



SVIR Hague Grant Internship
Schweizerische Vereinigung für
Internationales Recht
Société suisse de droit international

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Internship Report 2019



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Foreword

Given my atypical background, my dream of working at the Hague Conference on Private International Law (hereafter <HCCH>) was a dream that seemed impossible.

I come from a family with scarce financial resources where I was the first to attain a university degree. With hard work and dedication, I was hired in a highly competitive position with the Brazilian government. During my university studies, I fell in love with international child law and this passion grew more through the years and motivated me to start anew by building on this passion by sacrificing stability and security to come to Switzerland and pursue this passion. I came to Switzerland in 2009, and since then I have been basing my work purely on the HCCH. Despite of all these devoted years, my uncharacteristic background gave me the feeling that my dream was still impossible to become a reality.

Five days after I finished the summer course 2018 at The Hague Academy, I received an email from CUSO¹ “competition for an internship scholarship in The Hague Conference on Private International Law”. I took advantage of my combined education and work experience to apply for this opportunity and I gave everything to my application. When, in the fall of 2018, I read Professor Kaddous² email saying that I had been selected for the scholarship, I had tears in my eyes. The dream was coming true!

The SVIR Hague Grant Internship was instrumental helping to build me as a professional, improve myself, forge my convictions so that I could become the person I am today. As a professional, what sets me apart is not only my dedication to academic work, but also my obsessive passion and keen sense of purpose to create positive changes in the system. Preparing this report has given me the opportunity to remember unforgettable experiences and I am therefore eternally grateful to SVIR Hague Grant Internship for its invaluable support.

I would firstly like to thank the members of the Internship Selection Panel, namely Professor Christine KADDOUS, Professor Rodrigo RODRIGUEZ and Professor Marco SASSÒLI for devoting their time to the selection process.

I would like to thank each member of the Swiss Association of International Law to have dreamed of setting up the scholarship. Certainly, without your dedication and support this scholarship would not exist.

Particularly, I would like to thank my thesis director Gian Paolo ROMANO, who inspired my passion for the international family private law. As well as his precious support. Sincerely, I would like to thank Professor Stéphanie FRANCO³ ordinary Professor at the UCLouvain, Joëlle SCHICKEL-KÜNG Cheffe (*en jobsharing*) Département fédéral de justice et police (DFJP), Stephan AUERBACH⁴ Mediator FMS⁵

¹The Conférence universitaire de Suisse occidentale (Association of Universities in Western Switzerland).

² Professor Christine KADDOUS is president of Committee *Schweizerische Vereinigung für Internationales Recht* (SVIR).

³ French-speaking Director of studies, summer course 2018 in The Hague Academy.

⁴ He is the heads of Italian and French regions.

⁵ Fédération Suisse des Associations de Médiation.

(International Social Service Switzerland) and Her Excellency Ms. Regina Maria CORDEIRO DUNLOP, The Hague Ambassador Brazil for believing in my potential. Finally, I would like to formally thank the ex-Secretary General of The Hague Conference, Mr. Hans VAN LOON for devoting his time and fruitful exchanges to me.

My unforgettable experience as an intern at the Permanent Bureau would not have been the same without the presence of inspiring and extraordinary colleagues who became friends. Obviously, the warm welcoming of several people was the essential condition for me to be able to successfully complete the program. I would particularly like to express my gratitude to Secretary General Christophe BERNASCONI, the internship committee - Legal Office Frédéric BREGER, Legal Office Capucine PAGE, Legal Office Brody WARREN, my supervisor Principal Legal Officer Laura MARTÍNEZ-MOURA⁶ and First Secretary Gérardine GOH ESCOLAR for the quality of the support I have received, the kindness and availability you have shown to me. Also thank you my fellow intern, Sophie YATES, Stéphane GROSSIN and Ivan-Axel DOUBRAVA who became very close very quickly, demonstrating friendship and complicity throughout my internship. In addition, I would like to thank my precious friends Laura MOLENAAR Administrative Officer, and Mathilde PRÉNAS Senior Administrative Assistant for their kindness and hospitality, making this internship a very constructive experience.

Lastly but no less important, I wish to thank my friends and family, and especially my parents José PEREIRA and Herminia PEREIRA and brother José Ramon PEREIRA for their endless love, support and continuing encouragement.

