuity* of personhood *across international borders* keeps growing as a result of increasing regional and global mobility of individuals and families. This need has two components: persons must be able to present evidence in foreign jurisdictions of their civil status through public documents – where possible in electronic form – and the legal status or relationship recorded in the document must be recognised abroad. The first objective is, in principle, easier to achieve than the second.<sup>3</sup> Public documents may be considered authentic and have evidentiary value if surrounded by certain guarantees, in particular concerning the capacity of the authority issuing them. According to the prevailing view, however, the fact that the authority was competent to issue the public document (*instrumentum*) is, by itself, not sufficient for recognition of its *content*

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<sup>1</sup> Art. 6 of the Universal Declaration of Human Rights.

<sup>2</sup> Art. 7(1) of the UN Convention on the Rights of the Child. The implementation of this right on a global scale leaves much to be desired: See § 29.

<sup>3</sup> As appeared in the genesis of Regulation 2016/1191, to be discussed in more detail below. The original purpose of the EU Commission’s “green paper” COM(2010) 747 final was to deal with both aspects in the Regulation.

(*negotium*).<sup>4</sup> So, efforts continue at the global and regional levels to harmonise rules on jurisdiction of authorities, applicable law, recognition and enforcement of judgments and authentic acts as well as on judicial and administrative cooperation, to ensure that legal status and relationships are portable across borders.

3. Yet, the aim of ensuring recognition of public documents abroad and interoperability of civil registry systems among different jurisdictions remains of undiminished, even crucial importance. Therefore, in addition to proper registration of a person's legal status in the country of origin, *international cooperation* is critical to ensure that civil status records<sup>5</sup> and public documents are understood and correctly interpreted abroad, to promote their international circulation, where possible by electronic means, and to foster exchange of information in the field of civil status between competent authorities across borders on a daily basis. Moreover, records and documents may get lost as a result of war and other disturbances in a country, which may make it difficult or impossible to prove the relevant circumstances, in particular for persons fleeing to safe countries and applying for international protection there. The legal issues resulting from the absence of, or deficiencies in, civil registry records and documents, and cooperation among competent authorities, are manifold and often complex.<sup>6</sup>

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<sup>4</sup> Cf. P. LAGARDE, The movement of civil-status records in Europe, and the European Commission's Proposal of 24 April 2013, this *Yearbook* 2013-2014, p. 1-12, at 3; C. KOHLER, Towards the recognition of civil status in the European Union, *ibid.* p. 13-29, at p.16-18.

<sup>5</sup> "The meaning of the word «record» (*acte*), when used in matters of civil status, is known to vary from State to State: in some States it means the original record entered in the registers, which elsewhere is called an entry (*inscription*); in others, a record (*acte*) is a copy of or even an extract from the original", Expl. Report ICCS Convention No. 17 available at <[http://www.ciec1.org/SITECIEC/PAGE\\_Conventions/NAoAAIXo~wFrT09reE5sdWdQTWA](http://www.ciec1.org/SITECIEC/PAGE_Conventions/NAoAAIXo~wFrT09reE5sdWdQTWA)>.

<sup>6</sup> Cf. the JURI studies prepared for the European Parliament in 2017, Private International Law in the Context of Increasing International Mobility: Challenges and Potential, in particular Chapter 1, available at <[http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2017\)583157](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2017)583157)>; Children On the Move: A Private International Law Perspective, Chapter 3, available at <[http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL\\_STU\(2017\)583158](http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2017)583158)>.

## II. A Dwindling Organisation with an Undiminished Mission

### A. A Dying Organisation?

4. During the past nearly 70 years the International Commission on Civil Status (ICCS), officially the *Commission Internationale de l'État Civil (CIEC)*<sup>7</sup> has contributed to the circulation of civil status documents and the cooperation between competent authorities, as well as the harmonisation of private international law and substantive law related to civil status. The need for international cooperation in this area had been felt in Europe since the 1920s among civil registries. After the Second World War, two civil registry officials, Dr STAMPA from Switzerland and Mr VAN PRAAG from the Netherlands, took the initiative for the creation of an intergovernmental organisation.<sup>8</sup>

5. The ICCS was established in 1950 by Belgium, France, Luxembourg, the Netherlands and Switzerland. At the height of its existence, in 2008, it comprised 17 Member States (hereinafter: “MSs”): in addition to the 5 founding Members, Austria, Croatia, Germany, Greece, Hungary, Italy, Mexico, the Netherlands, Poland, Spain, Turkey, and the United Kingdom. However, since 2008, 10 MSs have left the organisation: Austria (in 2008), Hungary (in 2012), the UK and Italy (in 2014), Croatia, Germany and Portugal (in 2015), Mexico and Poland (in 2017), and the founding Member, the Netherlands (in 2018). The conclusion seems obvious: the ICCS is dying.

### B. The Work of the ICCS

6. Before drawing this conclusion, however, it should be considered that ICCS has been a productive law-making and law-servicing organisation.<sup>9</sup> It has produced 34 (binding) Conventions, and 9 (non-binding) Recommendations. These deal with a variety of civil status topics: births, being alive,<sup>10</sup> names and forenames,<sup>11</sup>

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<sup>7</sup> French is the ICCS’s official language, but English has been admitted as a second working language. See art.5 of the Rules of the ICCS of 16 September 2015, available at <[http://www.ciec1.org/SITECIEC/Page\\_Statuts/kB4AAN10pgFpalpxQ1ZEdeJKCgA](http://www.ciec1.org/SITECIEC/Page_Statuts/kB4AAN10pgFpalpxQ1ZEdeJKCgA)>.

<sup>8</sup> The organisation has four organs: a General Assembly, a Bureau, a President, and a Secretary General, see arts. 8-26 of the Rules of the ICCS.

<sup>9</sup> See J. MASSIP/ F. HONDIUS/ C. NAST, International Commission on Civil Status, in W. PINTENS (ed.) *International Encyclopedia of Family and Succession Law*, The Hague 2014; W. PINTENS, The Impact of the International Commission on Civil Status (ICCS) on European Family Law, in J. SCHERPE, *European Family Law*, Vol 1, Cambridge 2016, p. 124-142; in French, J. MASSIP/ F. HONDIUS/ C. NAST/ F. GRANET, Commission Internationale de l'État Civil (CIEC) 2018, available at <[http://www.ciec1.org/SITECIEC/PAGE\\_Accueil/0A8ALjVrQFvWE9lTIJqUIhZIQA?WD\\_ACTION\\_=MENU&ID=A22&\\_WWREFERER\\_=http%3A%2F%2Fwww.ciec1.org%2F&\\_WWNATION\\_=5](http://www.ciec1.org/SITECIEC/PAGE_Accueil/0A8ALjVrQFvWE9lTIJqUIhZIQA?WD_ACTION_=MENU&ID=A22&_WWREFERER_=http%3A%2F%2Fwww.ciec1.org%2F&_WWNATION_=5)>.

