

Public hearing “Recognition of parenthood in EU”

14 June 2022



# HCCH Parentage / Surrogacy Project

Laura MARTÍNEZ-MORA  
Secretary (Lawyer)  
Permanent Bureau, HCCH

1. What is **HCCH**?
2. What is the **HCCH** doing in the field of parentage and surrogacy?
3. What is the **HCCH NOT doing**?
4. What are the **next steps** of HCCH's work?

1. What is **HCCH**?
2. What is the **HCCH** doing in the field of parentage and surrogacy?
3. What is the **HCCH NOT** doing?
4. What are the **next steps** of **HCCH's** work?



**HCCH**

**H**ague **C**onference on Private International Law

**C**onférence de La **H**aye de droit international privé

# HCCH CONVENTIONS / PROTOCOLS: ANSWERING “PIL” QUESTIONS



## JURISDICTION

The authorities of which State are competent to decide on questions arising from a cross-border situation?

## APPLICABLE LAW

The law of which State applies to a cross-border situation?

## RECOGNITION & ENFORCEMENT

How can judgments or decisions of a State be recognised or enforced abroad?

## COOPERATION

How can authorities better cooperate to improve efficiency and overcome the obstacles arising in cross-border situations?



37

Conventions

2

Protocols

1

Soft Law Instrument

# 91 HCCH MEMBERS

90 States + European Union



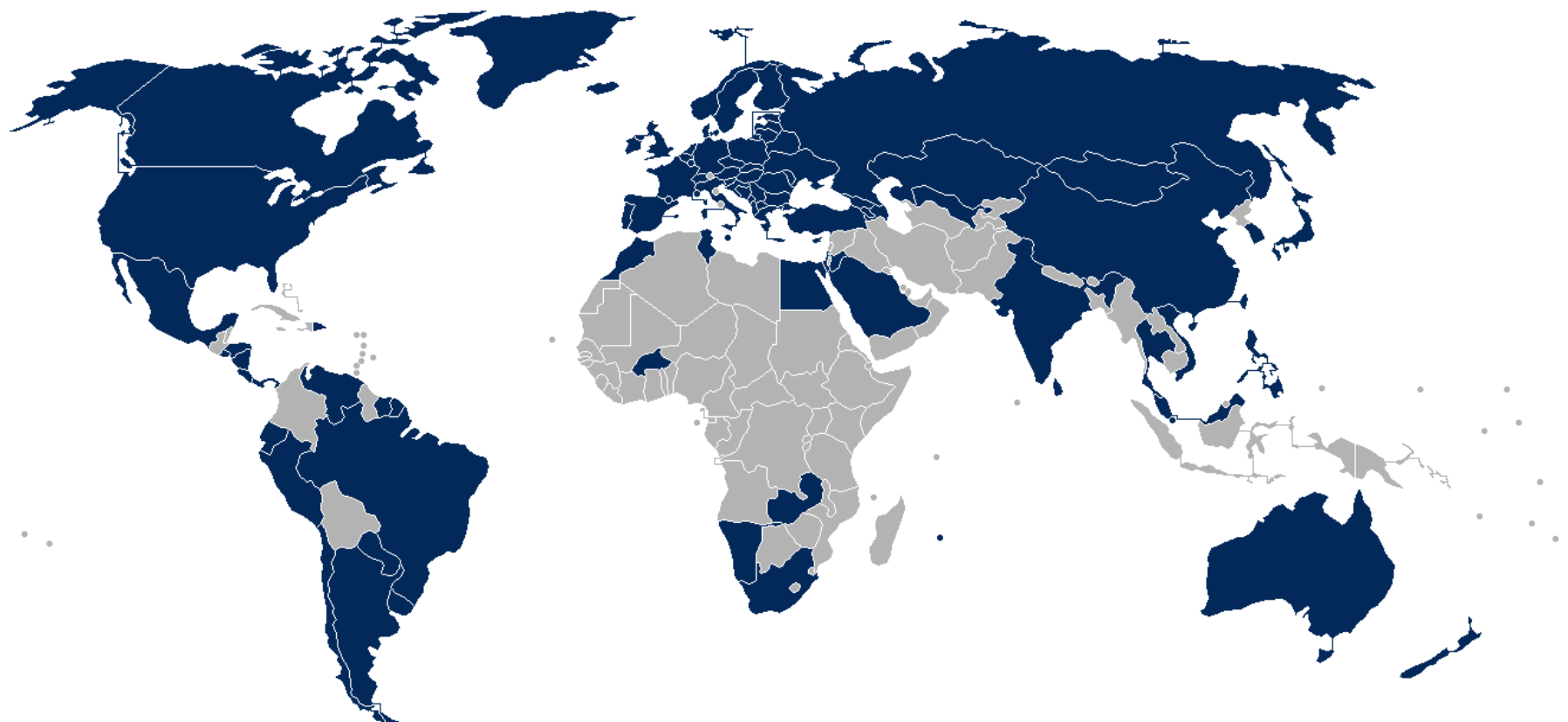
Member State

Admitted State

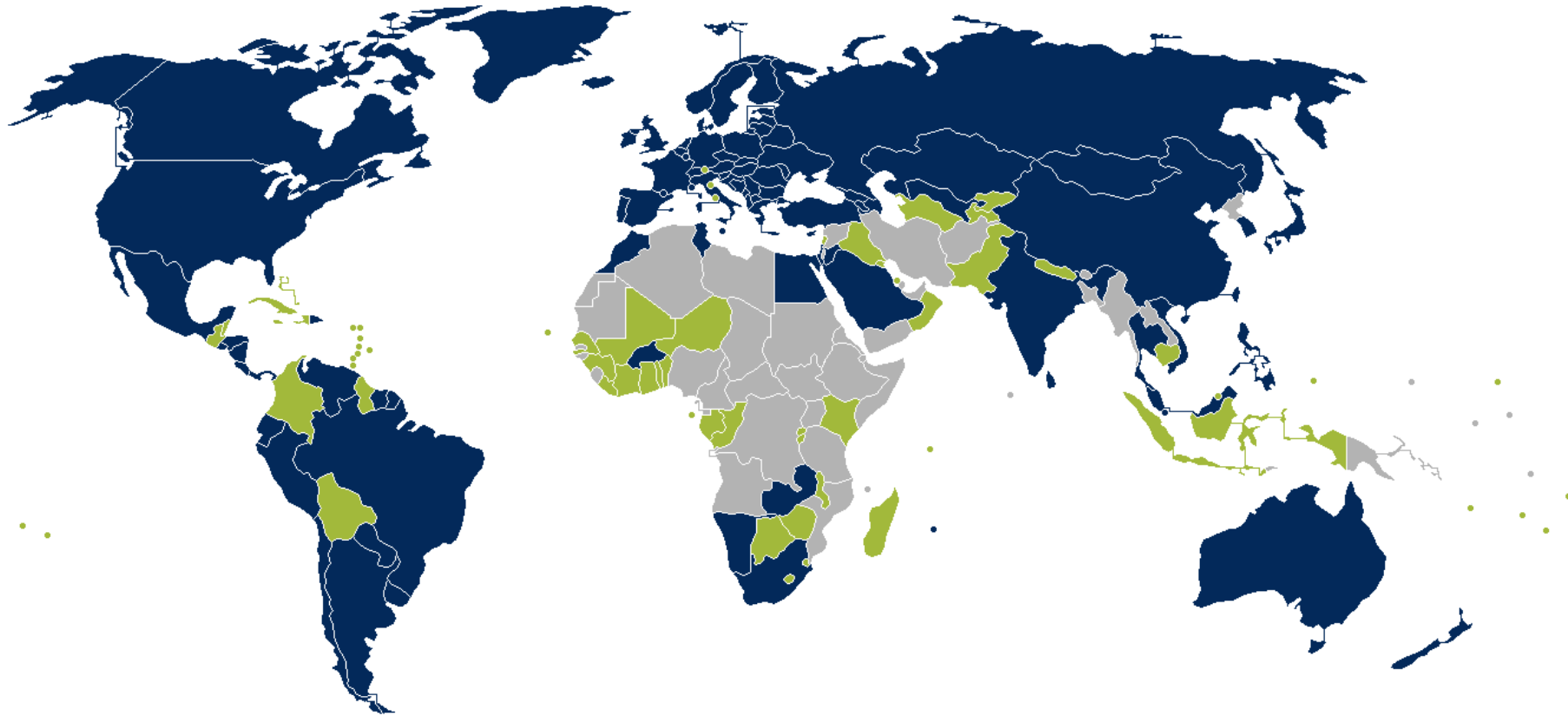
Colombia



Lebanon



# 156 CONNECTED PARTIES



**Member States**  
**Non-Member  
Connected Parties**



1. What is HCCH?
2. **What** is the **HCCH** doing in the field of parentage and surrogacy?
3. What is the HCCH **NOT** doing?
4. What are the **next steps** of HCCH's work?

