

ADOPTION

Prel. Doc. No 1

Doc. préel. No 1

July / juillet 2014



**20 YEARS, 20 QUESTIONS: A QUESTIONNAIRE ON THE IMPACT OF THE  
HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION OF CHILDREN AND  
CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION  
ON LAWS AND PRACTICES RELATING TO INTERCOUNTRY ADOPTION  
AND THE PROTECTION OF CHILDREN**

*drawn up by the Permanent Bureau*

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**20 ANS, 20 QUESTIONS : QUESTIONNAIRE RELATIF À L'IMPACT DE LA  
CONVENTION DE LA HAYE DU 29 MAI 1993 SUR LA PROTECTION DES ENFANTS ET  
LA COOPÉRATION EN MATIÈRE D'ADOPTION INTERNATIONALE  
SUR LE DROIT ET LA PRATIQUE EN MATIÈRE D'ADOPTION INTERNATIONALE ET DE  
PROTECTION DES ENFANTS**

*établi par le Bureau Permanent*

*Preliminary Document No 1 of July 2014 for the attention of the  
Special Commission of June 2015 on the practical operation of the  
Hague Convention of 29 May 1993 on Protection of Children and  
Co-operation in Respect of Intercountry Adoption*

*Document préliminaire No 1 de juillet 2014 à l'intention de la  
Commission spéciale de juin 2015 sur le fonctionnement pratique de la  
Convention de La Haye du 29 mai 1993 sur la protection des enfants et  
la coopération en matière d'adoption internationale*

## INTRODUCTION

The Fourth Meeting of the Special Commission on the practical operation of the 1993 Hague Convention<sup>1</sup> will commence with a special day on “20 years of the 1993 Hague Convention” (the Convention was concluded on 29 May 1993 and entered into force on 1 May 1995).

This special day will be an opportunity to reflect upon and discuss the implementation and operation of the Convention over the 20 years it has been in force and to analyse what its impact has been on laws and practices relating to intercountry adoption, as well as child protection systems more generally. It will provide an occasion to assess the improvements which the Convention has brought about, as well as the challenges which remain concerning its implementation and operation.

The responses to this Questionnaire will assist the Permanent Bureau with preparing the discussions for this special day. They will form the basis for the Preliminary Document on this topic, to be drawn up by the Permanent Bureau. This Preliminary Document will outline key questions for States for discussion during the special day.

Please send your response to this Questionnaire to [secretariat@hcch.net](mailto:secretariat@hcch.net), for the attention of Laura Martínez-Mora (Principal Legal Officer) and Hannah Baker (Senior Legal Officer) **by no later than 10 October 2014**. The Permanent Bureau will place responses online on the Hague Conference website (< [www.hcch.net](http://www.hcch.net) >) unless expressly requested not to do so.

Please note: if information provided in your State’s Country Profile for the 1993 Hague Convention (sent to States for completion at the same time as this Questionnaire) assists with your answer to any question herein, please cross-refer to your Country Profile. There is no need to repeat information.

Thank you for your kind co-operation as the Permanent Bureau prepares for this next Special Commission meeting.

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<sup>1</sup> Full title: *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (hereinafter, “1993 Hague Intercountry Adoption Convention”, “1993 Hague Convention”, “1993 Convention” or simply “the Convention”).

**NAME OF STATE: PRINCIPALITY OF ANDORRA**

**DATE OF ENTRY INTO FORCE OF 1993 HAGUE CONVENTION IN YOUR STATE:<sup>2</sup>  
01/05/1997**

**Information for follow-up purposes**

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**A. THE IMPACT OF THE 1993 HAGUE CONVENTION ON LAWS AND PRACTICES RELATING TO INTERCOUNTRY ADOPTION IN YOUR STATE**

1. Was the legislation in your State concerning intercountry adoption revised, or was new legislation enacted, as a result of, or in preparation for, implementation of the 1993 Convention? If so, please describe the main changes in practice which the revision / new legislation brought about.

In preparation for the ratification of the Hague Convention of 29 May 1993, on the Protection of Children and Co-operation in respect of Intercountry Adoption, the Andorran Parliament approved on 21 March 1996, the first Act on Adoption and Other Forms of Protection of Socially Unprotected Children, which regulates the issue of adoption in accordance with the precepts established in the 1993 Hague Convention. However, considering the need for a Regulation pursuant to the Act and in application of the Hague Convention, the Government also decided to approve the Adoption Regulation on 10 June 1998, which regulates and specifies the procedures and actions to be undertaken by the Government in respect of international adoption, and establishes the functions of the public and accredited private bodies that take part in the adoption process. Furthermore, the Adoption Regulation has been successively modified on two occasions: 29 November 2006 and 03 January 2013 according to new recommendations of the Special Commission in charge of the revision of the 1993 Hague Conference

2. What changes, if any, did your State make to the identity and functions of the authorities and bodies involved in intercountry adoption as a result of the 1993 Convention requirements (e.g., the creation / designation of new authorities / adoption bodies, different assignment of tasks)? How, if at all, have these changes affected intercountry adoption procedures in your State?