<sup>10</sup> Convention No. 27.

<sup>11</sup> Conventions Nos. 4, 14, 19, 21,31.

nationality,<sup>12</sup> statelessness,<sup>13</sup> change of sex,<sup>14</sup> marriage,<sup>15</sup> partnerships,<sup>16</sup> parent-child relationships,<sup>17</sup> refugees,<sup>18</sup> death,<sup>19</sup> as well as with civil registry issues affecting some or all these various matters. Regarding their technique, they may be categorised according to whether their (primary) aim is the harmonisation of private international family law<sup>20</sup> or of substantive family law,<sup>21</sup> or the promotion of international communication and cooperation between competent authorities, including by furthering the understanding of public documents through uniform international multilingual models or coding systems, or the use of electronic transmissions.<sup>22</sup>

7. The Conventions aimed at harmonising private international law and substantive law have been ratified by few States. A few Conventions never entered into force, and some are outdated. But several of the Conventions promoting the communication and cooperation between competent authorities, and the comprehension and circulation of civil-status documents, have been very successful, have attracted accessions by States that are not Members of the ICCS, and have rendered great services – generally taken for granted – to citizens.

8. In addition to its legislative work, ICCS has published a Practical Guide to Civil Status and undertaken major studies, for example, on human rights and civil status, transsexualism, sham marriages, and persons deprived of identity and civil status documents. ICCS has also organised important colloquia, including one on the device of a Platform for the international communication of civil-status data by electronic means. More generally, it has been a unique, valuable platform for communication and cooperation in matters of civil status in Europe.

9. MSs that have left the organisation remain Parties to the 28 ICCS Conventions in force: membership is separate from being a Party to a Convention.<sup>23</sup> Moreover, Conventions are living instruments, subject to notifications, declarations, reservations, that may change or be withdrawn. They may attract new Contracting States, need to be revised, be denounced, give rise to practical issues that must be addressed; in short: they have to be properly – not just administered, but also – monitored.

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<sup>12</sup> Convention Nos. 8, 28.

<sup>13</sup> Convention No. 13.

<sup>14</sup> Convention No. 29.

<sup>15</sup> Convention Nos. 7, 11, 20.

<sup>16</sup> Convention No. 32.

<sup>17</sup> Convention Nos. 5, 6, 12, 18.

<sup>18</sup> Convention No. 22.

<sup>19</sup> Convention No. 10.

<sup>20</sup> Conventions Nos. 7, 11, 12, 18, 19, 29, 31, 32.

<sup>21</sup> Conventions Nos. 4-6, 10, 13-15, 19, 21, 24.

<sup>22</sup> Conventions Nos. 1-3, 8, 9, 12, 14, 16-18, 20, 22-28, 30-34. Exceptionally, this cooperation may lead to delegation of competences to an authority of another State Party: Conventions Nos. 7, 9, 15, 24.

<sup>23</sup> Austria is a Party to 13, Croatia to 2, Germany to 13, Italy to 17, Netherlands to 22, and Poland to 3 Conventions.

10. While the basic official treaty data will continue to be administered and shared with States Parties by the depositary, the Swiss government, such information, as well as additional data on the practical operation of the Conventions, should also be easily accessible to the public. As a result of the exodus of Member States, ICCS is now insufficiently furnished to perform that task. Its website is not up to date, and has gaps. ICCS is even less equipped to proactively seek participation of additional States Parties in the Conventions, or promote its Recommendations and other work.

11. Yet, as noted, easy proof of civil status records and circulation of documents, and cooperation between competent authorities in the field of civil registry, is crucial to the proper functioning of global as well as regional instruments dealing with the private international law aspects of personal status and family relations. The four modern Hague Children's Conventions on International Child Abduction (1980), Adoption (1993), Child Protection (1996), and Child Support (2007) often depend for their operation on proper documentation regarding personal data of children, parents and other persons involved. That also applies to its less widely ratified instruments relating to families and persons.<sup>24</sup> ICCS Conventions may also be relevant in the context of the 1965 Service, the 1970 Evidence and the 1980 Access to Justice Conventions. The ongoing work of the Hague Conference (hereinafter also: "HCCH") on an instrument, or instruments, on parent-child relationships and surrogacy is bound to benefit from these ICCS Conventions. The same goes for European, Latin American and other regional instruments on private international law. Public documents play a role in relation to the EU Regulations 2201/2003 ("Brussels II A") on divorce and parental responsibility, 4/2009 on maintenance, 650/2012 on succession, and 2016/1103 and 2016/1104 on property relations in matrimonial and registered partnerships.

### C. Victim of its Success?

12. Paradoxically, at least part of the explanation of ICCS's decay is the success of its instruments in the technical field of communication and cooperation in civil registry matters. Decades of work on the promotion of the circulation of civil status documents and information culminated in the 1976 Convention No. 16 *on the issue of multilingual extracts from civil-status records*.<sup>25</sup> This instrument has attracted 24 States Parties, half of which are non-Members of the ICCS. It imposes an obligation on States Parties to issue multilingual extracts from records concerning birth, marriage or death, where an interested party so requests or when the use of an extract in a single language necessitates a translation, free of legalisation or any other formality (including the apostille). Attached to the Convention are

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<sup>24</sup> Such as the 1970 Divorce or 1978 Marriage or 2000 Protection of Adults Conventions.

