The Need for a Global Cooperation Network to Protect Foreign Tourists/Consumers and the comeback of Private International Law

[THE PERMANENT BUREAU OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW, A Commitment to Private International Law- Essays in honour of Hans van Loon, Intersentia: Cambridge, 2013, p. 311-323.]

Claudia Lima Marques, Porto Alegre, Brazil

Introduction

Amicus means friend. Hans van Loon received in Lima, Peru, the highest honors (*Homenaje)* from the *ASADIP* ("*Asociación Americana de Derecho Internacional Privado*") not only because he is a friend of our region, of our people and specially, of our children, but also because of his great contribution for the development of Private International Law in the 3 Americas. His qualities and kindness as a human being, as well as his recognized competence and vision, are known by all that had the pleasure to be with him. I had the honor to work as his assistant at the 100th Year Session of the Hague Conference, in 1993, to assist with the participation of non-member States of Latin America in the future Convention on cooperation in international adoption of children. Since then he became a role model for me, leading me to believe that Private International Law can help to improve the lives of individuals in all parts of the world. Therefore it is a great pleasure to participate in this *Liber Amicorum*.

To honor this belief of a more ´multi-dimensional´ Private International Law, I will use this article to summarize my work[1] in a traditional theme of this discipline: the protection of foreign tourists. According to the World Tourism Organization (UNWTO),[2] the tourist is the visitor or traveler who stays longer than 24 hours (an overnight stay) and that remains for less than one year in the country or place visited. The main purpose of the visit can be business, leisure or other personal purpose (such as educational, religious, family visits, cultural and linguistic exchanges) other than to be employed by a resident entity in the country or place visited.[3] It is also to be noted that the type of visa that this individual has received (tourist visa, student or short business visa) is not decisive to characterize someone as a tourist. During this stay or travel the tourist is also a consumer.

In my opinion, the protection of foreign tourists – normally made *ex post* at the country of the domicile of the tourist - has a chance to be more effective if made *ex ante* and at the country visited, preventing cross-border litigations and assuring better access to Justice with basic legal assistance in foreign languages. Due to the current

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[1] See C. Lima Marques, Towards a global approach to protect foreign tourists, in A. Sierralta, C. Lima Marques and J. A. Moreno Rodríguez, Derecho Internacional, Mundialización y Gobernanza , CEDEP (2012) 449-455. And C. Lima Marques, Der Schutz der Verbraucher in einer globalisierten Welt, in K. Sonntag (Hg.), Heidelberg Profile – Studium General, Winter (2012) 111-155.

[2] See 'Global Code of Ethics for Tourism', in http://ethics.unwto.org/en/content/global-code-ethics-tourism .

[3] http://unstats.un.org/unsd/statcom/doc08/BG-TourismStats.pdf .

development of an international dimension of consumer law[4] and to a currently more substantive/political view of the role of conflicts of law rules[5], this article will argue that it is possible to use both these disciplines to assure a more effective worldwide protection of foreign tourists (I). The second part of this article will analyze if it is possible to build, with help of Private International Law tools, a global cooperation network using the well-established consumer protection agencies and the national consumer protection system to protect foreign tourists in the country visited (II).

I – The insufficiency of existing binding rules in the protection of tourists at the global level: the comeback of Private International Law

As Hans van Loon wrote, globalization "*denotes the process of growing interdependence of societies and people worldwide, in practically all areas of life: economy and finance, politics and culture,… It goes beyond the mere linking of discrete societies and markets – the background of traditional private international law – and leads to transnational fusion of societies and markets*."[6]

In this globalized world, consumers are the key players,[7] but it is not so easy to create binding rules for the protection of consumers in the global level. [8] The rules on consumer protection remain national[9] (and in some contracts, supranational).[10] Besides the conventions on international carriage,[11] the only worldwide instruments on the subject are the UNIDROIT Convention on travel contracts (1970), [12] which achieved limited success,[13] and soft law regulations, such as the UN Guidelines for Consumer Protection from 1985/1999.