# HCCH Experts' Group

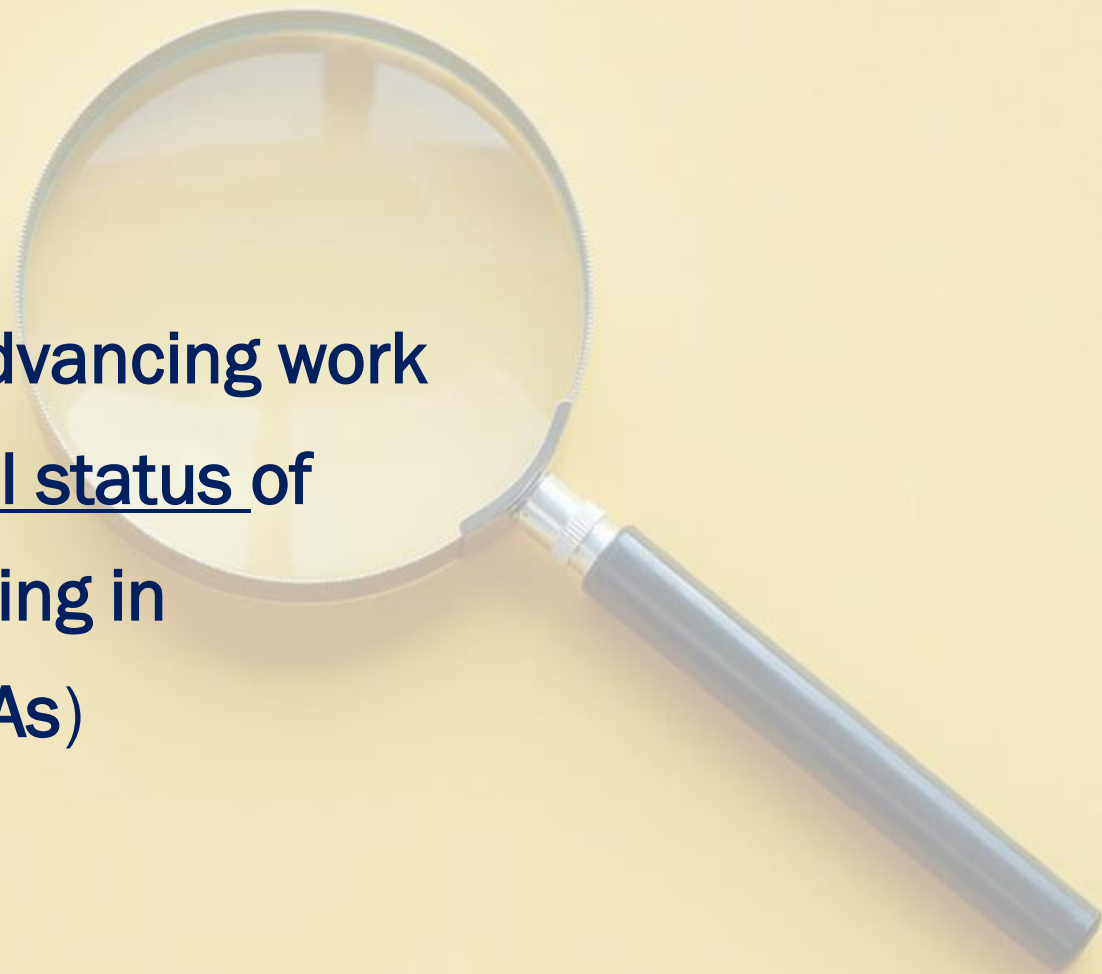
## Legal experts

Experts representing:

- different **countries**, different **regions**
- different **legal traditions**
- different points of view on **parentage**, including **ISA**

# Parentage / Surrogacy Project

- **DESIRABILITY** of work is clear
- **FEASIBILITY:** Explore the feasibility of advancing work in the area of PIL rules regarding the legal status of children in cross-border situations, including in international surrogacy arrangements (ISAs)





