

Title	Working Group on Parentage / Surrogacy: Report of the third meeting (from 4 to 8 November 2024)
Document	Prel. Doc. No 1B of November 2024
Author	Working Group on Parentage / Surrogacy Chair of the Working Group on Parentage / Surrogacy
Agenda Item	Item TBD
Mandate(s)	C&D Nos 2 and 3 of CGAP 2024
Objective	To report on the third meeting of the Working Group and to present the recommendations of the Working Group following its third meeting
Action to be Taken	For Decision <input type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input checked="" type="checkbox"/>
Annexes	Annex I: <i>Aide-mémoire</i> of the third meeting of the Working Group on Parentage / Surrogacy prepared by the Chair Annex II: List of participants of the third meeting of the Working Group on Parentage / Surrogacy
Related Documents	<ul style="list-style-type: none"> - Prel. Docs Nos 3A of February 2015, 3B and 3C of March 2014 and C&R No 5 of CGAP 2015 - Prel. Doc. No 3 of February 2016 and C&R No 15 of CGAP 2016 - Prel. Doc. No 2 of February 2017 and C&R Nos 8-10 of CGAP 2017 - Prel. Doc. No 2 of February 2018 and C&R Nos 6-7 of CGAP 2018 - Prel. Docs Nos 2A of October 2018, 2B of February 2019 and C&R Nos 7-12 of CGAP 2019 - Prel. Doc. No 2 of November 2019 and C&R Nos 5-9 of CGAP 2020 - Prel. Doc No 2A of October 2020, Prel. Doc. No 2B of February 2021 and C&D Nos 5-6 of CGAP 2021 - Prel. Doc. No 2A of July 2021, Prel. Doc. No 2B of November 2021 and C&D Nos 5-6 of CGAP 2022 - Prel. Doc. No 1 of November 2022 and C&D No 3-8 of CGAP 2023 - Prel. Doc. No 1 of November 2023 and C&D No2-3 of CGAP 2024 - Prel. Doc. No 1A of April 2024

Table of Contents

I.	Introduction	1
II.	Proposal for CGAP	1
	Annex I	4
	A. Rules of recognition by operation of law of judgments on legal parentage	4
	B. Applicable law	4
	C. Public documents	4
	D. Future work	4
	Annex II	6

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I. Introduction

- 1 From 4 to 8 November 2024, the Working Group (WG) on Parentage / Surrogacy met for the third time. The meeting was held in person at the offices of the Permanent Bureau in The Hague, with the possibility for online participation. The meeting was attended by 47 delegates and other experts, representing 25 HCCH Members and three Observers, as well as by members of the Permanent Bureau (PB) of the HCCH. The list of participants is included as Annex II.
- 2 At its 2023 meeting, the Council on General Affairs and Policy (CGAP) mandated the establishment of a WG on private international law (PIL) matters related to legal parentage generally, including legal parentage resulting from an international surrogacy arrangement. In addition, CGAP mandated:
 - “5. a. the Working Group first to explore provisions for, if possible, one new instrument on these matters, to further inform CGAP on policy considerations in relation to the scope and content of such instrument, including on the feasibility of reaching consensus. The Working Group could later explore the possibility of two instruments, if necessary;
 - b. the Working Group to proceed on the basis that the aim of any new instrument would be to provide greater predictability, certainty and continuity of legal parentage in international situations for all persons concerned, taking into account their human rights, including, for children, those enshrined in the *United Nations Convention on the Rights of the Child* (UNCRC) and in particular their right that their best interests be a primary consideration in all actions taken concerning them;
 - c. the Working Group to draw on the ideas and assessments in the Final Report of the Experts’ Group, recognising that a number of elements and approaches identified could feature either on their own or in a combined way; [...]”¹
- 3 At its 2024 meeting, “CGAP invited the PB to convene two further meetings within Financial Year (FY) 2024-2025, possibly in the second half of 2024 and in early 2025, in addition to the April 2024 meeting, with intersessional work as required. The meetings of the WG should preferably be held in person and intersessional work should take place online. The WG will report to CGAP 2025.”²
- 4 CGAP also “reiterated that any work by the HCCH in relation to PIL matters related to legal parentage resulting from surrogacy arrangements should not be understood as supporting or opposing surrogacy.”³
- 5 The *Aide-mémoire* of the Chair of the WG set out in Annex I provides an overview of the main points of discussion at the Group’s third meeting.

II. Proposal for CGAP

- 6 The WG invites CGAP to take note of the *Aide-mémoire* contained in Annex I of this document prepared by the Chair of the WG, based on the deliberations during the third meeting.