Scholars[14] used to classify consumers either as active (those who travel from one country to another with the purpose of consumption) or as passive consumers (those who receive the information or contract in their country of habitual residence, with no physical moving, for example, in e-commerce or in the case of consumers invited to travel abroad for a special event to consume). This distinction between passive and active consumers with the delocalization made by the use of new technologies is

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[4] G. Howells, I. Ramsay and T. Wilhelmsson, Consumer law and its international dimension, in G. Howells, I. Ramsay and T. Wilhelmsson, Handbook of Research on International Consumer Law, Elgar (2010) 1.

[5] E. Jayme. Identité culturelle et intégration: le droit internationale privé postmoderne. Recueil des cours 251, Kluwer (1995) 259 and A. Bucher, La dimension sociale du droit international privé, in Recueil des Cours 341, Kluwer (2010) 202.

[6] J. H. van Loon, Unification of private international law in a multi-forum context, in E.-M. Kieninger (Ed.), Denationalisierung des Privatrechts? Mohr (2005) 33.

[7] R. Iain. Consumer protection in the Era of Informational Capitalism, in T. Wilhelmsson et al. (Ed.). Consumer Law in the Information Society, Kluwer (2001) 45.

[8] C. Twigg-Flesner & H. Micklitz. Think global – Towards International Consumer Law. 203 Journal of Consumer Policy. 33, 3 (2010).

[9] D. Fernández Arroyo, "General Report", in D. Fernández Arroyo (Ed.), Consumer Protection in International Private Relationships, CEDEP (2010) 659.

[10] See E. Poillot, Droit Européen de la consommation et uniformisation du droit des contrats, LGDJ (2006), 87ff. And T. Bourgoignie (Ed.). L'intégration économique et la protection du consommateur , Blais (2009) 9ff.

[11] K. Tonner, Electronic Commerce and Travel Law, in T. Wilhelmsson et al. (note 7) 207.

[12] The 1970 Convention was ratified only by six countries, but two countries have denounced it, Belgium and Argentina: http://www.unidroit.org/english/implement/i-70.pdf .

[13] M. P. Garcia Rubio, La responsabilidad contractual de las agencias de viaje, Montecorvo (1999) 29.

[14] E. Jayme and C. Kohler, Europäisches Kollisionsrecht 1999, in IPRax 404 (1999).

presently being challenged.[15] Nevertheless, the distinction is still used in Private International Law to focus the protective rules of conflicts of law only on the passive consumers; as for example in the 1980 Rome Convention on the law applicable to contractual obligations and the Rome I Regulation 593/2008.[16]

A) Changes in the global mass tourism and challenges to consumer law

According to the UNWTO, the number of international arrivals has reached one billion persons in 2012 for the first time in modern history.[17] If in 1950 tourism destinations were concentrated in industrialized countries in Europe and North America, presently 45% of tourism in the world has developing countries as a destination. This new decentralized mass tourism to developing countries has shown that these countries are less prepared for the influx of visitors.

The decentralization of tourism is followed by a fragmentation of mass tourism, considered no longer restricted to an elite but rather a cross-class phenomenon. We can also speak about a specialization: there are today, besides leisure and cultural tourism, conference tourism, adventure tourism, youth tourism, religion tourism, educational tourism etc. Scholars highlight that there was a cultural change in tourism in the 21st century,[18] to include activities that were previously not considered consumption, such as tourism for conferences, professional or religious training. They warn that long-term students who travel beyond one year are not considered tourists or migrants, but consumers.[19]

Indeed, in our postmodern times[20] international consumption has also become more and more common. [21] The desire to connect with other cultures and to be active on the global market[22] is an important trend of our times.[23] Since the 90s, Zygmunt Baumann alerts that the consumer of the future will be a tourist,[24] but changes at the global mass tourism could be calling for the help of Private International Law solutions.[25]

