

Reports of HCCH Experts' Groups on the Surrogacy/Parentage and the Tourism Projects available

The Permanent Bureau of the Hague Conference on Private International Law has made available two reports for the attention of its governance Council (*i.e.* the Council on General Affairs and Policy): the Report of the Experts' Group on the Parentage / Surrogacy Project and the Report of the Experts' Group on the Co-operation and Access to Justice for International Tourists.

The Group on Parentage/Surrogacy Project will need to meet one more time early next year to reach final Conclusions on future work. In particular, the Group discussed possible methods to ensure cross-border continuity of legal parentage both established by and in the absence of a judicial decision.

Importantly, “[t]he Group recalled that the absence of uniform PIL rules on legal parentage can lead to limping parentage across borders in a number of cases and can create significant problems for children and families. The Group further recalled that uniform PIL rules can assist States in resolving these conflicts and can introduce safeguards for the prevention of fraud involving public documents, while ensuring that the diverse substantive rules on legal parentage of States are respected. Any new instrument should aim to provide predictability, certainty and continuity of legal parentage in international situations for all persons involved, taking into account their fundamental rights, the *UN Convention on the Rights of the Child* and in particular the best interests of children. The Group agreed that any international instrument would need to be developed with a view to complementing the existing Hague Family Conventions and to attracting as many States as possible.”

Regarding the Group on the Tourism Project, it should be noted that it is currently exploring the need for an international instrument on the co-operation and provision of access to justice for international tourists. The Group concluded that “[t]he Experts' Group recommends to the CGAP that it mandates the Experts' Group to continue its work, with a view to assessing the need for, the nature (soft law and hard law options) and the key elements of, a possible new instrument.

The composition of the Experts' Group should remain open, and, if possible, also include representatives of Stakeholders, such as the UNWTO, as well as representatives of relevant organisations and private international law experts." It was noted that the Consultant will finalise his draft (substantive) Report, which will be circulated at the end of this year.

The aide-mémoire of the Chair of the Tourism Project noted: "[i]f a new instrument were to be developed, the Experts identified a number of possible expected values such instrument might add. These included that tourists might be able to obtain appropriate information, including in a language they understand, to ascertain and understand their rights, and the potentially available options to seek redress. It might also provide co-operation mechanisms among suitable bodies that can work in a concerted manner to facilitate the resolution of complaints, with a view to guaranteeing access to justice in the broadest sense, including through alternative dispute resolution, in a non-discriminatory way. The instrument might also have a preventive effect. Finally, it might create an official record of the complaint, including for subsequent use abroad."

In March 2019, the HCCH governance Council will determine whether work on these two subjects will go forward.