

The conclusions of the first meeting of the Hague Expert's Group on Parentage / Surrogacy

In 2015, the Council on General Affairs and Policy of the Hague Conference decided that an Experts' Group should be convened to explore the feasibility of advancing work on the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements (for further information on the Parentage / Surrogacy project, see [here](#)).

The Experts' Group on Parentage / Surrogacy met from 15 to 18 February 2016 (the full report is available [here](#)). The discussion, based on a background note drawn up by the Permanent Bureau, revealed significant diversity in national approaches to parentage and surrogacy.

The Group noted that “the absence of uniform private international law rules or approaches with respect to the establishment and contestation of parentage can lead to conflicting legal statuses across borders and can create significant problems for children and families”, including limping parental statuses, uncertain identity of the child, immigration problems, uncertain nationality or statelessness of the child, abandonment including the lack of maintenance. “Common solutions”, the Group observed, “are needed to address these problems”.

In particular, as regards the *status quo*, the Group noted the following.

(a) Most States do not have specific private international law rules regarding assisted reproductive technologies and surrogacy agreements.

(b) Regarding jurisdiction, issues mostly arise in the context of legal parentage being established by or arising from birth registration, voluntary acknowledgment of legal parentage or judicial proceedings. The experts reported, however, that jurisdiction issues tend to arise not as a stand-alone topic, but rather in connection with recognition.

(c) Regarding applicable law, there is a split between those States whose private

international law rules point to the application of the *lex fori* and those whose private international law rules may also lead to the application of foreign law.

(d) Regarding recognition, the Group acknowledged the diversity of approaches of States with respect to the recognition of foreign public documents such as birth certificates or voluntary acknowledgements of parentage, and noted that there is more congruity of practice with respect to the recognition of foreign judicial decisions.

Based on the foregoing, the Group determined that “definitive conclusions could not be reached at the meeting as to the feasibility of a possible work product in this area and its type or scope” and expressed the view that “work should continue” and that, at this stage, “consideration of the feasibility should focus primarily on recognition”. The Group therefore recommended to Council, whose next meeting is scheduled to take place on 15 to 17 March 2016 (see here the draft agenda), that the Group’s mandate be continued.