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[15] N. Reich, Minimal to full to `half´ harmonization, in J. Devenney and M. Kenny (Ed.), European Consumer Protection, Cambridge (2012) 5.
[16] H. Micklitz, J. Stuyck, E. Terryn, Consumer Law, Hart: London (2010) 563.
[17] World Tourism Barometer. in https://s3-eu-west-1.amazonaws.com/storageapi/sites/all/files/docpdf/unwtohighlights12enlr_1.pdf .
[18] J. Tudela, Madurez y insuficiencia del derecho del turismo español: su presente y sus incertidumbres, in J. Facal (Org.), Derecho del Turismo, FCU (2006), 256ff.
[19] E. D Busto, Marco Regulatorio del turismo estudiantil en la República Argentina, in J. Facal (note 18) 282ff.
[20] E. Jayme (note 5) 60.
[21] C. Lima Marques, A proteção do consumidor: aspectos de direito privado regional e geral, in XXVII Curso de Derecho Internacional-OEA/CIJ, Washington (2001) 657ff.
[22] C. Madrid Martinez, El derecho internacional privado venezuelano y su respuesta frente al consumidor internacional, in C. Lima Marques and D. Fernández.Arroyo, The global financial crisis and the need for consumer regulation, Orchestra (2012) 255ff.
[23] C. Lima Marques, "Brésil – Rapport national », in: D. P. Fernández Arroyo (note 9) 47ff.
[24] Z. Bauman, Globalização: As consequências humanas, Rio de Janeiro: Zahar (1999) 85ff.
[25] C. Lima Marques, Consumer Protection in Private International Law Rules: the need for an Interamerican Convention on the law applicable to some consumer contracts and consumer transactions, in T. Bourgoignie (Dir.), Regards croisés sur les enjeux contemporains du droit de la consommation, Blais (2006), 145ff.

Consumer law scholars[26] also call attention to the challenges presented to the law by the international mass tourism. These challenges for the law do not derive only from technological progress (electronic booking, maps and information about tourism services in foreign places, reservation at distance), from the complexities and diversity range of the current tourism contracts (package tours, time-sharing, adventure tourism, youth educational tourism, tourism for conferences, professional, language and religious training, etc.), but are also connected with changes to the tourist´s profile. Next to mass tourism to all social classes, a new elite tourism industry is blooming and there are changes in the tourism industry (global network alliances of the transport industry, new commercial agreements to 'code sharing' and global chains of travel packages/tours expertise, specialization of national travel agencies etc.).

The legal doctrine calls for the need for a "renewal of international instruments on tourism". [27] One of the changes in mass tourism is the decrease of the use of travel agencies and organizers. Brazilian research data shows that many tourists no longer use travel agencies or travel organizers,[28] but rather hire the services directly in the country of destination: today 65.4% of the foreign tourists visiting Brazil have no travel agency at their home State.[29]

These challenges on mass tourism can no longer be answered only with changes in national law and have been responded by supranational laws in the context of economic integration processes, like those from the EU[30] and MERCOSUR,[31] and by more than hundreds of bilateral and trilateral agreements on protection of tourists.[32]

Today the World Tourism Organization recognizes "the insufficiency of binding rules at the global level governing rights and obligations of tourists and of tourist service providers",[33] especially in the "context of increasing diversification of destinations and generating countries".

B) The efforts of the UNWTO towards substantial uniform rules and the need for Private International Law rules to complement the system of global protection

The World Tourism Organization "desiring the achievement of a high level of tourist protection" has recognized "the need to establish uniform provisions relating to the protection of tourists" in case of "*force majeure*" (emergency situations and bankruptcy of the travel agency or travel package provider).[34] After incidents such as the Iceland volcano case, tsunamis and nuclear disasters, the UNWTO recognized the necessity "for greater protection for travelers in the event of disasters in all parts of the

