

Conclusions & Decisions (C&D)

- 1 The Council on General Affairs and Policy (CGAP) met online from 28 February to 4 March 2022. The meeting was attended by over 450 participants, representing 75 HCCH Members, 5 non-Member States, 7 intergovernmental organisations, 9 international non-governmental organisations, and members of the Permanent Bureau (PB).¹

I. Ceremonies Relating to Membership and HCCH Conventions

- 2 CGAP witnessed:
 - a. the deposit of the instrument of acceptance of the Statute by El Salvador and welcomed it as the 91st Member of the HCCH;
 - b. the signature and deposit of the instrument of ratification of the 2007 Child Support Convention and the 2007 Maintenance Obligations Protocol by Ecuador; and
 - c. the signing of the 2019 Judgments Convention by the United States of America.

II. Work Relating to Possible New Legislative Instruments

A. Tourists and Visitors

- 3 CGAP approved the *Practical Guide to Access to Justice for International Tourists and Visitors*, subject to editorial amendments, for publication on the HCCH website.
- 4 CGAP welcomed the substantive contribution of the PB to the United Nations World Tourism Organization (UNWTO) International Code for the Protection of Tourists.

¹ The following Members of the HCCH were represented: Albania, Andorra, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, People's Republic of China, Costa Rica, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, European Union, Finland, France, Germany, Greece, Honduras, Hungary, India, Ireland, Israel, Italy, Japan, Jordan, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Monaco, Mongolia, Morocco, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of North Macedonia, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela, and Viet Nam; in addition to the following non-Member States: Colombia, Indonesia, Lebanon, Islamic Republic of Pakistan, and Rwanda; the following intergovernmental organisations: *Commission internationale de l'état civil* (CIEC), Commonwealth Secretariat, Council of Europe, *Organisation pour l'Harmonisation en Afrique du Droit des Affaires* (OHADA), United Nations Commission on International Trade Law (UNCITRAL), International Institute for the Unification of Private Law (UNIDROIT) and World Intellectual Property Organization (WIPO); and the following international non-governmental organisations: The Hague Academy of International Law, *Asociación Americana de Derecho Internacional Privado* (ASADIP), Council of Bars and Law Societies of Europe (CCBE), Common Law Association of Notaries (CLAN), European Law Institute (ELI), International Bar Association (IBA), International Law Association (ILA), International Swaps and Derivatives Association (ISDA) and International Association of Judges (IAJ).

B. Parentage / Surrogacy

- 5 CGAP noted the update provided by the Chair of the Experts' Group on the Parentage / Surrogacy project on the Group's ninth and tenth meetings. The Group will continue its work, including through two additional meetings, where possible in person. CGAP invited the Group to provide a thorough and balanced assessment of the feasibility of one or more private international law instruments in its final report. The Group will present its final report to CGAP at its 2023 meeting.
- 6 CGAP reiterated that any work by the HCCH in relation to international surrogacy arrangements should not be understood as supporting or opposing surrogacy.

C. Jurisdiction

- 7 CGAP noted the update provided by the Chair of the Working Group on matters related to jurisdiction in transnational civil or commercial litigation and welcomed the progress made by the Group. CGAP mandated the PB to convene two further meetings before the 2023 meeting of CGAP, with intersessional work as required. CGAP expressed its preference for these meetings to be held in person. The Group will report to CGAP at its 2023 meeting.

D. Insolvency

- 8 CGAP welcomed the cooperation between the PB and the UNCITRAL Secretariat on matters relating to applicable law in insolvency proceedings, and to civil asset tracing and recovery in insolvency proceedings. CGAP thanked Professor Francisco Garcimartín for his involvement, complementing the participation of the PB in these projects.
- 9 Subject to available resources, CGAP encouraged the PB to continue cooperation with the UNCITRAL and UNIDROIT Secretariats on insolvency related projects where existing HCCH instruments are of relevance. To support this cooperation, CGAP invited pro bono contributions by external experts to assist the PB.

E. Intellectual Property

- 10 CGAP welcomed the work carried out on the intersection of intellectual property and private international law, including the cooperation between the PB and the International Bureau of WIPO. CGAP mandated the PB to continue monitoring developments on the intersection of intellectual property and private international law, subject to available resources.

F. Family Agreements

- 11 CGAP noted the update provided by the Chair of the Experts' Group on Family Agreements on the Group's fifth and sixth meetings.
- 12 CGAP approved the *Practitioners' Tool: Cross-Border Recognition and Enforcement of Agreements Reached in the Course of Family Matters Involving Children*, subject to editorial amendments, for publication.
- 13 With the conclusion of the Experts' Group's work, CGAP expressed its gratitude to the Chair, Professor Paul Beaumont, and to the members of the Group. In preparing for the next meeting of the Special Commission on the practical operation of the 1980 Child Abduction and the 1996 Child Protection Conventions, CGAP noted that HCCH Members and the PB may wish to consult the experts who had participated in the Group, who may provide feedback, on a voluntary basis, on the use of the Practitioners' Tool.