<sup>25</sup> Convention No. 16 builds on the Conventions of 1956 (No. 1) on the issue of certain extracts from civil-status records for use abroad, 1957 (No. 2) on the issue free of charge and the exemption from legalisation of copies of civil-status records, 1974 (No. 15) introducing an international family record book, and 1977 (No. 17) on the exemption from legalisation of certain records and documents.

mandatory model forms in 10 languages, so that information in one language can be easily and unequivocally understood by speakers of other languages. The 1976 Convention was recently modernised and enlarged, with forms for recognition of children and registered partnerships, through the 2014 Convention No. 34 *on the issue of multilingual and coded extracts and certificates from civil-status records*.<sup>26</sup>

13. No wonder that the EU found in these 1976 and 2014 Conventions ready-made models for its *Regulation (EU) 2016/1191 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union* (“the Regulation”). The EU borrowed from the multilingual standard forms established by these ICCS Conventions, and, with its much greater resources, had no difficulty expanding the number of authentic languages of these standard forms to 24. And because the Regulation did not depend on ratification by EU MSs, it took immediate effect in all of them from the date of its application (16 February 2019).<sup>27</sup>

14. The Regulation establishes, for certain public documents issued by the authorities of an EU MS, which have to be presented to the authorities of another EU MS, a system of exemption from legalisation or similar formalities, including apostille, as well as of a simplification of other formalities, notably to translations through the introduction of multilingual standard forms. Contrary to the technique used in ICCS Conventions, however, the multilingual standard forms established by the Regulation are simply translation aids; they “have no autonomous legal value” (art. 8 (1)), in contrast to the ICCS forms, which *do* have legal value and *can* be presented autonomously. In other words, whereas under the ICCS Conventions citizens can simply present an ICCS form, under the Regulation they *cannot* just rely on the EU form, but *must always present the EU form together with* the original, or a certified copy, of *the public document* (including extracts from or verbatim copies of civil status records or civil status certificates). The Regulation exempts those public documents from translation under certain conditions (art. 6 (1)), and, in any event, imposes an obligation on EU MSs to “accept” a certified translation “carried out by a person qualified to do so under the law of a [MS]” (art. 6 (2)). That means that the certified translation has evidentiary value in the MS where it is presented, but *may still need verification* as to whether the translator was “qualified... under the law of a [MS]”. The strength, and added value, of the Regulation is its system of administrative cooperation, including through Central Authorities, under the Internal Market Information System (Chapter IV, arts. 13-16).

15. While the Regulation’s scope of application is wide in terms of the matters it covers (art. 2), the fact that its multilingual standard forms have no autonomous legal value, implies a significant limitation of its use. An informal survey carried out in the spring of 2019 among a dozen civil registry offices in

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<sup>26</sup> Following the ratification by Belgium in 2017, a second ratification by a CIEC MS will bring the Convention into force. Germany, one of the signatories, took the steps necessary to join the Convention, but since it is no longer an ICCS Member, it can only accede to the Convention following the entry into force as a result of one more ratification by a current MS! See also 35 and 41 below.

<sup>27</sup> A few articles are applicable since 2017 and 2018 already (art.27).

Belgium, France, Germany, Italy and Luxembourg showed that *extracts* based on CIEC Conventions continue invariably to be used in practice by these offices, and requested by citizens who have become familiar with them. Current practice in the Netherlands confirms that presentation of *extracts* from civil status records suffices in nearly all cases.<sup>28</sup> That suggests that where an ICCS Convention is applicable, and covers such extracts, it is, in principle, that Convention that will be used and not the Regulation.

16. The Regulation does not expressly highlight its complementary role in relation to the ICCS Conventions; it implicitly deals with its *formal* relationship to the ICCS Conventions in its art. 8:

“1. The multilingual standard forms referred to in Article 7(1) shall be attached to the public documents referred to in that paragraph, shall be used as a translation aid and shall have no autonomous legal value.

2. The multilingual standard forms shall not constitute any of the following: (a) extracts from civil status records; (b) verbatim copies of civil status records; (c) multilingual extracts from civil status records; (d) multilingual and coded extracts from civil status records; or (e) multilingual and coded civil status certificates...”

The Recitals spell out this formal relationship in more detail. According to Recital 11:

“This Regulation, and in particular the mechanism for administrative cooperation set out therein, should not apply to civil status documents issued on the basis of the relevant International Commission on Civil Status (‘ICCS’) Conventions”.

Recital 22 explains:

“The sole purpose of the multilingual standard forms should be to facilitate the translation of the public documents to which they are attached. Accordingly, such forms should not be circulated as autonomous documents between the Member States. They should not have the same purpose... as extracts from or verbatim copies of, civil status records established by ICCS Convention[s Nos 2, 16 and 34]”;

And Recital 49 adds:

“Since the multilingual standard forms under this Regulation do not have legal value and do not overlap with the multilingual standard forms provided for in ICCS Conventions No 16, No 33 and No 34 or with the life certificates provided for in ICCS Convention No 27, this Regulation should not affect the application of those Conven-

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<sup>28</sup> In exceptional cases, when the information contained in the extract appears insufficient to the foreign authority, *e.g.* in certain international adoption cases, presentation of a copy of an original is required.



tions *as between Member States or between a Member State and a third country*” (emphasis added).

17. It is true that art. 19 (2) claims priority of the Regulation in relation to matters to which it applies and to the extent provided for therein over provisions of other instruments, but this refers to possible bilateral or multilateral agreements between MSs that may have provided for an exemption from the apostille or simplifications of formalities concerning certified copies and translations other than ICCS Conventions, since in the light of the provisions of art. 8 and the Recitals, no conflict is intended between the Regulation and ICCS Conventions<sup>29</sup>.

18. Despite all this, even before its entry into force, the Regulation cast a shadow over ICCS instruments, and brought the growth of States Parties to ICCS Conventions to a halt. Although the Regulation leaves them intact from a *formal* legal point of view, it does not specify how it relates *functionally* to the ICCS Conventions mentioned in the Recitals. And the ICCS, itself becomes a “parent pauvre”<sup>30</sup> reduced to 7 Members only, 5 of which are EU MSs, and has not been in a position to establish an authoritative course of action concerning the continuing use of its Conventions in parallel with the Regulation.

#### **D. Mission Unaccomplished**

19. Yet, this does not mean that ICCS’s *mission* is over.

##### **1. Continuing Relevance of Existing ICCS Conventions in the Relations among Current States Parties**

20. First, ICCS Conventions remain relevant in the relations (a) among EU MSs, including former ICCS Members, that are Parties to the Conventions; (b) between each of the EU MSs Parties to the Conventions and Non-EU MSs Parties to the Conventions, and (c) among Non-EU MSs Parties to the Conventions.

##### **a) Among European Union Member States Parties to ICCS Conventions**

21. The Regulation only applies in situation (a), because it only applies to certain public documents issued by the authorities of an EU MS and which have to be presented to the authorities of another MS.<sup>31</sup> Both EU nationals and residents may

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<sup>29</sup> Cf. also A. VETTOREL, EU Regulation No. 2016/1191 and the circulation of public documents between EU Member States and Third Countries, available at <<https://www.researchgate.net/publication/315063841>>.