[26] K. Tonner (note 11) 205.
[27] See J. Tudela. "Madurez y insuficiencia del derecho del turismo español: su presente y sus incertidumbres", in Derecho del Turismo, J. Facal (note 18) 251.
[28] L. R. Atheniense. A responsabilidade jurídica das agências de viagens. Del Rey, (2002), 17ff.
[29] http://www.turismo.gov.br/export/sites/default/turismo/o_ministerio/publicacoes/downloads_publicacoes/Documento_Referencial_Turismo_no_Brasil_2011-2014.pdf
[30] K. Tonner (note 11) 207.
[31] See A. Soares, A tutela internacional do consumidor turista, in Revista de Direito do Consumidor 82 (2012) 113ff.
[32] China has more than 146 bilateral agreements, see W. Dan. A Protecção do Turista através do Direito do Consumidor, in Revista de Direito do Consumidor 83 (2012) 40. Some of these Bilateral Agreements have a special clause to facilitate the access of the Chinese tourists to national enforcement agencies of consumer protection and linguistic help, see Brazil-China and EU-China Memorandum of Understanding.
[33] UNWTO, CE/94/3 I e.
[34] http://www2.unwto.org/en/event/workshop-protection-touristsconsumers-and-travel-organizers.

world"[35] and has decided to create a Working Group[36] to elaborate an international legal instrument[37] for the protection of national and international tourists.

In 2011, the Working Group on the protection of tourists/consumers reached a consensus "on the need to elaborate a legal document which can provide guidelines" and substantive norms addressing the key issues of "providing assistance", ensuring "repatriation of consumers", supplying "information to tourists including in terms of the handling of bankruptcy situations of the travel organizers" and "accommodations."

In 2012, an unofficial draft was made available at the Internet, but its scope of application is restricted to tourists travelling with travel packages.[38] Tourists are for this purpose only "a person who concludes a travel package contract with a travel organizer" (Annex I, Chapter 1).

There are no conflicts of law rules on the Draft to an "UNWTO Convention on the protection of tourists and tourism service providers", because its main purpose is to clarify the responsibilities of the host country, the country of origin of the tourist, the country of the origin of the travel organizer and the travel organizer itself in case of catastrophes or emergencies. To all other kind of tourists and problems, the tourists should resort to national laws.

However, to achieve a high level of protection and to increase **"**the confidence of tourists in tourism service providers", as the Preamble of the future UNWTO Convention aims, much more is needed.

II. Possible Role of Private International Law in the Protection of Global Tourists: a suggestion

This state of the art presents an opportunity to create new Private International Law rules. Let us analyze the current models and the possible role of this discipline in the protection of foreign tourists.

A) Models of protection of tourists in Private International Law

It is noteworthy that some 'evolutions' in Private International Law began with tourists. They have changed the method and the policy of this discipline, but this has not always resulted on the creation of special conflicts of law rules to protect tourists.

The first example is the so-called ´American Revolution on conflicts of law´. This ´evolution´ on conflicts of law began with the famous case of a car accident in Ontario (Canada) caused by a tourist from New York (*Babcock v. Jackson*)[39] and the decision stressed that substantial policies of legal rules should be the starting point for choice-of-law solutions.[40]

In Europe, the case of the contracts concluded by German tourists in Spain has lead to a change in the traditional approach and promoted the emergence of consumer

[35] UNWTO CE/88/2 and CE/DEC/2(LXXXVIII).
[36] UNWTO CE/89/8 and CE/DEC/11(LXXXIX).
[37] UNWTO CE/93/4(a).
[38] http://www.elementis.hr/uhpa/docs/files/U1012047%20draft%20ECTAA%20UNWTO%20convention.pdf .
[39] S. Symeonides, The American Choice-of-Law Revolution, Nijhoff (2006) 101ff.
[40] E. Jayme, The American conflicts Revolution and its impact on European Private International Law, in E. Jayme, Gesammelte Schriften, vol. 4, Müller (2009) 293.

law directives with horizontal effect, now including special rules on conflicts of law to protect these tourists as consumers.[41] The time-sharing cases and the cases of tourists in Turkey have also impacted on the new rule of the Rome I Regulation on consumer protection,[42] and can be given as some examples of the so-called 'European Revolution' on conflicts of law.