The 1996 Act on Adoption and Other Forms of Protection of Socially Unprotected Children was already drafted according to the 1993 Hague Convention. However, the Adoption Regulation was modified in two occasions, based on the outcome of the Special Commission especially with regard to principles of accreditation and criteria with regard to the accredited bodies.

3. (a) Please indicate the number of intercountry adoptions which took place from and / or to<sup>3</sup> your State:

- (i) in the three years prior to the entry into force of the 1993 Convention in your State

Number of intercountry adoptions *from* your State (State of origin):

<sup>2</sup> This information is available on the "Status Table" for the 1993 Hague Intercountry Adoption Convention, accessible via the "Intercountry Adoption Section" of the Hague Conference website, < www.hcch.net >.

<sup>3</sup> Depending upon whether your State is a State of origin, receiving State or both.

Number of intercountry adoptions *to* your State (receiving State): None

(ii) in the three years following the entry into force of the 1993 Convention in your State

Number of intercountry adoptions *from* your State (State of origin):

Number of intercountry adoptions *to* your State (receiving State): 12 (98-00)

If precise figures are not available, please provide an estimate, indicating clearly that it is an estimate.

- (b) Taking into account the figures provided in Question 3(a) above, please comment upon whether implementation of the 1993 Convention in your State has had an impact on the number of intercountry adoptions undertaken from and / or to your State. If so, please indicate, if possible, which of the principles or procedures of the 1993 Convention appear to have had a bearing on the number of intercountry adoptions undertaken (e.g., implementation of the Convention's principle of subsidiarity,<sup>4</sup> increase / decrease in the number of States with which your State partners on intercountry adoption).

The entry into force of the 1993 Hague Convention had a decisive impact on the selection of countries of origin since it was limited to those State Parties to the Convention. With this policy, the Government of Andorra tried to assure to adoptive families the implementation of common standards in the adoption process, thus avoiding unpleasant situations or arbitrary procedures or requirements imposed by the country of origin.

4. In your State, has implementation of the 1993 Convention had an impact on:

- (a) The costs<sup>5</sup> of intercountry adoption, including the transparency of these costs? If so, please provide details;

The costs of intercountry adoption in Andorra have always been very low since the authorities involved (Adoption Service, Legal Department, Ministry of Foreign Affairs and Tribunal) do not charge any fee for its participation in the adoption procedure. The costs in Andorra are mostly limited to those caused by the translation of the adoption application.

and / or

- (b) Contributions, co-operation projects and donations,<sup>6</sup> including their transparency? If so, please provide details.

In Andorra, cooperation projects are carried out by the Ministry of Foreign Affairs itself under certain regulations and controls which are of published every year and have nothing to do with the 1993 Hague Convention.

5. How, if at all, has implementation of the 1993 Convention in your State affected the average *time* which it takes to complete an intercountry adoption?

Please specify the causes of any change in timeframes, including whether these changes are attributable to a particular aspect of the intercountry adoption procedure and, if so, whether this aspect of the procedure takes place in your State or in other States.

The average time to conclude an international adoption depends mainly on the country of origin. This may vary from country to country only based on its internal procedures or legal changes, sometimes trying to implement or improve Convention procedures.

6. How, if at all, has implementation of the 1993 Convention in your State affected the processing of *non*-Convention intercountry adoptions (*i.e.*, intercountry adoptions to which the 1993 Convention does not apply)?

As it is stated in question 3 (b), the Government of Andorra has established adoption relations only with those States parties to the 1993 Convention.

<sup>4</sup> See Art. 4 b) of the Convention and the *Guide to Good Practice No 1 on the implementation and operation of the 1993 Hague Intercountry Adoption Convention* at Chapter 2.1.1, available on the specialised "Intercountry Adoption Section" of the Hague Conference website < [www.hcch.net](http://www.hcch.net) >.