It is really a great honor for me to be chosen as the recipient of the first prize awarded by the SVIR Hague Grant Internship; given the realization of this dream, my next step is to develop projects with the objective of contributing, inspiring and sharing a process leading to transformation of systems.



REGIANE PEREIRA

⁶ Ms. Laura MARTÍNEZ-MOURA became Secretary on 1st June 2019.

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I. INTRODUCTION

The Hague Conference on Private International Law is the unique global intergovernmental organisation with a “legislative” mission⁷. Since 1893, the HCCH has adopted 41 international Conventions. The dream and vision of Tobias Asser (Nobel Peace Prize 1911) was to promote peace and justice beyond borders through instruments in private international law, establishing dialogue, discussion, negotiation and collaboration. His initiative conceived, the HCCH to work the "progressive unification" of these rules, so that individuals, families and businesses benefit from a high level of legal security across borders. The HCCH has 83 Members: 82 States and 1 Regional Economic Integration Organisation. In addition, 70 non-Members are part of, at least, one HCCH Convention totalizing 152 connected Parties. There are three pillars provided by the HCCH: 1) international protection of children and family law; 2) International legal co-operation and litigation and 3) International commercial and financial law.

The Permanent Bureau is the HCCH Secretariat. Composed with 30 staff members, the Council on General Affairs and Policy (hereafter < the Council >) is sustained by the Permanent Bureau, who organize and prepare sessions and meetings including any Special Commission, Experts' & Working Groups and the normative work and post-convention work⁸.

This is the first year where the SVIR Hague Grant Internship award supports a post-graduate or graduate student of a Swiss law school to undertake an internship with The Hague Conference on Private International Law. Each task performed on the SVIR Hague Grant Internship will grant the opportunity to work alongside The HCCH, with certainty to endorse practical experience in private international law, building up an insight of the internal work organisation on the promotion of global peace and justice. For all young researchers who are interested in private international law, I strongly recommend applying.



⁷ Hans VAN LOON. Ex-Secretary General of the Hague Conference on Private International Law. *HAGUE JUSTICE JOURNAL*, V. 2, N. 2, 2007.

⁸ Information related to this topic can be found on section II - The Work.

I completed the SVIR Hague Grant Internship at the Permanent Bureau from January 14th to July 12th 2019. I was welcomed into the International Family Law team where I worked for the entirety of my internship.

I worked closely with two teams: the first team: Principal Legal Officer Ms. Laura MARTÍNEZ-MOURA and Legal Officer Capucine PAGE, where I performed a great variety of tasks related to Parentage/Surrogacy Project and maintenance of Convention of 1993 Protection Children of Intercountry Adoption (hereafter <93 Hague Convention>). Secondly, I worked with First Secretary Ms. Gérardine GOH ESCOLAR and Legal Officer Frédéric BREGER on a great assortment of tasks related with the Convention of 1980 Child Abduction (hereafter <80 Hague Convention>) and Convention of 1996 Child Protection (hereafter <96 Hague Convention>).

While performing these tasks I gained extensive understanding of the intricacies, diversity and complexities regarding the practical aspects of HCCH Children's protection.

The main activities of the HCCH are as follows: Normative work and Post-Convention Work⁹.

i. *Normative work*

Research to identify the legal need with the mandate of the Council is performed during this step. Meetings with Working Group and negotiations, proposal of new instrument is performed and the approval or rejection takes place during the Diplomatic Session.

ii. *Post-Convention work*

Once the Convention is approved in the Diplomatic Session, the Post-Convention work takes place. This step concerns the developing of methods to support the continued operation of conventions through the promotion, implementation, monitoring and review of practical operations.



⁹ The document elaborated by Legal Officer Brody WARREN from Permanent Bureau.

i. Normative Work

a) *Meeting of the Expert's Group on the Parentage/Surrogacy*

A major focus of my internship involved on the Parentage/Surrogacy. During my internship, I had the opportunity to discover how the normative work of the HCCH works in the form of the propositioning a new instrument and understanding in a global way the difficulties that affecting particular, questions involving surrogacy.