From the EU comes an interesting model to protect tourists as consumers, which could be very useful: the network of European Consumer Centers. The *ECC-Net* offers free consumer help and advice, not only by giving information (travel advice and buyers' guide for European consumers), but also by helping to avoid problems and, if necessary, makes available an expert who provides free services to help in settling complaints against an EU-based foreign trader.[43] This system and the Regulation No 2006/2004 on Consumer Protection Cooperation have proved to be very useful at the Olympic Games of 2012 and represent a gateway to the European Small Claims Procedure, facilitating access to justice for consumers in Europe.[44]

Some authors consider the OAS ongoing process on an Inter-American Convention on consumer protection as a new revolution on current conflicts of law in the Americas.[45] Anyway, the 2012 MERCOSUR Draft Agreement on the law applicable to consumer contracts has its roots not only in the negotiations of the CIDIP VII, but also in the time-sharing problems in Uruguay with tourists from Brazil, Argentina and Paraguay.[46] It is to be noted that MERCOSUR has a successful experience with administrative agreements of cooperation for the protection of visitors (2005 Inter-Institutional Letter of Understanding among the agencies of consumer protection of MERCOSUR Member States for the protection of consumers-visitors) and the Technical Chambers of discussion and assessment between the tourism sectors and these bodies.

In Brazil, the need to include conflicts of law rules on the Consumer Code (Senate Bill 281/2012) began with the Panasonic case: a Brazilian tourist that bought in Miami a video camera with a 'global warranty' and could not enforce the warranty in Brazil because the Brazilian Panasonic subsidiary did not recognize the warranty given by the parent company in Japan.[47] As a result, the Superior Court used all rules of the Consumer Code as overriding mandatory rules, calling for special rules on international protection of consumers.[48]

We can say that there are currently four models of tourist protection in Private International Law: 1. Indirectly, by the establishment of substantial special uniform rules for contracts of interest to the sector, such as the UNIDROIT Convention on Travel Contracts, the conventions on carriage by air of the Warsaw system or the Draft of UNWTO; 2. Directly, by the creation of special conflict rules to protect the consumers, applicable – sometimes – also to tourists, such as the Regulation n. 593/2008 on the law applicable to contractual obligations (Rome I) of the European

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[41] E. Jayme, Zur mittelbar horizontalen Drittwirkung von EG-Richtlinien über das IPR (note 41) 344.
[42] E. Jayme, Europäische Kollisionsrecht: Neue Aufgaben, neuen Techniken (note 41) 375.
[43] http://ec.europa.eu/consumers/ecc/index_en.htm .
[44] https://e-justice.europa.eu/content_small_claims-42-en.do .
[45] A. Perez, Consumer Protection in the Americas: A Second Wave of American Revolutions? 5 U.St.Thomas L.J. (Spring 2008) 699.
[46] C. Lima Marques, Consumer Protection Policy in MERCOSUR, in M. Franca Filho, L. Lixinski and M. Giupponi, The Law of Mercosur, Hart (2010), 331ff.
[47] C. Lima Marques (note 21) 657ff.
[48] See E. Klausner, Direito Internacional do Consumidor, Renovar (2012) 141ss.

Union;[49] 3. By the establishment of channels of administrative cooperation to expedite conciliation, such as the MERCOSUR Agreement on consumer visitors of 2005, or of small claims courts and administrative assistance, as established in the Regulation n. 2006/2004; 4. Guarantee of privileged access to the forum of domicile of the consumer, even when the consumer is a tourist, through the use of consumer law as overriding mandatory rules. These cross-border claims are very costly and difficult to enforce, also because of the small amount of the claim and the existence of "*forum non conveniens*".

In other words, the foreign tourist as a consumer has sometimes a *forum actoris* privilege, but no special connecting factor in conflicts of law rules. This can be seen as an incentive to expensive and ineffective cross-border litigation in the country of origin of the tourists. The rationale behind the existent different regimes to the international protection of tourists as consumers was the acceptance of the internationality of the relation, allowing the use of the common connecting factors, like party autonomy or the *lex loci celebrationis*. More effective protection could be achieved in the country visited by avoiding demands against the transport service or against the travel organizer to have redress.

My thesis is that the role of Private International Law has changed in the matter of international tourist protection: it is now more political and focused on increasing confidence of tourists and on developing tourism as an economically and socially positive phenomenon.