¹ Conclusions and Decisions of the Council on General Affairs and Policy of the Conference (7-10 March 2023), available on the HCCH website at www.hcch.net under “Governance” then “Council on General Affairs and Policy” and “Archive (2000-2024)”.

² *Ibid*, C&D No 2.

³ *Ibid*, C&D No 3.

7 Based on the foregoing, the WG proposes the following C&D for CGAP's consideration:

CGAP took note of the *Aide-mémoire* of the Chair and welcomed the progress made by the WG. To further develop provisions for a draft instrument and draft a final report of the work of the WG, CGAP invited the PB, in addition to the April 2025 meeting, to convene one further in-person meeting within Financial Year 2025-2026, possibly in the second half of 2025, with intersessional work as required, as well as, if necessary, one online meeting before CGAP 2026. Intersessional work should take place online.

CGAP reiterated that any work by the HCCH in relation to PIL matters related to legal parentage resulting from surrogacy arrangements should not be understood as supporting or opposing surrogacy.

ANNEXES

Annex I

Aide-mémoire of the third meeting of the Working Group on Parentage / Surrogacy prepared by the Chair

- 1 This *Aide-mémoire* provides an overview of the main points of discussion at the third meeting of the Working Group (WG) held from 4 to 8 November 2024, under the chairmanship of Professor Michael Hellner (Sweden).
- 2 The *rapporteur* of the Subgroup, which did intersessional work on draft provisions for a possible instrument on legal parentage, including bases for recognition, grounds for refusal and other matters concerning the recognition of judgments on legal parentage, presented an overview of work done to date.
- 3 The WG pursued its discussion on safeguards / standards and how they could be included in an instrument. In this context, the WG recalled its mandate to proceed on the basis that the aim of any new instrument would be to provide greater predictability, certainty and continuity of legal parentage in international situations for all persons concerned, taking into account their human rights, including, for children, those enshrined in the *United Nations Convention on the Rights of the Child* (UNCRC) and in particular their right that their best interests be a primary consideration in all actions taken concerning them.

A. Rules of recognition by operation of law of judgments on legal parentage

- 4 The WG continued to work on draft provisions, including on the bases for recognition and grounds for refusal of judgments on legal parentage in general, as well as in cases of adoption and surrogacy arrangements. The WG also considered draft provisions on general obligations on Contracting Parties and optional declarations under a possible future instrument.
- 5 The WG gave further consideration to how treaty relations could be established between Contracting Parties in a future instrument.

B. Applicable law

- 6 The WG noted the different domestic approaches to applicable law rules in the context of legal parentage. The WG, noting that there was little interest in pursuing discussions on applicable law at this point in time, decided to focus its work on other matters.

C. Public documents

- 7 The WG reiterated the great disparity between public documents on legal parentage, including their effects. The WG doubted the added value of a rule on the evidentiary effects of public documents in a future instrument. However, future work on an international certificate and / or a multilingual standard form on parentage merited further consideration.

D. Future work

- 8 The Group will meet for its fourth meeting in April 2025 to continue its work on this Project. In preparation for its next meeting, the Group agreed that, based on the discussions at the third meeting, a subgroup would carry out intersessional work before April 2025, on its final report, which will include draft provisions for a possible future instrument, discuss policy issues arising, and conclusions as to feasibility of reaching consensus on these issues and an instrument.

- 9 The Chair invited members of the WG to submit suggestions and / or comments intersessionally on the draft provisions by returning the draft text in track changes and / or comments or by submitting these suggestions / comments in the form of (a) Working Document(s).

Annex II

List of participants of the third meeting of the Working Group on Parentage / Surrogacy

Participation online: O
Participation on site: S

	<i>Representing</i>	<i>Surname</i>	<i>First name</i>	<i>Job Title</i>	<i>Organisation</i>	<i>O/S</i>
Members	Argentina	Rubaja	Nieve	Legal Adviser, Ministry of Foreign Affairs; Professor in Private International Family Law	University of Buenos Aires	O
	Belgium	Bruyninckx	Margot	Legal Advisor, Family Law, DG Legislation	Ministry of Justice	S
		Hanson	Laura	Legal Advisor, DG Legislation, Central authority of civil status	Service Public Fédéral de la Justice	O
		Verbeemen	Kim	Legal Advisor Family Law	Service Public Fédéral de la Justice	O
	Brazil	Froeder Dittrich	Lalisa	Chief of the Unit for International Child Support	National Secretariat of Justice, Ministry of Justice and Public Security	S
	Canada	Goupil	Josée-Anne	Counsel	Department of Justice Canada	O
		Jacques	Emmanuelle	Counsel	Department of Justice Canada	S

