

A few takeaways from the Conclusions & Decisions of the HCCH governing body (CGAP - 2026 meeting): parentage/surrogacy, jurisdiction project, cross-border recognition and enforcement of protection orders and a Note on the Trusts Convention

This week the Conclusions & Decisions (C&D) of the HCCH governing body, the Council on General Affairs and Policy (CGAP or Council), were published. Click the links below for the relevant language versions (English, French and Spanish).

Although a wide range of topics were discussed, I would like to focus on four items: parentage/surrogacy project, the cross-border recognition and enforcement of protection orders, the jurisdiction project and a Note on the Trusts Convention.

In my view, the C&D are significant for two reasons. First, the work related to a possible new instrument of a long-standing topic at the HCCH has been concluded (without a Convention) and secondly, a “new” topic has been inserted into the agenda of the HCCH. For more information, see below.

Parentage/surrogacy project

The parentage/surrogacy project has been a recurrent topic in the work of the HCCH. It has expanded more than a decade, starting in 2010 with some preliminary research, which resulted in the establishment of an Experts Group (EG) and subsequently, a Working Group (WG).

In preparation for this meeting, a document was drawn up by the Working Group (WG) on Parentage / Surrogacy entitled: *Final Report on the Feasibility of a possible Convention on the Recognition of Judgments on Legal Parentage* (Preliminary Document (Prel. Doc.) No. 1). This is a monumental work, which includes a text of a draft Convention (as of p. 13).

The specific proposal of the WG to the Council was the following:

“The WG acknowledged the importance of the HCCH Parentage / Surrogacy Project to develop an international instrument on legal parentage in cross-border situations. The WG agreed that such an instrument is desirable, as it could enhance legal certainty, predictability and continuity while protecting the rights of children and families, and all persons involved.”

It further acknowledged that policy differences remained and for some experts these were fundamental, and as a result, consensus could not be reached on a way forward (*i.e.* advancing to a Special Commission, which is the usual path when negotiating a HCCH Convention and which are meetings held prior to a Diplomatic Session).

With this Final Report, and as its name suggests, the work of the WG has concluded and this Preliminary Document is the last document drawn up by the WG on this topic.

Reflecting the disagreement existing at the WG level, the Council decided on this topic the following: “While recognising the progress made by the Working Group, CGAP decided not to advance to a Special Commission at this stage, with the understanding that this issue may be revisited at a later stage.”

Accordingly, this year marks the end of this project (if not the end of an era), with the exception of monitoring legal and practical developments on the subject that are to be presented at the 2028 meeting of the Council (C&D No. 5). Perhaps this topic may be revived in the future when and if the time is ripe.

Cross-border recognition and enforcement of protection orders

While the ashes of the Surrogacy/Parentage project were still warm, a “new” proposal for a Convention emerged and was tabled by the UK as: *Prel. Doc. No 25 of January 2026 - Proposal from the United Kingdom to establish a Working*

Group on Recognition and Enforcement of Protection Orders - not publicly available.

The Council mandated the establishment of a WG on a potential future convention on cross-border recognition and enforcement of protection orders (see C&D No. 22). This is remarkable and underlines the importance of keeping women and children safe. By tabling this proposal, the UK makes clear that this is an absolute priority.

This initiative will build on previous work conducted by the Permanent Bureau from 2011-2018, during which an Experts Group was established (see C&D No. 23 and 24). At its 2018 meeting, the Council noted that “14. The Council decided to remove from the Agenda of the HCCH the topic of recognition and enforcement of foreign civil protection orders, with the understanding that this issue may be revisited at a later stage.” A statement that now is history.

This will be an important initiative to follow in the future.

Jurisdiction project

The decision on the future of the jurisdiction project has been delayed until the next meeting of the Council in 2027. At that meeting a decision will be made whether that project advances to a Special Commission “or decide on any other outcome of the Project” (C&D 9).

A Report of the Chair of the Working Group on matters related to jurisdiction in transnational civil or commercial litigation was presented as Prel. Doc. No 2A of December 2025. This Report includes a draft text of a future convention on parallel proceedings and related actions (from p. 13, with many [square brackets], signalling lack of consensus or agreement on the text).

Last year a public consultation was launched on the Draft Text of a possible new convention on parallel proceedings and related actions, the results of which still need to be analysed. The Council mandated that a document be submitted analysing such responses by the end of September 2026 and gave specific instructions on how it should be drafted (C&D No. 8). The responses will be published subject to the permission of the respondents.

We will keep you informed of any new developments.

A Note on the Trusts Convention

Finally, a Note on the Application and Interpretation of Article 2 of the Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition and on the Institutions Analogous to Trusts was submitted as Prel. Doc. No 12B of January 2026 (for the actual Note see Annex V, p. 25). In particular, a fascinating explanation of the terms used in English (estate) and French (patrimoine) is included in pages 28-29. Equally interesting is Annex A to Note (for Section V) - Institutions Meeting the Criteria in Article 2 of the Trusts Convention. This Note was approved and will be published together with its Annexes (C&D 69).

In sum, this Council's meeting decided on crucial matters related to treaty making on Private International Law at the HCCH. The next meeting of the Council in 2027 will also be of great importance as it will decide on the future of the jurisdiction project. With regard to specific projects, the cross-border recognition and enforcement of protection orders attests to the fact that a topic can indeed return to the agenda of the HCCH, and thus some experts may harbour the wish that the parentage/surrogacy project may rise one day like a phoenix from the ashes.