B) The creation of a global cooperation network using the existent consumer agencies system: a pragmatic task of Private International Law

The first concern of conflicts of law was the harmony of national and foreign decisions. It results in the application of the law of the country of destination: *the lex loci delicti commissi* for torts against tourists and the *lex loci executiones* for contracts perform at the country visited. These neutral connecting factors also help to avoid discrimination between national and foreign tourists in the national market visited. With the evolution of consumer protection law, nationally and supranationally, the characterization of the tourists as consumers has allowed the consumer to sue the travel agency, the tour organizer, the transport industry or the hotels in the country of origin, opened new possibilities of procedural discussions (*forum non conveniens*, anti-suit injunctions, unfair binding consumer arbitration clauses, *ex ante* binding conciliation etc.). It shifted the connecting factor to the *lex loci celebrationis*.

To build more confidence on an effective international protection of tourists, innovative methods of Private International Law are needed. Because the new role of this discipline is more political – it is to prevent `conflicts`, it is necessary to promote international cooperation and the creation of really global administrative and judicial nets, that should include small claims courts, also using the consumer law system already in place!

This *ex ante* protection may use the national consumer rules as a minimum (substantive) protection tool, assuring international cooperation and mutual assistance to allow the solution of the majority of the cases and consumers problems in the country of destination of the tourist, avoiding *ex post facto* cross-borders litigations.

[49] R.A.M. Paiva, Direito, Turismo e Consumo, Renovar (2012) 236.

MERCOSUR has used the administrative cooperation agreement and multilingual questionnaires to allow for more than 80% of the problems to be solved with the simple intervention of the national enforcement authorities by phone, assuring information to foreign tourists and to the tourism industry about the rights of consumers and also encouraging the consumer movement and the national agencies to act on behalf of foreign tourists. Since 2007 the EU has established a network of national consumer enforcement authorities with similar investigation and enforcement powers with similar success EU-wide.

In my opinion this political role of Private International Law can be successfully achieved if a global forum, such as the Hague Conference, is willing to build a worldwide cooperation network using the well-established consumer protection agencies, the existent small claim tribunals and judicial authorities.

The tourist should be protected as consumer, regardless of the kind of visa held. Problems in contracts and services appear already in the country of destination of tourists, but they are not addressed in this country due to the inexistence of fast and efficient channels for these visitors. On the other hand, there is great demand for litigation in the tourists' countries of residence.[50] These are fairly inefficient and expensive cross-border litigation cases, or litigation with the trip organizers (even if, with electronic means, hiring these services is increasingly done directly), litigation that could be avoided with better information, more administrative cooperation for the prevention and creation of conciliatory and urgent measures.

The ASADIP members, in Brazil (March 23, 2012), manifested their full support to add to the agenda of the Hague Conference Work Program the topic of tourist protection, with an emphasis on international administrative cooperation (*Carta do Rio de Janeiro*).[51] The Brazilian government supports the suggestion, thus, I was asked to draft a suggestion on a "Convention on Co-Operation in Respect of the Protection of Tourists and Visitors Abroad".

At the current stage the Draft has only 9 articles, divided in chapter I (Objective and Scope of Application) and II (Mutual Assistance and Legal Aid). Article 1 lays down the objectives.[52] Art. 2 defines the notions of "Tourist and visitor abroad", "Central Authority", "Competent Authority", "Seller or supplier", "Consumer complain"). Art. 3 allows the application of the Convention also in case of emergencies, complementing the UNWTO Convention.

Under the Article 4, each contracting State should indicate a Central Authority to organize the cooperation efforts, in order that the Central Authority in the receiving State shall provide advice, information and assistance to tourists, using the established

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[50] See D. Benitez, Informe del Derecho del turismo en Argentina, in J. Facal (note 18) 232-233.

[51] http://asadip.files.wordpress.com/2012/04/carta-de-rio-de-janeiro8asadip230312en-espac3b1ol-y-portviii.pdf.

