

Title	Message from the Chair of the Working Group on the Jurisdiction Project
Document	Prel. Doc. No 2A of December 2024
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Agenda Item	Item II.2
Mandate(s)	C&D Nos 8 and 9 of CGAP 2021 C&D No 7 of CGAP 2022 C&D No 9 of CGAP 2023 C&D Nos 4-7 of CGAP 2024
Objective	To invite CGAP to confirm the scope of the Jurisdiction Project with a view to progressing the Project effectively and, where necessary, taking into account the progress made by the Working Group
Action to be Taken	For Decision <input checked="" type="checkbox"/> For Approval <input type="checkbox"/> For Discussion <input type="checkbox"/> For Action / Completion <input type="checkbox"/> For Information <input type="checkbox"/>
Annexes	N/A
Related Documents	Prel. Doc. No 2 – Working Group on Jurisdiction: Report of 2025 (to be circulated in February 2025)

Message from the Chair of the Working Group on the Jurisdiction Project

- 1 Pursuant to the mandate given by the Council on General Affairs and Policy (CGAP) at its meeting in March 2024,¹ the seventh meeting of the Working Group on matters related to jurisdiction in transnational civil or commercial litigation (WG) was held from 28 October to 1 November 2024, in Tokyo, Japan, with the generous support of the Government of Japan. The meeting was attended by 66 members in total, of which 38 attended in person. The members represented 21 Member States from various regions, one Regional Economic Integration Organisation, and two Observers.
- 2 In the margins of the seventh WG meeting, an informal discussion on the issue of jurisdiction was held. This discussion included views as to whether the WG's mandate, as set out by CGAP in 2021,² encompasses the development of direct jurisdiction rules. It appears from previous comments made during WG meetings and the discussion of the informal meeting that there are divergent understandings of the mandate: one view is that the mandate does *not* cover the development of direct jurisdiction rules; another view is that the development of direct jurisdiction rules *is* included in the mandate. There were also views that the mandate does cover the development of direct jurisdiction rules; however, based on the progress made and the draft rules developed by the WG so far, it is no longer necessary or feasible to develop direct jurisdiction rules within the current remit of the Project. In this context, it has been suggested by some that direct jurisdiction rules might be further developed in a separate and subsequent project, subject of course to CGAP's decision.
- 3 The next WG meeting will take place in February 2025 which is three weeks prior to CGAP 2025. With a view to proceeding with the Project clearly and effectively and to provide sufficient time for CGAP's consideration, I, as Chair of the WG, consider it appropriate to report these differing views expressed during the informal meeting to CGAP. In light of these views, I invite CGAP to confirm the nature and scope of the WG's mandate, as well as to provide direction as to how the WG should proceed with the Project. Where necessary, CGAP may also take into account the progress made by the WG on the development of rules on parallel proceedings and related actions.

¹ Conclusion & Decision (C&D) No 4 of CGAP 2024, available on the HCCH website at www.hcch.net under "Governance" then "Council on General Affairs and Policy" and "Archive (2000-2024)".

² C&D No 9 of CGAP 2021 reads as follows:

"In continuation of the mandate on the basis of which the Experts' Group had worked, CGAP mandated:

- a. The Working Group to develop draft provisions on matters related to jurisdiction in civil or commercial matters, including rules for concurrent proceedings, to further inform policy considerations and decisions in relation to the scope and type of any new instrument.
- b. The Working Group to proceed in an inclusive and holistic manner, with an initial focus on developing binding rules for concurrent proceedings (parallel proceedings and related actions or claims), and acknowledging the primary role of both jurisdictional rules and the doctrine of *forum non conveniens*, notwithstanding other possible factors, in developing such rules.
- c. The Working Group to explore how flexible mechanisms for judicial coordination and cooperation can support the operation of any future instrument on concurrent proceedings and jurisdiction in transnational civil or commercial litigation.
- d. The PB to make arrangements for two Working Group meetings before the 2022 meeting of CGAP, with intersessional work, so as to maintain momentum. If possible, one meeting will be held after the northern hemisphere summer of 2021, and another in early 2022, with a preference, where possible, for hosting in-person meetings."