<sup>30</sup> Cf. CH. PAMBOUKIS, Les actes publics et la méthode de reconnaissance, in P. LAGARDE (ed.), *La Reconnaissance des situations en droit international privé*, Paris 2013, p. 133 *et seq.*

<sup>31</sup> Art 2 (1) “This Regulation applies to public documents issued by the authorities of a Member State in accordance with its national law which have to be presented to the authorities of another Member State (3). This Regulation does not apply to: (a) public

benefit from the Regulation.<sup>32</sup> In this situation, the Regulation coexists with ICCS Conventions, and the extracts provided for by ICCS Conventions will remain extremely useful to citizens. Indeed, multilingual extracts covered by ICCS Conventions present four major advantages:

- (1) current administrative systems in States Parties to ICCS Conventions are fully adapted to issuing such extracts;
- (2) the fee for extracts is limited to their production costs, whereas under the Regulation, a person requesting a multilingual standard form must pay the production costs both of the original public document and the standard form;
- (3) ICCS extracts have evidentiary value, and, last but not least,
- (4) ICCS extracts carry great authority, due to their long-standing, proven, effectiveness and reliability.<sup>33</sup> Indeed, ICCS extracts are currently readily accepted also by authorities in States that are *not Parties* to the Convention in question, even beyond Europe, including in the United States.

22. Therefore, it is in the clear interest of citizens, both EU nationals and residents,<sup>34</sup> to promote the synergetic operation of the Regulation and ICCS Conventions. Indeed, many more persons would benefit from these Conventions if they were in force throughout the EU.

b) *Between Each of the EU Member States Parties to the Conventions and Non-EU Member States Parties to the Conventions, and*

c) *Among Non-EU Member States Parties to the Conventions*

23. The Regulation, by definition, does not apply in the situations (b) and (c). In those situations ICCS Conventions may offer benefits to both EU nationals and residents if they apply between States Parties to the Convention in question. Of the 28 ICCS Conventions entered into force,<sup>35</sup> 23 apply not only between the EU MSs that are Parties to it, but also in the relations between one or more EU MSs on the one hand, and one or more non-EU States on the other (situation (b)), as well as between those non-EU States (situation (c)):

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documents issued by the authorities of a third country; or (b) certified copies of documents referred to in point (a) made by the authorities of a Member State”.

<sup>32</sup> However, for the purpose of voting or standing as candidates in certain elections only EU citizens may use the Regulation, see Art. 2 (2).

<sup>33</sup> This has allowed, for example, their informal adaptation to new legal developments (*e.g.*, registered partnerships, same sex marriages) by the authorities of some ICCS State Parties, which has not met with any objection.

<sup>34</sup> Including non-EU nationals domiciled, habitually resident, or in some cases, simply present in the EU.

<sup>35</sup> *I.e.*, Conventions Nos. 1-17 and 19-30. By contrast, Conventions Nos. 18 and 30-34 have not entered into force.

- 20 Conventions also apply in the relations between one or more EU MSs, and Switzerland and/or Turkey,<sup>36</sup> 8 of which also apply between Switzerland and Turkey;
- Convention No. 16 (replacing Conventions No.1 also applies between 10 EU MSs and 8 non-EU States: Switzerland, Turkey, Bosnia-Herzegovina, North Macedonia, Montenegro and Serbia, Moldova and Cabo Verde, as well as between those 8 non-EU States;
- Convention No. 20 also applies between 8 EU MSs and 3 non-EU MSs: Switzerland, Turkey and Moldova, and between those 3 States;

So, an Austrian citizen in need of a multilingual extract from civil status records in Austria regarding his or her birth, for the purpose of producing it in France or Switzerland may benefit from Convention No. 16. The same goes for a Cape Verdean citizen in need of such an extract issued by the authorities of Cabo Verde for its production in Portugal.<sup>37</sup> A German citizen of Turkish origin who wishes to marry in Italy may benefit from a certificate of legal capacity to marry issued in Turkey under ICCS Convention No. 20,<sup>38</sup> just as a Chilean refugee living in Switzerland may benefit from such a certificate issued by the Swiss authorities<sup>39</sup> when s(he) wishes to marry in Spain. In fact, there are countless situations in which these Conventions may apply.

24. In all three situations (a.), (b.) and (c.) it is in the common interest of States Parties, civil registries, other administrative authorities, judges, and the public that the text, explanatory report and status of these Conventions are easily accessible and that they are properly monitored.

## **2. *Potential Relevance in Relations between Current States Parties and other States***

25. Secondly, many ICCS Conventions, including Nos. 16 and 20, being open to accession by non-ICCS MSs, have the potential of attracting accessions from *additional States*, which would make them even more useful. This applies, as noted, to European States, in particular within the EU. Despite their proven usefulness, a number of ICCS Conventions apply only in a limited number of EU MSs. Therefore, the EU and its MSs would have every interest to examine which of these Conventions would be of EU-wide relevance.

26. But Europe is not only the only region in which civil status records and documents matter. Issues of civil status are, for example, also important to Latin-America and the Caribbean. The Organisation of American States (OAS) has

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<sup>36</sup> Conventions Nos. 1-7, 9-17, 20-21, 24-28.

<sup>37</sup> Art. 1 (2) of Convention No. 16.

<sup>38</sup> Art. 1 of Convention No. 20

<sup>39</sup> *Idem*, Art. 2. See also Art. 25 of the 1951 UN Convention Relating to the Status of Refugees (as amended by its 1967 Protocol), and the 1985 ICCS Convention No. 22 on international cooperation in the matter of administrative assistance to refugees, in force in Austria, Belgium, Spain, France, Greece, Italy, and the Netherlands.

established the Universal Civil Identity Program in the Americas (PUICA).<sup>40</sup> Since 2010, PUICA supports Member States of the OAS in their efforts to eradicate under-registration, and promotes international and regional cooperation, through the Latin American and Caribbean Council for civil registration, identity and vital statistics, established in 2005 (CLARCIEV – 21 Member States).<sup>41</sup> But CLARCIEV, contrary to ICCS, is not a law-making organisation. In fact, the work of the ICCS has attracted interest from Latin America: Mexico was a Member from 2010-2017. Peru still has an observing status with the ICCS. There may well be a real potential for ICCS Conventions to be embraced in Latin America and the Caribbean, both in their relations with current States Parties, and in their mutual relations. This potential is worth further exploration.<sup>42</sup>