**CONVENTION**  
on **LEGAL PARENTAGE**  
in general

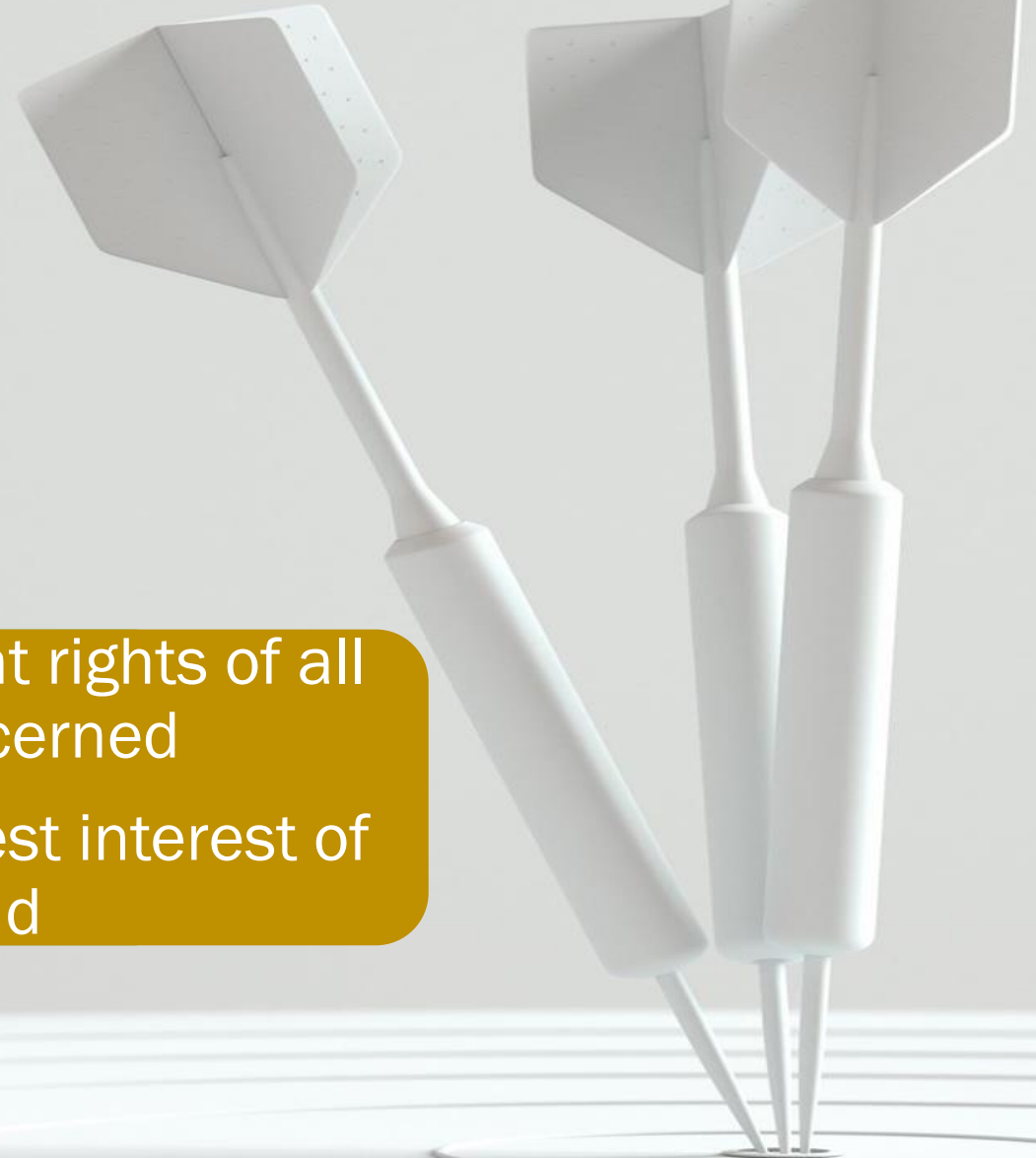


**PROTOCOL**  
on legal parentage following an  
(**INTERNATIONAL**) **SURROGACY**  
**ARRANGEMENT (ISA)**

# AIMS

Predictability  
Certainty  
Continuity

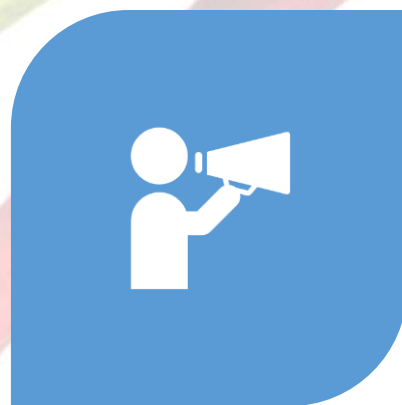
Taking into account rights of all parties concerned  
+ child: UNCRC, best interest of the child