<sup>5</sup> For a definition of the term "costs", please see the harmonised *Terminology on the financial aspects of intercountry adoption*, available on the Hague Conference website < [www.hcch.net](http://www.hcch.net) > under "Intercountry Adoption Section" then "Expert Group on the Financial Aspects of Intercountry Adoption".

<sup>6</sup> For definitions of the terms "contributions", "co-operation projects" and "donations", please see the harmonised *Terminology on the financial aspects of intercountry adoption (ibid)*.

### State of origin questions

7. (a) Have the main reasons for children becoming adoptable (whether domestically or intercountry) changed following implementation of the 1993 Convention in your State? If so, please identify those changes.
- (b) Has the general profile of children in need of *intercountry* adoption in your State changed following implementation of the 1993 Convention? If so, please specify the main reasons for any change.
- (c) Has implementation of the 1993 Convention changed the following aspects of the intercountry adoption procedure in your State?
- (i) The establishment of the child's adoptability including, where appropriate, how consents are obtained from the birth parents / family / child and how consideration is given to the child's wishes and opinions:
  - (ii) The information provided to, and the counselling and preparation of, an adoptable child:
  - (iii) The provision of information concerning the child to prospective adoptive parents ("PAPs") (*i.e.*, under the 1993 Convention, the preparation of the report on the child):
  - (iv) The matching of the child and PAPs:
  - (v) The entrustment of the child to the PAPs:
  - (vi) The making of the final adoption decision:
  - (vii) The transfer of the child to the receiving State:
  - (viii) The post-adoption services provided (*e.g.*, when and how an adoptee may access information concerning his / her origins):
  - (ix) Other, please specify: .

### Receiving State questions

8. (a) How, if at all, has your State's counselling, selection and preparation of PAPs wishing to adopt *intercountry* changed following: (i) implementation of the 1993 Convention in your State; and / or (ii) if applicable, the changed profile of children in need of intercountry adoption in the States of origin with which your State partners?
- (i) The counselling, selection and preparation of PAPs wishing to adopt internationally has been improved along the years not only due to the implementation of the 1993 Convention but also because of the exchange of experiences between professionals in the field and training courses on international adoption. Experience is a key factor for the improvement of the adoption process.
  - (ii) The professionals working at the Andorran Central Authority are responsible for the elaboration of the home study report, which is always based on the profile of the children from countries of origin. This is a crucial element in order to prepare the Andorran PAPs and achieve a smooth adjustment of the children into their new families. Families built up their expectations based on the information given by our professionals. The profile of children should be as accurate as possible to the reality of the countries of origin
- (b) Has implementation of the 1993 Convention changed the following aspects of the intercountry adoption procedure in your State?
- (i) How PAPs apply for intercountry adoption: Yes

- (ii) The provision of information concerning the PAPs to the State of origin (*i.e.*, under the 1993 Convention, the preparation of the report on the PAPs): Yes
- (iii) The procedure to accept a proposed match: Yes
- (iv) The migration procedures for the child: Yes
- (v) The post-adoption services provided: Yes
- (vi) Other, please specify: .

**B. THE IMPACT OF THE 1993 HAGUE CONVENTION ON CO-OPERATION BETWEEN CONTRACTING STATES**

9. Has implementation of the 1993 Convention had any influence on the choice of States with which your State "partners" in intercountry adoption (*e.g.*, due to the fact that your State has limited the number of States with which it partners or has ended co-operation with *non*-Contracting States)? If so, have these changes affected intercountry adoption procedures in your State?

See answer question 3 (b) and 6. In particular, Andorra established adoption relations only with one country that at that time was not a State Party to the 1993 Hague Convention (Dominican Republic), however, a year later it became member.

10. In your State's experience:

- (a) What are the most significant changes to co-operation between Contracting States brought about by the 1993 Convention? Have any of these changes led to the safeguards of the Convention being more effectively respected (see Art. 1 *b*)? If so, please provide examples.

The establishing of an standardized procedure and the common language used in the 1993 Convention have facilitated contacts among Central Authorities.

- (b) What are the most significant *challenges* which remain concerning co-operation between Contracting States to the 1993 Convention?

We believe there is still room for improvement specially when there exists direct contact between Central Authorities. We should rely more on our professionalism and avoid excessive formalisms. Further guides on the preparation of PAPs would be also highly appreciate.

**C. THE IMPACT OF THE 1993 HAGUE CONVENTION ON THE PREVENTION OF THE ABDUCTION, SALE OF AND TRAFFIC IN CHILDREN AND OTHER ILLICIT PRACTICES<sup>7</sup>**

11. In general, has implementation of the 1993 Convention led to more effective prevention of the abduction, sale of, or traffic in children and other illicit practices within / from / to your State in the context of intercountry adoption?