27. Obviously, ICCS Conventions could be very useful also in the relations between current States Parties and States in the Middle East and Africa (in addition to Cabo Verde), such as Morocco, Algeria, Tunisia, Egypt, *etc.*, with growing cross-border movements and family relationships involving both groups of States. Already in 1980, when many refugees from Vietnam, Laos and Cambodia fled to Europe, ICCS adopted a useful Recommendation on the identification of refugees from South-East Asia.<sup>43</sup>

28. From a global perspective, and looking further ahead, ICCS instruments, and ICCS expertise have an even greater potential. International migration is bound to increase, and requires international cooperation, including legal cooperation, “to ensure safe, orderly and regular migration, involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons...[including] the right of migrants to return to their country of citizenship”.<sup>44</sup> If ICCS Conventions were in force on a global scale, they would support the respect of the right to identity of migrants, and the interoperability of civil registry systems between States of origin (and return), transit States and States of destination.<sup>45</sup>

29. Finally, ICCS expertise would be most useful to assist in resolving the serious global problem of lack of birth registration. According to UNICEF, “the

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<sup>40</sup> Available at <<http://www.oas.org/en/spa/depm/puica.asp>>

<sup>41</sup> Available at <<http://clarciev.com/en/>>.

<sup>42</sup> ICCS Conventions ratified by France and the Netherlands may already apply to their overseas territories including in Latin America and the Caribbean.

<sup>43</sup> Available at <[http://www.ciec1.org/SITECIEC/PAGE\\_Recommandations/0C8AACWaU4dtc0lxQU5ubnVVRQA](http://www.ciec1.org/SITECIEC/PAGE_Recommandations/0C8AACWaU4dtc0lxQU5ubnVVRQA)>.

<sup>44</sup> UN General Assembly Resolution A/Res/70/1, Transforming our world: the UN 2030 Agenda for Sustainable development, Declaration, par. 29, and Sustainable Development Goals 8.8, 10.7.

<sup>45</sup> See also UN General Assembly Resolution A/Res/73/195 of 19 December 2018, endorsing the Global Compact for Safe, Orderly and Regular Migration, Objective 4 “... (a) Improve civil registry systems, with a particular focus on reaching unregistered persons and our nationals residing in other countries, including by providing relevant identity and civil registry documents, strengthening capacities, and investing in information and communications technology solutions...”. And see the parallel provision in UNGA Resolution A/Res/73/151 of 17 December 2018, affirming the Global Compact on Refugees, par.82.

births of around one fourth of children under the age of five worldwide have never been recorded”.<sup>46</sup> These children are unable to obtain a birth certificate, which may result in statelessness, denial of health care and education, and later on, of social assistance, jobs in the public sector, and the right to buy or inherit property, to vote, or to obtain a passport. They also run the risk of entering into marriage or the labour market, or being conscripted into the army, before the legal age. Birth registration of children “is the first step in securing their recognition before the law, safeguarding their rights, and ensuring that any violation of these rights does not go unnoticed”.<sup>47</sup>

### **3. *Potential of the Platform for the International Communication of Civil-Status Data by Electronic Means***

30. Thirdly, the ICCS, with generous support of the EU, has already invested great efforts in the development of a *Platform for the international transmission of civil status data by electronic means under ICCS Conventions*. This electronic Platform will replace the sending of public paper documents through postal channels by the electronic transmission of electronic documents, thereby providing States with a secure tool for the implementation of their obligations arising from ICCS Conventions:

“It will have a major impact on its numerous potential beneficiaries: the general public (whether nationals of participating States or residents), States, ministerial departments, municipalities, civil registrars, jurisdictions and lawyers.

Providing a multilingual interface and forms established according to ICCS Conventions (for instance, birth, marriage and death record extracts and the certificate of legal capacity to marry) will simplify the sending and delivery of documents for civil registrars, who will be able to fill out forms easily, in their own language, also having access to a virtual keyboard providing letters specific to other languages.

It will make it easier for citizens to prove their personal and family status and, thus, circulate freely, as well as making international requests for civil-status data simpler to carry out and accelerating the exchange of information.

It will considerably shorten the time frame for issuing civil-status documents to individuals and for registering foreign events and deci-

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<sup>46</sup> See UNICEF Birth registration, available at <<https://data.unicef.org/topic/child-protection/birth-registration/>>, published in December 2017, with data per area and country, and notes on the data.

<sup>47</sup> *Ibid.* See also the UNICEF Digest Birth Registration: Right from the Start 2002. UNICEF has developed programmes to ensure birth registration in various countries around the world. See also UN 2030 Agenda, note 44, SDG 16.9: “By 2030, provide legal identity for all, including birth registration”.

sions in civil-status registers (shortening the time frame to days rather than months).

By enabling documents to circulate in a secure manner, the Platform will also help to combat the increasingly common problem of civil-status document fraud”.<sup>48</sup>

34. Co-funded by the European Commission, the work on the ICCS Platform started in 2010, and a pilot project was launched in 2013. However, the Platform has not yet been put into operation. The work was suspended in 2017 in particular because of the expected entry into force of Regulation 2016/1191. Yet, as noted, this Regulation will not make ICCS Conventions redundant, and further study and development of the Platform is highly desirable. It is true that currently, participation in the Platform by a State requires it to be a Party to Convention No. 33, which of course delays its coming into operation. However, it is worth examining whether a lighter procedure might be found to bring this very useful system into operation.

### III. A Possible Way Forward

#### A. Regarding the Conventions

35. Notwithstanding the continuing relevance of ICCS Conventions, *de facto* the Regulation, together with the decrease in ICCS’s membership, resources, and attraction, has impeded new signatures, ratifications, and accessions, both by EU MSs and other States.<sup>49</sup> Obviously, this has also blocked the entry into force of Convention No. 34, meant to replace Convention No.16, and has suppressed any further appetite for, and work on, the ICCS Platform. It has paralysed ICCS monitoring, support and promotion activities regarding its Conventions, its Recommendations, its scientific comparative work, and, in fact, has frustrated its potential.

