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| Title | 2000 Protection of Adults Convention: Follow up on the 2022 Special Commission Meeting – Finalisation and adoption of documents |
| Document | Prel. Doc. No 6A of January 2023 |
| Author | PB |
| Agenda Item | Item III.1.c. |
| Mandate(s) | C&D No 23 of CGAP 2022; C&D No 31 of CGAP 2020; C&R No 34 of CGAP 2019 |
| Objective | To report on the First Meeting of the Special Commission (SC) on the practical operation of the 2000 Protection of Adults Convention (9-11 November 2022) and share the Conclusions and Recommendations adopted by the SC |
| Action to be Taken | For Decision <input type="checkbox"/> For Approval <input checked="" type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input type="checkbox"/> |
| Annexes | N/A |
| Related Documents | N/A |

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2000 Protection of Adults Convention: Follow up on the 2022 Special Commission Meeting – Finalisation and adoption of documents

I. Introduction

- 1 The First Meeting of the Special Commission (SC) on the practical operation of the *Convention of 13 January 2000 on the International Protection of Adults* (the 2000 Protection of Adults Convention or the 2000 Convention) was held in person with the possibility of remote participation in The Hague from 9 to 11 November 2022. It was attended by a total of 112 delegates, with 44 delegates attending in person, at the Sound & Vision Museum in The Hague, and 68 delegates attending online. Delegations represented Contracting Parties, HCCH Members, and Observers from intergovernmental and international non-governmental organisations, as well as members of the Permanent Bureau (PB).¹
- 2 The SC confirmed that the 2000 Protection of Adults Convention is operating smoothly and is fit for purpose. The SC also recalled that the 2000 Convention and the *United Nations Convention of 13 December 2006 on the Rights of Persons with Disabilities* (UNCRPD) are complementary instruments.
- 3 The SC discussed several matters relating to the interpretation, implementation and practical operation of the 2000 Protection of Adults Convention,² including habitual residence, *ex lege* representation, instructions given and wishes made by an adult in anticipation of a future impairment, issues of recognition and enforcement, Central Authority cooperation, the use of existing recommended Model Forms, direct judicial communications, and possible amendments to the 2000 Protection of Adults Convention.
- 4 The SC welcomed the efforts made, and progress achieved, by the Working Group (WG) tasked mainly with the development of a draft Practical Handbook under the 2000 Protection of Adults Convention. The SC approved, in principle, the draft Practical Handbook, Implementation Checklist, and Country Profile under the 2000 Convention, subject to their amendment in the light of the latest comments by HCCH Members as well as the discussions that took place at the SC meeting and their outcome.
- 5 Conclusions and Recommendations (C&R) summarising the outcome of the meeting were unanimously adopted by the SC.³

¹ The following Members of the HCCH were represented: Argentina, Armenia, Austria, Belgium, Canada, Cyprus, Czech Republic, El Salvador, Estonia, European Union, Finland, France, Germany, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Monaco, Netherlands, Paraguay, Poland, Portugal, Republic of Korea, Slovakia, Slovenia, Sweden, Switzerland, Ukraine and United Kingdom, in addition to the following intergovernmental organisations: CARICOM (Caribbean Community and Common Market) and CIEC (*Commission internationale de l'état civil*) and the following international non-governmental organisations: CNUÉ (*Conseil des Notariats de l'Union Européenne*), DAI (Dementia Alliance International), EAPIL (European Association of Private International Law), EGPIIL (European Group for Private International Law), ELI (European Law Institute), FI-eur (Family Law in Europe), IAFL (International Academy of Family Lawyers), ICFLPP (International Centre for Family Law, Policy and Practice), STEP (Society for Trust and Estate Planning) and IUNL (International Union of Notaries).

² See the revised draft Annotated Agenda drawn up for the attention of the SC on the practical operation of the 2000 Protection of Adults Convention, available on the HCCH website at www.hcch.net under "Protection of Adults" then "Special Commission meetings".

³ See the C&R adopted by the SC on the practical operation of the 2000 Protection of Adults Convention, available on the HCCH website at www.hcch.net (see path indicated in note 2).

II. Future work programme

A. WG

1. Finalisation and adoption of the Practical Handbook on the Operation of the 2000 Protection of Adults Convention⁴

6 The WG intends to meet during the first quarter of 2023 to discuss a second revised version of the draft Practical Handbook prior to its circulation, in the second quarter of 2023, to all HCCH Members and Observers that were present at the SC meeting for comments on the amendments and with an invitation to provide additional practical examples. In the light of the comments received, the PB, in consultation with the WG, will prepare a final draft version of the Practical Handbook. The PB suggests that the final draft version of the Practical Handbook be submitted to HCCH Members, in both languages, for approval in a written procedure before the end of 2023. The final version of the Practical Handbook will be approved if no objection is raised by HCCH Members within 60 days. Following its approval, the Practical Handbook will be published.