G. Digital Economy

- 14 CGAP noted the report on the private international law implications of the digital economy, as well as the results of the questionnaire on the topics relating to the digital economy that are of interest to the Members, and acknowledged the importance of the subject to the HCCH. CGAP mandated the PB to continue to:
- a. monitor developments with respect to the digital economy;
 - b. study the topic with a view to identifying private international law issues for potential future work, including through discussions at the 2022 Commercial and Financial Law Conference;
 - c. work with other organisations in the field, such as UNCITRAL and UNIDROIT; and
 - d. report to CGAP at its 2023 meeting.

III. Post-Convention Work

A. International Family and Child Protection Law

1. 1980 Child Abduction and 1996 Child Protection Conventions

- 15 CGAP welcomed the preparations for the next meeting of the Special Commission on the practical operation of the 1980 Child Abduction and 1996 Child Protection Conventions, provisionally scheduled for the fourth quarter of 2023.
- 16 CGAP encouraged Members to make voluntary contributions for the statistical study of applications made under the 1980 Child Abduction Convention.
- 17 CGAP reiterated its invitation to Members to consider making voluntary contributions for the maintenance and operation of the International Child Abduction Database (INCADAT) and recommended that all Contracting Parties to the 1980 Child Abduction Convention consider the possibility of designating a national INCADAT correspondent.
- 18 CGAP welcomed the *HCCH|Approach Initiative* and its role in promoting the visibility of the 1996 Child Protection Convention on its 25th anniversary. CGAP supported the extension of the *HCCH|Approach Initiative* to other Conventions in the field of international family and child protection law.
- 19 CGAP encouraged all Contracting Parties to the 1980 Child Abduction Convention to:
- a. establish Central Contact Points for mediation where relevant, including instances where the Central Authority is designated as a Central Contact Point;
 - b. where sufficient information has been provided on implementation, expedite, to the extent possible, the process of acceptance of accessions to the 1980 Child Abduction Convention; and
 - c. consider acceding to or ratifying the 1996 Child Protection Convention, if not already the case.
- 20 CGAP noted the preparations for the 4th Global Meeting of the International Hague Network of Judges (IHNJ) and the HCCH Judicial Roundtable in Singapore, provisionally scheduled for the first half of 2023.

2. 1993 Adoption Convention

- 21 CGAP welcomed the preparations for the Fifth Meeting of the Special Commission on the practical operation of the 1993 Adoption Convention to be held from 4 to 8 July 2022. CGAP mandated the PB to convene an online meeting of the Special Commission.

22 CGAP noted the update provided by the Chair of the Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption. Following its consideration by the Special Commission, CGAP requested the PB to finalise the draft *Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption*, in consultation with the Group as required, and submit it to CGAP for approval at its 2023 meeting.

3. 2000 Protection of Adults Convention

23 CGAP welcomed the preparations for the First Meeting of the Special Commission on the practical operation of the 2000 Protection of Adults Convention, provisionally scheduled from 9 to 11 November 2022.

24 CGAP noted the progress made by the Working Group on the development of a draft Practical Handbook. CGAP mandated the PB to continue its work with the Working Group to finalise the draft Handbook and the draft Country Profile for consideration by the Special Commission.

4. 2007 Child Support Convention (incl. iSupport) and its Protocol

25 CGAP welcomed the preparations for the First Meeting of the Special Commission on the practical operation of the 2007 Child Support Convention and its Protocol to be held from 17 to 19 May 2022. CGAP mandated the PB to convene an in-person meeting of the Special Commission. Without prejudice to the format of future meetings and in the exceptional circumstances associated with the ongoing pandemic, CGAP mandated the PB to facilitate remote participation for Members that are unable to attend in person. CGAP strongly encouraged participants to attend in person wherever possible.

26 CGAP welcomed the work completed by the Administrative Cooperation Working Group towards the adoption of a standard statistical report for the 2007 Child Support Convention.

27 CGAP noted the report prepared by the Experts' Group on international transfer of maintenance funds and invited Members and Contracting Parties to evaluate the possible use of the *2016 Postal Payment Services Agreement* of the Universal Postal Union in the context of international transfer of maintenance funds.

28 CGAP noted the report on iSupport and renewed its invitation to Members and Contracting Parties to implement the software with a view to facilitating the recovery of child support payments and generating savings in their child support operations.

B. Transnational Litigation and Authentication of Public Documents

1. 1961 Apostille Convention (incl. the e-APP)

29 CGAP endorsed the Conclusions & Recommendations of the Fifth Meeting of the Special Commission on the practical operation of the 1961 Apostille Convention. CGAP will consider the timing of the next meeting of the Special Commission at its 2024 meeting.

30 CGAP thanked Mr Luke Tang (Singapore) for his leadership and guidance as Chair of the Special Commission.

31 CGAP approved the second edition of the *Practical Handbook on the Operation of the Apostille Convention*, subject to editorial amendments, for publication.

2. Transnational Litigation Conventions

32 CGAP welcomed the preparations for the next meeting of the Special Commission on the practical operation of the 1965 Service, 1970 Evidence and 1980 Access to Justice Conventions, provisionally scheduled for July 2023.