# How is legal parentage established?



**By operation of law**



**By acknowledgment**



**By judicial decision**

# HCCH CONVENTIONS / PROTOCOLS: ANSWERING “PIL” QUESTIONS



## JURISDICTION

The authorities of which State are competent to decide on questions arising from a cross-border situation?

## APPLICABLE LAW

The law of which State applies to a cross-border situation?

## RECOGNITION & ENFORCEMENT

How can judgments or decisions of a State be recognised or enforced abroad?

## COOPERATION

How can authorities better cooperate to improve efficiency and overcome the obstacles arising in cross-border situations?



# MINIMISING THE USE OF PUBLIC POLICY

Surrogacy

**Free and informed consent** of the surrogate mother

**Eligibility and suitability** of the surrogate mother

**Eligibility (and suitability)** of the intending parents

Preservation and access to **records**

Safeguards regarding **financial aspects**

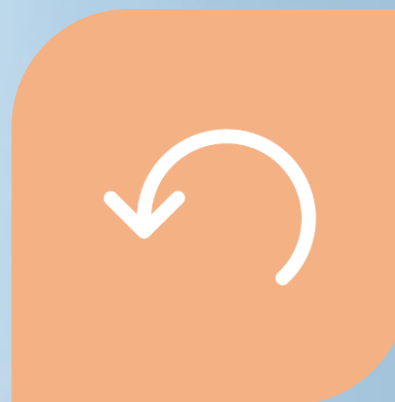
**Establishment of relations** with certain States only



# TYPE OF POSSIBLE SYSTEMS



Surrogacy



*A priori*

Starting before birth

Cooperation



*A posteriori*

Only after birth

Certification

1. What is HCCH?
2. What is the HCCH doing in the field of parentage and surrogacy?
3. What is the HCCH **NOT** doing?
4. What are the **next steps** of HCCH's work?

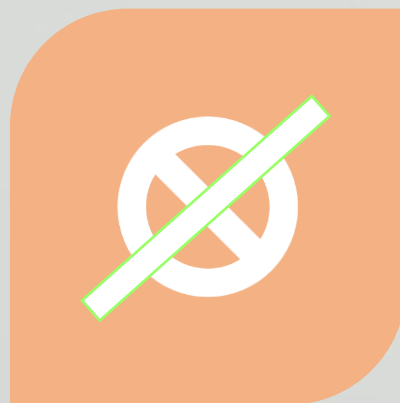


# WHAT IS THE HCCH NOT DOING

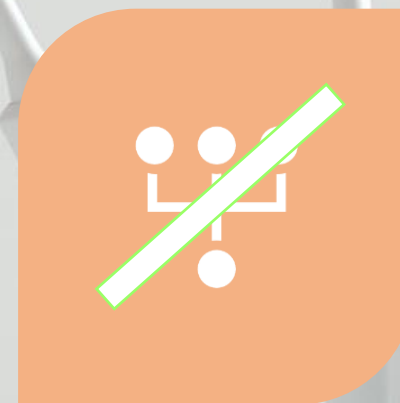
Surrogacy



**NOT**  
promote ISAs



**NOT**  
prohibit ISAs



**NOT**  
unify practices

1. What is HCCH?
2. What is the HCCH doing in the field of parentage and surrogacy?
3. What is the HCCH NOT doing?
4. What are the **next steps** of HCCH's work?



# Next steps



2022: Experts'  
Group drafts final  
report



March 2023:  
CGAP discusses  
final report



Coordination /  
Complementarity  
between  
EU and HCCH work



HCCH  
125



**Thank you!**

[secretariat@hcch.net](mailto:secretariat@hcch.net)

[www.hcch.net](http://www.hcch.net)