If so, please provide specific examples of measures which have been introduced in your State as a result of the 1993 Convention and their effect.

Ever since the 1993 Convention entered into force in Andorra, our authorities have only accepted and recognized those adoptions made within the framework of the Convention since it has been the only guarantee that they have been completed with enough safeguards

12. In particular, *prior to* implementation of the 1993 Convention, did your State experience, whether in your State or in other States with which your State co-operated, any of the following problems in the intercountry adoption context:

- (a) Improper payments to family members, intermediaries, officials or others;
- (b) Other improper inducements of the consent of birth parents / family to adoption;
- (c) Fraud, such as misrepresentation of identity or false promises (*e.g.*, misrepresenting to birth parents the reason for a child's removal from his / her home);
- (d) Forgery / falsification of documents;
- (e) Abduction of children for the purposes of intercountry adoption;
- (f) Abuse of guardianship orders (*e.g.*, using such orders to remove children from a State of origin to circumvent intercountry adoption procedures);
- (g) Bypassing the matching system of a State of origin (*i.e.*, undertaking matching independently in the State of origin, without the involvement of the appropriate authorities);
- (h) Any other illicit practices?

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<sup>7</sup> "Illicit practices" in this Questionnaire refers to situations where a child is adopted without respect for the rights of the child or for the safeguards now contained within the 1993 Hague Convention. "Such situations may arise where an individual or body has, directly or indirectly, misrepresented information to the biological parents, falsified documents about the child's origins, engaged in the abduction, sale or trafficking of a child for the purpose of intercountry adoption, or otherwise used fraudulent methods to facilitate an adoption, regardless of the benefit obtained (financial gain or other)" (from p. 1 of the *Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases*, available on the "Intercountry Adoption Section" of the Hague Conference website < [www.hcch.net](http://www.hcch.net) >).

If so, in your State's experience, has implementation of the 1993 Convention in your State *or in other States* had an impact upon the incidence and / or nature of these problems?

Since the implementation of the 1993 Hague Convention, Andorra has not experienced any major problem with the exception of Rumania and Bulgaria. Problems in both countries were related to the intermediary lawyers representing the Andorran families in those countries, who lack the necessary diligence and efficiency in dealing with the application and charged improper fees. These problems no longer exist with the current countries since the professionals of the Andorran Central Authority have personally met and evaluated the new representatives in all our partners. This is absolutely essential for the smooth process of the adoption application and to guarantee to PAPs that they are properly treated and no surprises or complications will emerge once they will be in the country of origin fetching their children

**D. THE IMPACT OF THE 1993 HAGUE CONVENTION ON THE RECOGNITION OF INTERCOUNTRY ADOPTIONS IN YOUR STATE**

13. In your State's experience:

- (a) Has the automatic recognition of adoptions made in accordance with the Convention (see Art. 1 c) and Chapter V) led to significant improvements for children adopted intercountry and their families?

Definitely, although some countries still have internal problems to accept the automatic recognition because, in most of the cases, their civil servants in charge of acknowledging the international adoption have not yet been duly and properly informed

- (b) What challenges remain regarding the automatic recognition of adoptions made in accordance with the Convention? Dissemination and proper information to people officially involved in the procedures in the different countries, like personnel working in the Civil Register, for example

In particular, please specify whether either (i) your State, or (ii) any other Contracting State with which your State co-operates, requires an *additional* procedure (*e.g.*, a registration procedure or court proceeding) to be completed in order to recognise an adoption made in accordance with the Convention.

We have experienced some difficulties with one of our neighbouring countries but they have been finally resolved after a lengthy procedure and useful contacts.

**E. THE IMPACT OF THE 1993 HAGUE CONVENTION ON *DOMESTIC* ADOPTION AND *OTHER* MEASURES OF ALTERNATIVE CARE FOR CHILDREN IN YOUR STATE**

***Domestic adoption***

14. (a) Please provide precise figures regarding the number of *domestic* adoptions which took place in your State: (i) in the three years prior to the entry into force of the 1993 Convention in your State; and (ii) in the three years following this date. If precise figures are not available, please provide an estimate, indicating clearly that it is an estimate.

- (i) 5  
(ii) 2

- (b) Taking into account the figures provided in Question 14(a) above, please comment upon whether implementation of the 1993 Convention has had an impact on the number of domestic adoptions undertaken in your State. If so, please indicate, if possible, which of the principles or procedures of the 1993 Convention appear to have had a bearing on the number of domestic adoptions undertaken (*e.g.*, implementation of the Convention's principle of subsidiarity<sup>8</sup> including promotion of domestic adoption, or a decrease in the number of intercountry adoptions has caused PAPs to turn to domestic adoption).