36. In the light of the global need for coordination, communication and cooperation in matters of civil status, this state of affairs *is not acceptable*. But what to do? ICCS, in its present form, is helpless. A reform, one way or another, of the organisational structure is inevitable (see below, under 2.). But, apart from the

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<sup>48</sup> Available at [http://www.ciec1.org/SITECIEC/PAGE\\_PlatformInfos/RB4AAFILDWIIbHp2bXppZUROLgA?WD\\_ACTION\\_=MENU&ID=A37&\\_WWREFERER\\_=http%3A%2F%2Fwww.ciec1.org%2F&\\_WWNATION\\_=5](http://www.ciec1.org/SITECIEC/PAGE_PlatformInfos/RB4AAFILDWIIbHp2bXppZUROLgA?WD_ACTION_=MENU&ID=A37&_WWREFERER_=http%3A%2F%2Fwww.ciec1.org%2F&_WWNATION_=5) in English, available at <[http://www.ciec1.org/SITECIEC/PAGE\\_PlatformInfos/RB4AAFILDWIIbHp2bXppZUROLgA?WD\\_ACTION\\_=MENU&ID=A16&\\_WWREFERER\\_=http%3A%2F%2Fwww.ciec1.org%2F&\\_WWNATION\\_=5](http://www.ciec1.org/SITECIEC/PAGE_PlatformInfos/RB4AAFILDWIIbHp2bXppZUROLgA?WD_ACTION_=MENU&ID=A16&_WWREFERER_=http%3A%2F%2Fwww.ciec1.org%2F&_WWNATION_=5) > French.

<sup>49</sup> Latest ratification by Belgium (Convention 34), on 26 June 2017. Germany’s ratification of this instrument on 31 October 2017 has remained without effect (see note 26, and § 41 below).

organisation, the existing conventions also have their limitations, notably in terms of Parties that may join them, and languages.

### 1. *Enable Approval by the EU*

37. Contrary, for example, to the Hague Conventions on private international law adopted since 2002,<sup>50</sup> none of the ICCS Conventions makes it possible for a concerned “Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by [the] Convention” to join that Convention. Therefore, the EU – for which this definition was created – is prevented from becoming a Party to any ICCS Convention even those regarding matters over which the EU has, or may acquire, competence.<sup>51</sup>

38. EU competence to adopt measures in civil matters having cross-border implications is generally to be found in art. 81 TFEU. Any exercise of EU competence in respect of the matters listed in art. 81 (2) relating to family law requires unanimity of the Council (art.81 (3)). However, for its adoption of Regulation 2016/1191, the EU found a basis, not in art. 81, but “in particular” in art. 21(2) TFEU, which is subject to the ordinary legislative procedure.<sup>52</sup> If art. 21 (2) justifies a regulation aiming at “promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union”, then the EU should likewise be deemed competent to join international instruments with similar objectives, and open to approval by the EU.

39. Whilst a number of ICCS Conventions have a larger purpose than “simplifying the requirements for presenting certain public documents” – not limiting themselves to the *instrumentum*, but also dealing with the *negotium* – the most successful ICCS Conventions just seek to simplify the circulation of public documents and information. Some Conventions of this category would usefully supplement the Regulation, if only they were open for approval by the EU.

40. The EU, its MSs and its nationals and residents would, for example, benefit from Convention No. 16, if *all* EU MSs<sup>53</sup> were bound by it:  
– the Convention would then apply between all EU MSs instead of the mere 16 MSs currently bound by it:

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<sup>50</sup> Hague 2006 Securities Convention (Art. 18 *et seq.*), 2005 Choice of Court Convention (Art. 29 *et seq.*), 2007 Child Support Convention (Art. 59 *et seq.*), 2007 Maintenance Applicable Law Protocol (Art. 24 *et seq.*).

<sup>51</sup> Alternatively, the EU could “authorise” its MSs that are not yet bound by the ICCS Convention to join the instrument. But experience with certain Hague Conventions shows that may be a time-consuming process.

<sup>52</sup> For a critical comment, see H.-P. MANZEL/ K. THORN/ R. WAGNER, *Europäisches Kollisionsrecht 2013: Atempause im status quo*, *IPRax* 2014, p. 1-27, at 5.

<sup>53</sup> If the procedure of art. 81 TFEU rather than art. 21 – the basis for Regulation 2016/1191 – were followed, with the exception of Denmark, and, perhaps, the UK and Ireland.

- all EU MSs, and not just 16, would be linked with the 8 other non-EU MSs Parties to the Convention, and,
- this might well give a boost to the accession by more non-EU MSs to the Convention (particularly if English – and Spanish – were added as authentic languages).

41. To enable the EU to join this Convention, an amendment of its final clauses would be needed. Examples for such clauses are readily available in post-2000 Hague Conventions,<sup>54</sup> and – as explained below – amending the Convention would be easy. A similar amendment of Convention No. 34, intended to enlarge the scope of, and replace, Convention No. 16, would re-animate that Convention. Since this instrument is not yet in force, one or more of the other current ICCS Members would need join the Convention in addition to Belgium which has already ratified the Convention.<sup>55</sup> France, Spain and Switzerland, which have already signed the instrument, might consider proceeding to the next step of ratifying the Convention, thus bringing it into force.

42. It would be best, perhaps, to start with these two Conventions, and consider subsequently which other ICCS Conventions – in particular those providing for the issue of public documents and those providing for the exchange of information between authorities – would lend themselves to be opened to the EU.

## **2. Add English (and Preferably also Spanish) as an Authentic Language**

43. Presently, only the French text of ICCS Conventions is authentic. ICCS, having noticed the limited accessibility which this causes, has helpfully prepared unofficial English translations. However, it would be even more helpful if the Conventions would be *authentic in both French and English*. Even better, given the importance of civil status matters to Latin America where Spanish is the dominant language and knowledge of French and English is limited, Spanish might be added as the third authentic language. Spain has ratified most ICCS Conventions, and as a result Spanish translations are already available. Again, it might be best to start with Conventions Nos. 16 and 34.

## **3. How could this be done?**

44. Amending these Conventions, in order to energise them, would not be a big deal. Formally, it would require a meeting of the General Assembly.<sup>56</sup> France (State of the seat of ICCS), Spain (with its manifold links with other Spanish

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<sup>54</sup> See art. 18 of the 2006 Hague Securities Convention, arts. 29 and 30 of the 2005 Hague Choice of Court Convention, art. 59 of the Hague Child Support Convention, art. 24 of the 2007 Hague Maintenance Protocol, arts. 26 and 27 of the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

<sup>55</sup> See note 26.

