

# **The Council of the HCCH has spoken - the Conclusions & Recommendations are available**

The Conclusions & Recommendations (C&R) of the governance body of the Hague Conference on Private International Law (HCCH) (*i.e.* the Council on General Affairs and Policy) are available in both English and French.

*The conclusions that are worthy of note are the following:*

The Parentage/Surrogacy Project is going ahead. The Council endorsed the continuation of the work in line with the latest report of the Experts' Group (see my previous post here). See C&R 7-12.

The Tourist and Visitors Project is also moving forward. See C&R 14-17.

A meeting of the Experts' Groups on these respective topics will take place in the near future.

As regards the HCCH publications, it should be noted that there were two Guides on family law, one Guide on the Evidence Convention and one WIPO-HCCH Guide on intellectual property that were submitted for approval to Council; the full titles of which are:

- The revised draft Practical Guide on the cross-border recognition and enforcement of agreements reached in the course of family matters involving children
- The revised draft Guide to Good Practice on Article 13(1)(b) of the 1980 Child Abduction Convention
- The draft Guide to Good Practice on the Use of Video-link under the Evidence Convention
- The WIPO-HCCH Guide on "When Private International Law meets Intellectual Property Law - A Guide for Judges"

See also my previous posts here (Child Abduction) and here (Evidence Convention).

The Council approved only one: the WIPO-HCCH Guide. With regard to the other three, the Council decided instead to put into place a procedure to obtain further comments from Members. Importantly, there were concerns expressed by Members regarding the two family law guides, which means that further work is needed. An important issue that might have played a role in these decisions is the massive amount of information that was submitted this year to Council.

Because of the complexity of the conclusions, I prefer to include some excerpts below:

“19. In light of concerns expressed, **Council did not approve the revised draft Practical Guide [on the cross-border recognition and enforcement of agreements reached in the course of family law matters involving children]**. Council asked that the draft Practical Guide be re-circulated to Members to provide additional comments within a three-month period. All comments received will be made available to other Members on the Secure Portal of the HCCH website. **The draft Practical Guide would then be revised by the Experts’ Group with a view, in particular, to increasing its readability for a wider audience.** The finalised draft Practical Guide would be circulated to Members for approval. In the absence of any objection within one month, the draft Practical Guide would be taken to be approved; in the case of one or more objections, the draft Practical Guide would be put to Council at its 2020 meeting, without any further work being undertaken. Council requested that the Permanent Bureau immediately notify the Members of any objections.”

“24. Council thanked the Working Group and stressed the importance of the **Guide to Good Practice on Article 13(1)(b)**. In light of concerns expressed, **Council did not approve** the revised draft Guide. Council asked that the draft Guide be re-circulated to Members to provide additional comments within a two-month period. All comments received will be made available to other Members on the Secure Portal of the HCCH website. **The draft Guide would then be revised by the Working Group.** The finalised draft Guide would be circulated to Members for approval. In the absence of any objection within one month, the draft Guide would be taken to be approved; in the case of one or more objections, the draft Guide would be put to Council at its 2020 meeting, without any further work being undertaken. Council requested that the Permanent Bureau immediately notify the Members of any objections.”

Council was more lenient with regard to the Video-link Guide:

**“38. Council welcomed the preparation of the draft Guide to Good Practice on the Use of Video-Link under the Evidence Convention** and thanked the Experts’ Group. Council asked that the draft Guide be re-circulated to Members to provide additional comments within a one-month period. All comments received will be made available to other Members on the Secure Portal of the HCCH website. **The draft Guide would then be revised by the Experts’ Group.** The finalised draft Guide would be circulated to Members for approval. In the absence of any objection within one month, the draft Guide would be taken to be approved; in the case of one or more objections, the draft Guide would be put to Council at its 2020 meeting, without any further work being undertaken. Council requested that the Permanent Bureau immediately notify the Members of any objections.”

All this means that these three Guides are not final and readers must await the revised versions, which might or might not need to be submitted to the next meeting of the Council in March 2020. I advise you then to be patient.