In recent years, the international community has been concerned with private international law issues surrounding the status of children and, in particular, the recognition of parent–child relationships (*"filiation"*)¹⁰ and *international surrogacy arrangements*. With a mandate, the Permanent Bureau has carried out a series of studies to identify the legal needs in this area. Since then, the Expert's Group on the Parentage/Surrogacy Project has been meeting at Permanent Bureau to follow up on the work.

From 29th January to 1st February 2019, the Expert's Group on the Parentage/Surrogacy Project met in the Permanent Bureau under the supervision of Principal Legal Officer Ms. Laura MARTÍNEZ-MOURA and Legal Officer Ms. Capucine PAGE. Ms. Joëlle SCHICKEL-KÜNG (Chair of the Fifth meeting of the Experts' Group), Mr. Michael Wells GRECO, (Consultant to the Permanent Bureau) and Keith LOKEN (Secondment at the Permanent Bureau) for the 5th meeting. The focus of the meeting was on international surrogacy arrangements (ISAs), to consider the feasibility of the "possible application of future agreed general private international law rules on Parentage to ISAs and the possible need for additional rules and safeguards in these cases, including the possibility of a Protocol for ISAs cases. "



I provided support by preparing for the fifth meeting focusing on the Expert's Group on the Parentage/Surrogacy Protect.

My first task was the preparation and compilation of the « Synopsis » documents and a consolidated version in English of the 5th meeting Parentage/Surrogacy. This document concerning the matter of parentage (International Commission on Civil Status Conventions) was necessary to identify the scope of application, the applicable law and the conditions for the non-recognition of decisions. It was essential to make a summary in order to facilitate their use/consultation during the meeting. At the time of the Meeting Expert's Group, I felt very much a part of the 80 and 96 Hague Convention team. Our challenges

¹⁰ <https://www.hcch.net/en/projects/legislative-projects/parentage-surrogacy/surrogacy-2010-and-prior>.

during the preparatory work performed was complemented during the meeting, when I took minutes for all the sessions. My work was consolidated in the writing and assisting the creation of appropriate documentation concerning the final report.



Sometimes, the discussions touched on sensitive topics, such as Human rights and the best interest of the child. I focused on learning as much as possible about the questions/issues of International Surrogacy Arrangements. I've developed communication skills, particularly, the ability to listen and take clear and concise notes. I can attribute this achievement to my wonderful team, under the exceptional leadership of Joëlle SCHICKEL-KÜNG (Chair), who led me to sharpen my listening

skills. In addition, I had the opportunity to work with an amazing supervisor Laura MARTÍNEZ who helped me develop the sense of collaboration. Not to mention Capucine PAGE's enthusiasm and involvement, which has always impressed me. In addition, the invaluable contribution of Michael GRECO and Kevin LOKEN for their amazing collaboration with the Permanent Bureau. I particularly have benefitted from enriching exchanges with Ms. Cristina GONZÁLEZ BEILFUSS, Spain, Professor in Private International Law, Honorable John PASCOE Chief Justice's Chambers, Sydney and Mr. Rolf WAGNER, *Ministerialrat*, Head of Division for Private International Law, Germany.

Following the 5th meeting, I worked on developments in relation to international Surrogacy Arrangements - preparation background for the 6th meeting which outlined potential case scenarios and fact patterns that are likely to arise within Surrogacy and new appointments on Parentage. I conducted extensive research finding cases law and legislation from many jurisdictions and worked on fleshing out the background for the 6th meeting on Parentage/Surrogacy Project. There was a great sense of teamwork (Laura and Capucine) and we had regular meetings where we would provide updates on our progress and sought direction on how to proceed.

b) Diplomatic Session – Recognition and Enforcement of Foreign Judgments in Civil of Foreign Judgments in civil or Commercial Matters

The latest meeting of the Diplomatic Session was held more than 10 years ago, in 2007¹¹. This was a unique opportunity that came from the SVIR Hague Grant Internship to understand the negotiation behavior at a major international convention. I was excited to see and assist during this historical day in relation to the negotiation of a new convention on Recognition and Enforcement of Foreign Judgments in Civil of Foreign Judgments in civil or Commercial Matters.

¹¹ Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.