C. International Commercial and Financial Law

33 CGAP welcomed the preparations for the 2022 Commercial and Financial Law Conference, to be held from 12 to 16 September 2022. The PB will report on the outcomes of the conference to CGAP at its 2023 meeting.

1. 1985 Trusts and 2006 Securities Conventions

34 CGAP noted the report on the status and developments in relation to the 1985 Trusts and 2006 Securities Conventions, including the results of the questionnaire on the topics relating to these two Conventions that are of interest to the Members. CGAP invited the PB to continue to monitor developments and study the topic in preparation of the 2022 Commercial and Financial Law Conference.

35 CGAP approved the development of promotional documents on the 1985 Trusts and 2006 Securities Conventions by the PB, with a view to increasing the visibility of, and number of Contracting Parties to, these two Conventions.

2. 2015 Choice of Law Principles

36 CGAP welcomed the efforts of the PB to promote the 2015 Choice of Law Principles, including as part of the 2022 Commercial and Financial Law Conference.

37 CGAP invited the PB to assess, subject to available resources and in cooperation with other relevant institutions, the acceptance and interpretation of Article 3 of the 2015 Choice of Law Principles. The PB will report to CGAP at its 2023 meeting.

D. Collection of Statistical Data

38 CGAP invited the PB to undertake further work on options for the collection of statistics relating to the HCCH Core Conventions, including through consultation with Members and Contracting Parties. The PB will report to CGAP at its 2023 meeting.

E. Post-Convention Assistance

39 CGAP noted the report on post-Convention assistance activities and recognised the value of these activities in contributing to the effective operation of HCCH Conventions.

IV. Reports of Regional Offices

40 CGAP welcomed the reports of the Regional Offices and recognised the services they continue to provide to HCCH Members.

V. Governance

A. Chair of CGAP

41 CGAP elected Dr Marcelo De Nardi (Brazil) as its new Chair for a term of, in principle, three years.

42 CGAP thanked Mr Andrew Walter (Australia) for his service and dedication to the HCCH throughout his tenure.

B. List of Observers

43 CGAP amended the List of Observers pursuant to Part II.J of the HCCH Rules of Procedure.

C. Strategic Plan

44 CGAP approved the extension of the current Strategic Plan for use until a new Strategic Plan is approved.

45 CGAP mandated the establishment of a Working Group to develop a new draft Strategic Plan, with a view to submitting it to CGAP for approval at its 2023 meeting. CGAP noted the new Strategic Plan should cover a period of at least five years.

D. Strategic Development

46 CGAP welcomed the work of the Informal Group of Ambassadors in support of future discussions on the strategic development of the HCCH. CGAP invited the Working Group on the Strategic Plan to have regard to the Principles discussed by the Group.

47 CGAP invited the PB to make preparations, subject to available resources, for the organisation of an informal brainstorming session, to be held online. CGAP invited the Working Group on the Strategic Plan to have regard to the outcomes of the informal brainstorming session.

48 CGAP provisionally endorsed the list of HCCH Core Conventions for use until a new Strategic Plan is approved.

49 CGAP provisionally endorsed the structured, proactive approach to future secondments presented by the PB, until a new Strategic Plan is approved.

50 CGAP mandated the PB to prepare an estimate of the financial implications of adopting Spanish as an official language of the HCCH and to make concrete suggestions for its financing within the Budget.

E. Financial Matters

51 CGAP noted the update provided by the Secretary General on the draft Budget and Explanatory Notes for Financial Year 2022-2023.

52 CGAP noted the importance of voluntary contributions and thanked contributors.

F. Representation

53 CGAP mandated the Working Group on the Strategic Plan to consider, as a matter of priority, possible models for regional groups used by the HCCH.

54 CGAP mandated the PB to actively seek appropriate representation across geographic regions, and from underrepresented Member States, when proposing Chairs of meetings of the HCCH.

55 CGAP mandated the PB to actively seek appropriate representation across genders when proposing Chairs of meetings of the HCCH.

56 CGAP invited the PB to implement measures relating to diversity, equity, and inclusion in the recruitment of staff, including to actively seek appropriate representation across geographic regions, and from underrepresented Member States, as well as across genders.

57 The PB will report to CGAP on representation at its 2023 meeting.

G. Resource Allocation

58 CGAP noted the report on the allocation of resources in 2021.

H. Appointment of Secretaries General of the HCCH

59 CGAP noted the advice of its Chair on the application of the *Arrangements for appointing Secretaries General of the HCCH*.

60 Recognising the importance of ensuring appropriate geographic and gender representation, CGAP mandated its Chair to issue a new call for nominations for the assessment committee for the appointment of the Secretary General and to undertake consultations with Members as appropriate. CGAP invited the Chair to submit a new proposal for the composition of the assessment committee for endorsement by Members. To this end, CGAP mandated the use of the distance decision-making process outlined in Part II.I of the HCCH Rules of Procedure.

I. Vice-Chair of CGAP

61 CGAP elected Ms Yael Weiner (Israel) as its Vice-Chair.