2. Finalisation and adoption of the Implementation Checklist under the 2000 Protection of Adults Convention⁵

7 The SC approved, in principle, the draft Implementation Checklist under the 2000 Protection of Adults Convention.⁶

8 The WG met on 7 December 2022 to review the draft Implementation Checklist in light of the discussions that took place at the SC meeting and their outcome. The revised draft Implementation Checklist will be circulated to HCCH Members in January 2023⁷ for their comments by the end of March 2023. The draft Implementation Checklist will then be revised in accordance with the comments received and finalised in consultation with the WG during the course of April 2023. The PB suggests that the final draft version of the Implementation Checklist be submitted to HCCH Members, in both languages, for approval in a written procedure before the end of June 2023. The final version of the Implementation Checklist will be approved if no objection is raised by HCCH Members within 60 days. Following its approval, the final version of the Implementation Checklist will appear, for publication purposes, as an Annex to the Practical Handbook.

3. Finalisation and adoption of the 2000 Protection of Adults Convention Country Profile⁸

9 The SC approved, in principle, the draft Country Profile under the 2000 Protection of Adults Convention.⁹

10 The WG will meet during the first quarter of 2023 to discuss and finalise the second revised version of the draft Country Profile in the light of the latest comments received from HCCH Members, the discussions that took place at the SC meeting and their outcome. The second revised version of the draft Country Profile will then be circulated, in both languages, to HCCH Members for their comments before the end of the second quarter of 2023. In light of the comments received, the PB in consultation with the WG, will finalise the draft Country Profile. The PB suggests that the final

⁴ C&R Nos 61-62, available on the HCCH website at www.hcch.net (see path indicated in note 2).

⁵ C&R Nos 63-64.

⁶ See “Draft Implementation Checklist under the HCCH 2000 Protection of Adults Convention”. Prel. Doc. No 3 of September 2020, available on the HCCH website (see path indicated in note 2).

⁷ “Implementation Checklist under the 2000 Protection of Adults Convention”, Prel. Doc. No 3 of January 2023 (revised version) (forthcoming).

⁸ C&R Nos 65-66.

⁹ See “2000 Protection of Adults Convention Draft Country Profile”, Prel. Doc. No 7 of October 2022 (first revised version), available on the HCCH website (see path indicated in note 2).

draft version of the Country Profile be submitted to HCCH Members, in both languages, for approval in a written procedure during the third quarter of 2023. The final version of the Country Profile will be approved if no objection is raised by HCCH Members within 60 days. Following its approval, the Country Profile will be published.¹⁰

B. PB

- 11 The SC invited the PB to place the recommended Model Forms available under the 2000 Convention in a more prominent area of the Protection of Adults specialised section on the HCCH website.
- 12 The SC invited the PB, subject to available resources, to begin working on improving the user-friendliness of the recommended Model Forms under the 2000 Convention, for example by making them fillable.

III. Proposal to CGAP

- 13 The PB proposes the following Conclusions and Decisions for CGAP's consideration:
CGAP endorses the C&R of the First Meeting of the SC on the practical operation of the 2000 Protection of Adults Convention.
- 14 CGAP allows the WG to meet in 2023, with a view to discuss and revise the following Prel. Docs, before they are circulated to HCCH Members for their comments:
 - Prel. Doc. No 3 of January 2023 (revised version) – Implementation Checklist under the 2000 Protection of Adults Convention;
 - Prel. Doc. No 4 of XX 2023 (second revised version) – Practical Handbook on the Operation of the 2000 Protection of Adults Convention;
 - Prel. Doc. No 7 of XX 2023 (second revised version) – 2000 Protection of Adults Convention Draft Country Profile.

Upon the finalisation of the aforementioned Prel. Docs. in the light of the comments received from HCCH members, CGAP allows for their approval in a written procedure and that the final version of the Prel. Docs be approved if no objection is raised by HCCH Members within 60 days.

- 15 Following a recommendation from the SC to this effect, the PB invites CGAP to consider the issue of accessibility to HCCH documents by individuals with impairments, in particular to documentation pertaining to the 2000 Convention.

¹⁰ Once published, the 2000 Protection of Adults Convention Country Profile will be made available in electronic format on the HCCH website at www.hcch.net under the "Protection of Adults Section", see "Development of e-Country Profiles for key HCCH Conventions", Prel. Doc. No 11 of December 2022.