The Twenty-Second Diplomatic Session took place at the Peace Palace in The Hague from 18th June to 2nd July, which involved attending several sessions and taking detailed notes of the negotiations. During the Diplomatic Session, interns assist by staffing the « Secretariat » table at the Diplomatic Session. We are the liaison between the Podium, State representatives and the Permanent Bureau staff during the negotiations. I was also responsible for tending to Mr. P. VLAS Chair, Mr. Christophe BERNASCONI Secretary General, João RIBEIRO-BIDAUI First Secretary and Ms. Ning ZHAO Senior Legal Officer requests. I actively participated in the negotiations by putting into practice my dynamism and taking the initiative to contribute to the successful running of the Plenary session.

Besides the Plenary session, it was very interesting to follow the discussions on the issues without touching on the political aspects, especially through the "intercessional work". During two weeks, I absorbed new information and had insights on the art of negotiation. It was an intense period and a privilege to see the representatives of the States and the staff members of the Permanent Bureau, were all involved in the accomplishment of this great project. At the end of the last day the room was filled with emotion and joy because it was done successfully! Another international instrument at the service of society to promote legal security. I had the privilege to see how HCCH keeps the vision that was established by Asser to promote peace and justice beyond borders through dialogue, discussion, negotiation and collaboration.



On 2 July 2019, the delegates of the 22nd Diplomatic Session of the HCCH signed the Final Act of, and thus adopted, the *2019 Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters*.

As a researcher, I try to understand the origins and processes in concluding an international convention in the past in order to propose satisfactory solutions in the present. However, thanks to this professional experience, I realized and learned the real mission of the jurist: to serve society.



ii) Post-Convention work

a) *The first Works Post-Convention Work*

After three months of this internship, I felt accomplished and very operational due to the deeper understanding I gained about the functioning of two teams and became familiar with the working methods of each, within a short amount of time where I was given the opportunity to perform a variety of tasks for both teams.

The first was related to the mission in Cape Town. It was a planned seminary where part of it was intended to coach judges under the 1980 Hague Convention and the other part was dedicated to the « 22nd Annual Family Conference » entitled “CROSS ROADS 2019 VISIONARY DEVELOPMENTS IN CHILD AND FAMILY LAW”. Under the supervision of the Legal Officer Frédéric BREGER, I worked on the first part of the seminar by working on relevant cases law. Thanks to his professional experience which supported and advised me with great patience and wisdom, I was able to discover how the Permanent Bureau provides high-standard legal services and technical assistance of « Post-convention Assistance » of Member States and States Parties to Hague Conventions. The training is practice-oriented and aims to ensure the proper functioning of the 1980 Hague Convention. It was a strong motivating factor to me where my work would have a positive effect in this formation for judges faced with complex child abduction cases. Therefore, it was undeniable that I put all my energy into this.



I established two strategies: The first involved completing research on African geographical and cultural issues. I did not hesitate to seek guidance from African colleagues in order to transpose a scenario closer to the reality of African judges; as a second step, I took the major elements concerning the functioning of the 80 Hague Convention to elaborate current issues when resolving difficult international family law issues. Several case laws have been developed taking into account the two research elements.

Secondly, it was related with Mission of Ivory Coast. This mission was about 93 Hague Convention. The goal was to train several actors involved in international adoption. I was involved with two parts of this training. The first was also to develop practical cases on the Convention and the second was to synthesize the questionnaires distributed to participants in order to evaluate the training. This allowed me to have a global vision of the training and to understand how it met the needs of the participants. It was very interesting to note that one of the aspects most appreciated by the participants was the resolution of practical cases. Some aspects of the 93 Hague Convention were highlighted as they were unknown to some participants, allowing them to discover, for example, the principle of subsidiarity and how to avoid illicit practices.

By contributing to the realization of this mission, I was able to see effective fieldwork carried out in practice and also an example of investment by the Permanent Bureau in the Post-Convention Assistance. I carried out this incredible mission under the supervision of Legal Officer Capucine PAGE who without

hesitation invested time in my training by having enriching exchanges. Thanks also to her trust, I was able to succeed in my missions.

b) Draft Guide to Good Practice on Article 13 (1)(b) of the 1980 Child Abduction Convention

Of all the projects carried out by the international Family Law Department, the Draft Guide to Good Practice on Article 13(1)(b) of the 1980 Child Abduction Convention was the one I was looking forward to having the opportunity to work on because this Draft Guide was connected with my thesis. With passion, I was able to contribute concretely to this great project with my worldwide preliminary knowledge regarding the 80 Child Abduction Convention. This pioneering work was carried out by First Secretary Gérardine GOH ESCOLAR and Legal Officer Frédéric BREGER who offered me the opportunity of this professional experience and who followed me and directed me with great attention to my questions as a doctoral student.