Not really because the Act on Adoption was already based on the 1993 Hague Convention

- (c) Has implementation of the 1993 Convention had an impact on domestic adoption *procedures* in your State? If so, please explain how the 1993 Convention brought about these changes.

The 1993 Convention helped the Andorran Government to set for the first time ever the domestic and international procedures. Before the Convention, there are no records of any international adoption made from Andorra.

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<sup>8</sup> See Art. 4 *b*) of the Convention.

**Other measures of alternative care for children**

15. (a) Is there any evidence that implementation of the 1993 Convention has had an impact on the *number* of children: (i) living in institutions; or (ii) living in alternative permanent family care (other than adoption) in your State?

(i) No

(ii) No

If so, please set out that evidence and indicate, if possible, which of the principles or procedures of the 1993 Convention appear to have had a bearing on the number of children living in these situations (*e.g.*, the promotion of family preservation or reunification measures;<sup>9</sup> in-State alternative permanent family care promotion in revised / new legislation in preference to institutionalisation).

- (b) How, if at all, has implementation of the 1993 Convention changed the *quality* of other alternative permanent family care measures available in your State for children who are deprived of parental care or at risk of being so deprived?

None.

16. How, if at all, has implementation of the 1993 Convention affected your State's approach to developing and implementing measures of family preservation and / or reunification?

None.

**F. VIEWS ON THE IMPROVEMENTS BROUGHT ABOUT BY THE 1993 HAGUE CONVENTION AND THE CHALLENGES WHICH REMAIN**

***In your State***

17. In your State's view:

- (a) What are the most significant *improvements* in intercountry adoption and / or child protection more generally in your State which have resulted from implementation of the 1993 Convention?

The implementation of a transparent and professional adoption process, which is acknowledge and praised by our partners and the Andorran families..

- (b) Has implementation of the 1993 Convention had any *adverse effect(s)* on intercountry adoption and / or child protection more generally in your State?

Not really.

- (c) What are the most significant *challenges* which remain in your State in relation to the proper implementation and operation of the 1993 Convention?

Post adoptive services.

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<sup>9</sup> *I.e.*, implementation of the 1993 Convention's principle of subsidiarity (Art. 4 *b*) of the Convention).

**Globally**

18. In your State's view, *at a global level*:

- (a) What are the most significant *improvements* in intercountry adoption and / or child protection more generally which have taken place as a result of the entry into force of the 1993 Convention and its implementation in an increasing number of Contracting States over the last 20 years?

The establishing of a legal framework where the adoption can safely take place, with enough safeguards for all parties involved.

- (b) Has the entry into force of the 1993 Convention and its implementation in an increasing number of Contracting States over the last 20 years had *any adverse effect(s)* on intercountry adoption and / or child protection more generally?

Not that we are aware of.

- (c) What are the most significant *challenges* which remain today in relation to the implementation and operation of the 1993 Convention? Have these challenges changed / evolved over the past 20 years?

To help countries of origin to make their procedures in the best interest of their children. A day that a child passes in an institution, it is an opportunity lost to be with his/her family.

**G. MONITORING AND REVIEWING THE IMPLEMENTATION AND OPERATION OF THE 1993 HAGUE CONVENTION**

19. In your State's view, are the current mechanisms used to monitor and review the implementation and operation of the 1993 Convention satisfactory (*e.g.*, periodic Special Commission meetings, the development of tools to promote consistent interpretation and good practices)? Would your State consider any additional monitoring and / or review mechanisms useful?

Absolutely. The Special Commission plays a crucial role in bringing together both countries of origin and receiving countries, which allows also for direct contacts and helps all of us involved in solving pending problems and brings solutions for the futures, which in the end will have an effect in the best interest of the children.

20. (a) Has your State benefitted from the services or assistance of the Permanent Bureau of the Hague Conference in relation to implementation and / or operation of the 1993 Convention? If so, please explain what service or assistance was provided and how it benefitted your State.

No.

(b) Resources permitting, what *additional* services or assistance could the Permanent Bureau provide to facilitate the proper implementation and operation of the 1993 Convention?

We believe that, with the current resources, the personnel working at the Permanent Bureau already provide enough assistance to countries that request it.

If your State has any other comments concerning "20 years of the 1993 Hague Convention", please provide them in the space below:

None.