	Christopher	Blakeney	Articling Student	Department of Justice Canada	O
China	Gan	Yong	Professor of Law	Wuhan University School of Law	S
	Xiong	Wenquin	Deputy Division Director, Department of Treaty and Law	Ministry of Foreign Affairs	O
	Xu	Huan	Adviser	Office of the President of the Court of Final Appeal of Macao SAR	O
	Yuen	Cheuk Lun (Eric)	Senior Government Counsel (Treaties & Law), International Law Division	Department of Justice of Hong Kong SAR	O
Czech Republic	Vostalova Grüter	Alena	Legal Expert, International Department for Civil Matters	Ministry of Justice	O
	Vedralová	Jana	Expert officer of the International Department for Civil Matters	Ministry of Justice	O
European Union	De Luca	Patrizia	Senior Expert / Team leader external relations and international cooperation	European Commission	O
	Vilar-Badia	Maria	Legislative Officer	European Commission	S
France	Fauchard	Estelle	Rédactrice	Ministère de la Justice	S
Germany	Janzen	Ulrike Kjestina	Head of the Unit for Private International Law	Federal Ministry of Justice	S

	Greece	Metallinos	Alexandros	Member of the Greek National Authority of Assisted Reproduction	Greek National Authority of Assisted Reproduction	0
	India	Jawale	Priyanka	Legal Officer II	Ministry of External Affairs	0
		Sudheer	K. J.	Legal Officer I	Ministry of External Affairs	0
	Israel	Baron	Miriam	Senior Legal Counsel	Ministry of Justice	0 / S
	Italy	Bilotti	Emanuele	Professor of Private Law	European University of Rome	0
	Japan	Nishitani	Yuko	Professor of Private Law	Kyoto University	S
		Oono	Tomoki	Attorney, Civil Affairs Bureau	Ministry of Justice Japan	0
		Ishikawa	Maiko	Attorney, Civil Affairs Bureau,	Ministry of Justice Japan	0
	Mexico	Albornoz	María Mercedes	External Adviser on PIL, Ministry of Foreign Affairs; Professor of Private International Law	Centro de Investigación y Docencia Económicas	0
		Álvarez-Rendón	Martha Angélica	Director of International Law	Ministry of Foreign Affairs Mexico	0
	Netherlands	Gelauff	Maril	Senior Legislative Counsel Family Law	Ministry of Justice and Security	0

	Van Bochove	Laura		Legislative Lawyer	Ministry of Justice and Security	S
	van 't Veer	Paulette		Senior Policy Officer Family Law	Ministry of Justice and Security	O
Philippines	Aguling-Pangalangan	Elizabeth		Professor and Legal Expert	University of the Philippines College of Law	S
Russian Federation	Bereza	Zlata		Leading adviser of the Department of International Law and Cooperation	Ministry of Justice	O
	Shvets	Elena		Head of Section of the Legal Department	Ministry of Foreign Affairs	S
South Africa	Ozah	Ronaldah Karabo	Lerato	Director, Centre for Child Law Faculty of Law	Centre for Child Law	S
Spain	González Beilfuss	Cristina		Professor in Private International Law	University of Barcelona	S
Sweden	Hellner	Michael		Professor of Private International Law (Chair of the WG)	Stockholm University	S
Switzerland	Schickel-Küng	Joëlle		Co-Head of the Private International Law Unit	Federal Office of Justice	S
Ukraine	Taranenko	Kateryna		Leading Expert, Unit for Conclusion of International Treaties on Legal assistance	Ministry of Justice	O
United Kingdom	Wright	Andrea		Senior Legal Adviser	Ministry of Justice	O

	United States of America	Prosser	Sarah	Assistant Legal Adviser for PIL	U.S. Department of State	O
		Vogel	Lisa	Attorney Adviser	U.S. Department of State	S
Observers IGO	United Nations Children's Fund	Agcaoili	Grace	Technical Lead, Child Protection Section, NYHQ	Justice UNICEF	S
Observers INGO	International Academy of Family Lawyers	Casey	Margaret	Barrister	Margaret Casey, KC, Private Practice	O
		Dally	Jemma	Fellow, IAFL	Goodman Ray Solicitors	S
		Kelsey	Rachael	President, IAFL	SKO Family Law Specialists	O / S
	International Social Service	Alloero	Carlotta	Child Protection Lawyer	ISS	S
HCCH	Permanent Bureau	Martínez-Mora	Laura	Secretary (Lawyer)	HCCH	S
		Page	Capucine	Legal Officer	HCCH	S

	Wells-Greco	Michael	Consultant	HCCH	S
	Ghasemi	Zarifeh	Intern	HCCH	S
	Préнас	Mathilde	Senior Administrative Assistant	HCCH	S
	Hawkins	Stuart	Website / IT Officer	HCCH	S