The Article in question concerns an exception to the operation of the 80 The Hague Convention. The Convention establishes a genuine system of cooperation to ensure the immediate return of the child to his or her habitual residence. However, non-return may be ordered in cases where there is a serious risk and the return exposes him to a physical or psychological harm or place the child in an intolerable situation. The application of this Article is complicated and often poses challenges to practitioners and judges alike and its incorrect application can contribute to the breakdown of family ties. The objective of this Guide is to promote greater consistency in the application and interpretation of Article 13(1)(b) in accordance with the terms and objectives of the 1980 Hague Convention¹².

In March 2019, the Council requested that the draft be circulated again to Members for further comments within two months¹³. My task involved receiving further comments and I added them to the Draft. Following this work, a teleconference was held with the Chair of the Working Group The Honorable Diana BRYANT. It was very interesting to participate in this meeting and to learn more about the interaction between the objectives pursued by the Guide and application of the comments provided by the Members.

By participating in this work, I was able to discover the processes and aspects important for its conception; such as the proper application of Art. 13(1)(b) illustrated by the case law allowing to provide greater clarity in the appropriate implementation of the article. I had the opportunity to know intricacies, operational governmental structures relative Article 13(1)(b) between the countries. I was also able to identify the controversial issues brought forward by State Members. Another major aspect through adding the comments was that I could see that the guide is more than just theory and it allowed me to make a link between theory and practice in relation to what States are putting in place.

¹² <https://assets.hcch.net/docs/0a0532b7-d580-4e53-8c25-7edab2a94284.pdf>

¹³ <https://assets.hcch.net/docs/5a8b4397-f1d7-4061-bd27-a7baeebbc729.pdf>

In the context of my thesis, I was able to assist the final product of post-convention work. I could see that we want to do things correctly and sometimes the result we hoped to build upon was not necessarily the expected end result.

I participated in a world reference book to assist legal practitioners and judges in the application of Article 13(1)(b). It was very interesting to participate in the very enriching result to look at the interaction between the work done by the Special Commission, the Council and the comments of States. Not to mention, to see first-hand the work initiated by the Permanent Bureau, in particular to constantly promote work of excellence in the field of child protection.

c) Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption



2019, at the Permanent Bureau.

Another advantage of the SVIR Hague Grant Internship is that I was able to benefit from an exclusive opportunity to participate in post-convention work as part of the monitoring the 93 Hague Convention. In 2015, the Special Commission recommended that the Working Group continue the work on Preventing and Addressing Illicit Practices¹⁴. On March 2019, the Council supported the continuation of the Working Group on Preventing and Addressing illicit Practices in Intercountry Adoption¹⁵. This meeting took place from 21st to 23rd of May

¹⁴ <https://assets.hcch.net/docs/858dd0aa-125b-4063-95f9-4e9b4afd3719.pdf>

¹⁵ <https://assets.hcch.net/docs/c4af61a8-d8bf-400e-9deb-afcd87ab4a56.pdf>

Getting to know the 93 Hague Convention for me was a good opportunity to get to know this fascinating instrument in intercountry adoption leading me to immerse myself in the academic literature and familiarising myself more with the 93 Hague Convention intercountry adoption. Secondly, I focused on learning as much possible about the Fact Sheets concerning illicit Practices in Intercountry adoption. I also wanted to develop legal reasoning in the matter and actively participate in this very delicate issue involving children. Under the supervision of Laura MARTÍNEZ and Capucine PAGE I was involved in the preparation of the report, conclusion and final recommendation of the teleconference meeting with Ms. Carine ROSALIA, Chair of the Working Group.

This Working Group took place four weeks before I finished my internship. I was excited to put into practice the experience I gained during my first Working Group on the Parentage/Surrogacy Project combined with the five months of experience at the Permanent Bureau.