<sup>56</sup> See Art. 27 of the 2015 Rules of the ICCS, available at <[http://www.ciec1.org/SITECIEC/PAGE\\_Accueil/WB0AAFHgNQJrVFN3d3ZmTWxDIQA?WD\\_ACTION\\_=MENU&ID=A47](http://www.ciec1.org/SITECIEC/PAGE_Accueil/WB0AAFHgNQJrVFN3d3ZmTWxDIQA?WD_ACTION_=MENU&ID=A47)>.



speaking States) or Switzerland (depository of the Conventions), among others, might have a particular interest in triggering such a meeting. In accordance with Art. 40 of the 1969 Vienna Convention on the Law of Treaties, all of the States Parties to these Conventions, including non-ICCS Members, should be invited to take part in the negotiations on the amendments, with the right to co-decide on the modifications.<sup>57</sup> Obviously, the EU would have to take part in the process, and it would be highly desirable if other interested intergovernmental organisations, such as the PUJA (and CLARCIEV), the HCCH, the UNHCR, UNICEF, and NGOs such as the European Association of Civil Registry Officials<sup>58</sup> would participate in it.

45. Such a meeting, whilst concentrating on Conventions Nos.16 and 34, could also take a preliminary look at other ICCS Conventions that might attract wider interest, such as Nos. 20 and 27, as well as at the ICCS Platform.

## **A. Regarding the Organisation**

46. While a meeting of the ICCS General Assembly to amend ICCS Conventions, would be a useful step, the fact remains that ICCS, as an organisation, currently is at its last gasp. What can be done to (re-)establish the necessary organisational structure and support for its useful work, and to develop its potential?

### **1. Reforming the Existing ICCS Organisation?**

47. As noted, the ICCS reached its height around 2008, when it was comprised of 17 Member States, before the exodus of 10 Members began. To convince these Members to return to the organisation, to which they just recently gave the cold shoulder, would seem an almost impossible task. In theory, there is a good argument for them to retrace their steps: they remain linked by Conventions, the operation of which requires continuing monitoring and support. But given the insufficient resources of what is left of the ICCS, the organisation cannot deliver such “after sales care” anymore. Unless the EU is willing to join the organisation as a full Member, these departures must be considered irreversible.

48. Enabling the EU to join the organisation would require a formal amendment of the ICCS’s Statute.<sup>59</sup> This is feasible: the amendments inserted in the Statute of the HCCH in 2005, effective in 2007, and the preceding procedural

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<sup>57</sup> The invitation suffices; invited States remain free to accept the invitation or not, and the modification procedure does not depend on their participation.

<sup>58</sup> EVS, Europäischer Verband der Standesbeamtinnen und Beamten e.V. available at <<https://evs-eu.org/en/>>.

<sup>59</sup> *I.e.*, the 1950 Bern Protocol, available at [http://www.ciec1.org/SITECIEC/Page\\_Statuts/3AoAAEq3OQJoQ01sUmt4dFBTGAA](http://www.ciec1.org/SITECIEC/Page_Statuts/3AoAAEq3OQJoQ01sUmt4dFBTGAA)>; the 1950 Additional Protocol available at <[http://www.ciec1.org/SITECIEC/Page\\_Statuts/tBYAAND7OgJEVGNZZ1BBeVdGFQA](http://www.ciec1.org/SITECIEC/Page_Statuts/tBYAAND7OgJEVGNZZ1BBeVdGFQA)>.

and organisational steps to enable the EU to join the Conference, could serve as a model.<sup>60</sup>

49. However, are the conditions fulfilled, and is there enough of an incentive for the EU to join the ICCS? The EU would find itself with 5 EU MSs only: Belgium, France, Greece, Luxemburg, Spain, and 2 non-EU States: Switzerland and Turkey. Joining would probably be possible and interesting only if the EU were envisaging this as a step in a comprehensive plan aimed both at (1) ensuring the application of certain existing and future ICCS instruments throughout the EU, and (2) developing cooperation between the EU and third States in matters of (electronic) civil status documents. But that could hardly be done without ICCS membership of the currently missing EU MSs – since States would remain in the lead for essential matters<sup>61</sup> –, and without a special commitment or sponsorship by the EU.

## 2. *Gradual Transfer of ICCS Functions to the Hague Conference on Private International Law?*

50. However, there is another option. The work of the ICCS is also complementary to that of the Hague Conference. The HCCH has both a more specialised mission focussed on cross-border cooperation in civil law matters, and a broader Membership than the EU, indeed as it includes the EU as a Member. The ICCS and the HCCH have cooperated for many decades on the basis of an agreement concluded in 1969.<sup>62</sup> The ICCS has been particularly helpful in the preparation of several Hague Conventions, and, most recently, in the ongoing work on parentage and international surrogacy arrangements. Moreover, ICCS has been associated with the work of HCCH Special Commission meetings on the practical operation of the Hague Apostille, Service and Evidence Conventions and the follow-up to the 1993 Inter-country Adoption Convention for which it provided its expert advice in the drafting of forms for consents and for the certificate of conformity of adoptions with the Convention.

51. Back in 1969, the ICCS had 10 Member States and the HCCH had 24 (including all ICCS MSs). Current numbers are very different: the ICCS has 7 vs. the HCCH, which has 82 plus the EU. Today the HCCH's membership includes all 7 ICCS MSs (and all 10 former MSs), all other States Parties to the ICCS Conventions, with the sole exception of Cabo Verde (which, however, is Party to

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<sup>60</sup> See H. VAN LOON/ A. SCHULZ, *The European Community and the Hague Conference on Private International Law*, in B. MARTENCZUK/ S. VAN THIEL (eds.) *Justice, Liberty and Security: New Challenges for EU external relations*, Brussels 2008, p. 257-299, in particular at 279-298.

<sup>61</sup> For example, regarding the admission of new MSs, and budgetary matters.