[52] "*Article 1 – Objective:* 1. This Convention lay down the conditions under which the Central Authority and the competent authorities in the Contracting States should cooperate with other and facilitate the access to justice and to administrative help for foreign tourists. 2.This Convention establishes a network of authorities responsible for monitoring and enforcing the application of legislation concerning consumer and tourist protection, aiming to ensure compliance with the legislation of the visited State ("the receiving State") and to facilitate the solution of the breach or infringement of the legislation in the receiving State and the access to Justice of foreign tourists also for small claims in this State, so as the use of the documents produce at the administrative complains made in other Contracting States. 3. This Convention also lays down the conditions under which the competent authorities in the Contracting States designated as responsible for the enforcement of the laws that protect consumers' interests shall also cooperate with each other in order to ensure compliance with those laws, with international tourist protection standards and special regional and international legal instruments in order to enhance the protection of consumers' and tourists' economic and safety interests."

channels of mediation and of enforcement of consumer rights and the small claims tribunals available in the country as partners and also distance procedure and enforcement agreements, if they are available. The Central Authority in the State of the habitual residence of the tourist can be connected to provide assistance and legal counseling to the tourist and to the other Central Authorities, and will provide to the tourist a copy of its data, when the tourist returns to the country of origin, using all established channels of mutual assistance, receipt of evidence, distance procedure and facilitated enforcement, available at this time in the country to help this tourist. The Central Authority of both countries may share data, formularies and evidences to facilitate to process the tourist claim.

According to Article 5 each Contracting State should also designate the competent authorities responsible for the enforcement of the laws that protect consumers' interests and then shall cooperate with each other and the Central Authority, without prejudice to any bilateral or multilateral agreement. Article 6 establishes the obligations of the receiving State[53] and Art. 7 set the obligations of the State of Origin.[54] Article 8 regulates the exchange of information on request and the limits of information sharing and Art. 9 entitles the tourists to legal aid in a non-discriminatory way. The suggestion has a MERCOSUR similar multilingual formulary to help the tourist to explain the problems to the enforcement agency. An optional set of conflicts of law rules to protect tourists could complement this suggestion.

Concluding Remarks

Foreign tourists and visitors as consumers contribute to strengthen the tourism sectors and to promote the economic development in all States, and at the current state of Private International Law foreign tourists should not be discriminated and should have access to justice and to administrative assistance in both their country of origin and destination as to be able to upheld their private rights. It seems clear that this foreign tourist may need special information and help in foreign languages about legal issues and about consumer law in the country visited, but cooperation between administrative consumer agencies and small claim courts can provide that. A new global judicial and administrative cooperation network can ensure that these foreign tourists will be able to

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[53] "*Article 6 – Obligations of the Receiving State.* 1. The Contracting State visited or the State where the tourist is located at the moment of the infringement of consumer rights, problem or accident ("the receiving State") shall consider the tourist as a consumer, without any kind of discrimination and provide, under its law, the tourist or visitor with any help available in its administrative and judicial system 2. To assure mutual assistance, accessibility and recognition of all complains and claims in the contracting States, the receiving State shall co-operate … as followed: I – taking all measures possible to inform and counsel the tourists, directly or indirectly, about their rights and possibilities to take legal measures during the stay at this country, using the forms suggested at the annex; II – indicating the competent authorities in the region to advise and address complaints to, under the laws of this country; III – putting the tourist in contact with the enforcement authorities to consumer protection, small claims tribunals or free legal services and network that can assist in the situation; IV – register the case, keeping all data for 5 years and cooperate with the Central authority and competent authorities designated as responsible for the enforcement of the laws that protect consumers' interests of the other Contracting States. V – maintain and develop the formulary suggest at the Annex I on its own languages and inform all Central Authorities of the main changes of the law that can have impact on the protection of tourist or consumers."

[54] "*Article 7 – Obligations of the State of Origin.* … I - mutual information about the legal rights of consumers and tourists; … VI – joint efforts to prepare written material and capacitation to the enforcement authorities or Central Authorities of other countries about the legal regime in the country..."

benefit of the already in-placed consumer protection system and access to justice in all States and regions, avoiding inefficient cross-border litigations in consumer issues. A pragmatic comeback to Private International Law…