During the meeting, I assisted by taking minutes for three days during the morning and afternoon session, including the final discussion of the Conclusion & Recommendations. I learned about challenges and politics regarding the critical issues in child adoption between receiving and original States with the intent to protect the best interest of the child. In addition, I learned with my supervisor Laura MARTÍNEZ how to take the discussion and assign balance and considerations into the variety of perspectives from several States.



As a result of participating in this Working Group I was able to be confronted with the real problem concerning illicit practices and to discover the wonderful principles of the 93 Hague Convention. Due to gaining experience, I was able to sharpen my critical and analytical mind. In addition, I was able to conclude that the principles set out in the 93 Hague Convention were in actuality, the missing element to my doctoral research.

III. OTHER DUTIES

The Council on General Affairs and Policy met from the 5th to the 8th March 2019 at the Peace Palace. This is the time when the Permanent Bureau submits, inter alia, draft for approval their future works to the Member States where I was very curious to know how the session went, how this submission would take place and how it was articulated by the States. I was particularly looking forward to the hearing on the Parentage/Surrogacy Project and Draft of Guide Good Practices Article 13(1)(b).

I experienced two kinds of feelings. On one hand, joy when the Chair Andrew WALTER presented Parentage/Surrogacy - the room was taken by a moment of silence that was broken by the word of the Chair by affirming - the Member States approved the continuation of the work. On the other hand, it was sad to learn that silence had been broken in the room not for the Chair but by the States that recommended further work on the Guide.

During the Council, the interns worked at the "Secretariat", we assisted Secretary General Christophe BERNASCONI, the Chair Mr. Andrew WALTER and the staff from HCCH and the Member States. I learned a lot from the leadership of Secretary General Christophe, who played a key role in reconciling the irreconcilable. It was very enriching to see the disagreements and arguments of the States to convince them of the relevance of certain projects. Thus, I was able to closely assist the labour marches between the Permanent Bureau and the States.



During my internship, I had some challenges to overcome that allowed me to enrich my experience:

- *Multidiscipline in the process*

During these months in the Permanent Bureau, I learned how to manage multidisciplinary with different tasks and harmonize them so that I could reach my final goal for each and every mission that I was entrusted with. As well, I was able to learn to interact with different people from different cultures and to respond effectively to different expectations.

- *Language*

Having intermediate level in English during these six months, I had the great opportunity to work in an international environment that allowed me to improve my English. I could not have wished for a better school to develop this skill.

- *Cultural*

Residing in Geneva for ten years, I was confronted with leaving my comfort zone for the second time and once again facing an integration into a new culture.

- *Day purposes research*

As I am a doctoral student, during the six months of my internship, I was also able to benefit from a day-off per week to concentrate on my doctoral research. The challenge was to multitask on my doctoral research and work due to the enormous workload at the Permanent Bureau. The work carried out by the Permanent Bureau was so fascinating that I wanted to be involved and committed to delivering each task with the highest quality possible. It was therefore difficult to maintain the research day. In spite of this challenge, I was able to benefit from great inspiration thanks to my workplace. Working at HCCH inspired me as a professional and researcher to find the missing pieces to complete my research. This part was very important to me because it allowed me to work with passion and enthusiasm every day.

I am eternally grateful for the SVIR Hague Grant Internship, I was able to meet every challenge that was put before me. This has allowed me to be impermeable to stress and develop a sense of efficiency and sharpen my reflexive analyses of the issues surrounding international child protection.

My multifaceted work experiences have provided me with the ability to effectively adapt and apply approaches and skills in varying rules during my internship. This has also strengthened my capacity to collaborate, manage multiple activities at the same time (with quality outcome) in a timely manner.

Now, given the realization of this dream, my next step is to continue developing projects with the aim of influencing the system by promoting legal security and international family ties despite the challenges faced by international families.

The main results of my stay at the Hague Conference were the opportunity to develop a strong network, to be invited to participate in a conference on the University of Geneva in the context of the 30th anniversary of the International Convention on the Rights of the Child and to build friendships with co-workers.

My experience in working at HCCH exceeded all my expectations. The opportunity to touch, handle and learn all the Hague children's convention, made me establish a link between theory and practice and in addition, I worked on a historical day – Diplomatic Session.

In conclusion, I would say that the internship at the Hague Conference confirmed to me that a jurist is at the service of our society!