<sup>62</sup> The Agreement not only provided that the organisations would keep each other mutually informed but also that if one of them considered that a matter treated by the other was also interested in it, it would “be up to it to suggest the meeting of a mixed commission, whose composition, functioning and attributions would then be determined by mutual agreement”. No such mixed commission was ever established however.

the 1961 Hague Apostille, and the 1993 Hague Adoption Conventions), plus all ICCS Observer States (with one exception).<sup>63</sup>

52. The expansion of States Parties to ICCS Conventions has not kept pace with that of the Hague Conventions. A further growth of States Parties to ICCS Convention No. 16, and the entry into force and wide ratification of Convention No. 34, would serve both the operation of Hague Conventions and its ongoing work. ICCS Conventions, if widely ratified, would not conflict with, but serve the very purpose of the 1961 Hague Apostille Convention, namely to make life easier for citizens all over the world.

a) *Include Relevant ICCS Conventions in the Hague Conference Website*

53. As a first step to ensure both the availability of updated information on, and broader access to globally relevant work of the ICCS, some of the ICCS texts could be posted on the website of the Hague Conference. It would not be the first time for the HCCH to support the use of the legislative products of another inter-governmental organisation that is unable to do so itself, and, indeed, to further develop the practical operation of those products. In 1996 the Conference decided to examine the practical operation of the 1956 UN New York Convention on the Recovery Abroad of Maintenance jointly with that of its own Conventions on maintenance obligations. It also decided to keep an up-to-date list of the authorities provided for under the 1956 UN Convention, and to communicate this list, once or twice a year, to all those authorities in its Member States. Moreover, the Conference convened a working group to draft model forms to accompany requests under the 1956 UN Convention, and to ensure the acknowledgement of receipt of such requests.<sup>64</sup> Following the meeting of a Special Commission in March 2000, these models were published,<sup>65</sup> including on the HCCH website.<sup>66</sup>

54. Clearly, a choice would have to be made, and only such ICCS information should be published that is relevant to the operation of Hague Conventions or its ongoing work. Obvious candidates are the above-mentioned ICCS Conventions Nos. 16, and 34. Given the operation in parallel with Regulation 2016/1191, a link may well be provided on the HCCH website to the EU Justice Portal page.<sup>67</sup>

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<sup>63</sup> The Holy See. However, the Holy See is a Party to the 1954 Hague Convention on Civil Procedure, and has been associated, as an Observer, with other activities of the HCCH.

<sup>64</sup> See Final Act of the Eighteenth Session, under B.7, Hague Conference on Private International Law, *Proceedings of the Eighteenth Session (1996), Tome I, Miscellaneous Matters*, 1999, p. 47.

<sup>65</sup> See Report on and Conclusions of the Special Commission on Maintenance Obligations of April 1999, Hague Conference on Private International Law, *Proceedings of the Nineteenth Session 2002*, Tome I, Miscellaneous Matters, 2008, p. 217-235, at 221, under E, and p. 220-235.

<sup>66</sup> Available at <<https://www.hcch.net/en/publications-and-studies/details4/?pid=6635&dtid=45>>.

<sup>67</sup> Available at <[https://e-justice.europa.eu/content\\_public\\_documents-551-en.do](https://e-justice.europa.eu/content_public_documents-551-en.do)>.

b) *Include Relevant ICCS Conventions when Reviewing the Practical Operation of Hague Conventions*

55. Given their complementary role in relation to the Hague Children's Conventions, relevant ICCS Conventions could usefully be included in the agendas of Special Commission meetings on the practical operation of these instruments. That could be the start of a gradual increase of interest for ICCS Conventions, and, in combination with the EU becoming a Party to them and their availability in English and Spanish, might well attract many additional States Parties.

c) *Resume the Development of the ICCS Platform*

56. The important HCCH work in relation to the electronic transfer of documents – e.g. the electronic Apostille Programme (e-APP),<sup>68</sup> and the electronic case management and secure communication system (iSupport) developed for the 2007 Hague Child Support Convention, with important financial support by the EU<sup>69</sup> – puts the HCCH in an ideal position to cooperate with the ICCS and the EU in the further development of the ICCS Platform, which, as noted, has already benefitted from EU support, and to examine (possible alternatives to) ICCS Convention No. 33.

57. The upshot of such initiatives would be that the Hague Conference would, step by step, enlarge its expertise and services in a field which is really an extension of its current domain, to the benefit of its Members, including the EU, and its citizens all over the world. ICCS and its work would be embedded in a wider, global, receptive environment which would prevent the collapse of its nearly 70 years of expert work and, on the contrary, ensure the continuation and expansion of its mission.

58. A formal basis for a joint examination of these possibilities may be found in the above mentioned 1969 ICCS-HCCH Agreement, which provides for the creation of a “mixed commission” to study matters treated by one or both organisations in which the other was also interested. Naturally, such a commission should benefit from close cooperation with other organisations mentioned above, including – in addition to the EU, itself an HCCH Member – UNICEF, UNHCR and PUJA/CLARCIEV, as well as NGOs such as the European Association of Civil Registry Officials. Indeed, it should be remembered that the initiative for the creation of the ICCS was taken, bottom-up, by two prominent civil registry officials. The support of those who, on a daily basis are involved in civil registry issues is crucial.

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<sup>68</sup> Available at <<https://www.hcch.net/en/publications-and-studies/details4/?pid=4945>>.

<sup>69</sup> Available at <<https://www.hcch.net/en/projects/post-convention-projects/isupport1>>.

## **IV. Conclusion**

59. In our mobile world, ensuring recognition of public documents abroad and of interoperability of civil registry systems among different jurisdictions is indispensable. This requires intergovernmental cooperation, for which initiatives have been taken both in Europe and in Latin America. The most important intergovernmental agency in terms of law-making and law-servicing is the ICCS, which has drawn up 34 Conventions, and undertaken many other important activities in this field. However, the ICCS currently finds itself in a situation of paralysis, following a recent exodus of Member States. The same goes for its Conventions, in part also due to a lack of synergy with the work of the EU, despite the complementarity of these Conventions with EU legislation, in particular EU Regulation 2016/1191, applicable since 16 February 2019.

60. The article sketches a way forward, in relation to both the ICCS Conventions, and the ICCS as an organisation. Regarding the Conventions, it is suggested that a beginning should be made to open some of them for accession by the EU, and to amend them to add English and Spanish as authentic languages. This would not be a major operation. Regarding the organisation itself, the possibilities for its reform seem doubtful. Therefore, it is suggested that the ICCS functions might gradually be transferred to the Hague Conference, whose work is also complementary to that of the ICCS. Relevant texts of, and data concerning, the ICCS Conventions could be included in the HCCH website, ICCS Conventions could be included in the agendas of Special Commission review meetings of Hague Conventions; and, the Hague Conference would be well-equipped to resume the development of the potentially useful ICCS Platform, in which much resources, including funding by the EU, have already been invested. In this way, the work and potential of the ICCS could be preserved and developed, in the interest of States, civil registries, administrations, judges, and, indeed, individuals and families all over the world.