

ADOPTION

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**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 Convention¹ 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, 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 >) 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.

¹ 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: Azerbaijan Republic

**DATE OF ENTRY INTO FORCE OF 1993 HAGUE CONVENTION IN YOUR STATE:²
01 november 2004**

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.

Family Code and Civil Proseusal Code have been changed after ratification of 1993 Convention. Rules of registry of children deprived of parental care changed and general registry of children given to State Committee (Central Authority).

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?

After ratification of 1993 Convention special State Body didn't established but the Committee was appointed as the Central Authority and the concordance procedure of intercountry adoption ensured accordance with the convention.

3. (a) Please indicate the number of intercountry adoptions which took place from and / or to³ 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): Not available

Number of intercountry adoptions *to* your State (receiving State): Not available

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

² 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 >.

³ Depending upon whether your State is a State of origin, receiving State or both.

Number of intercountry adoptions *from* your State (State of origin): 2010 - 2,
2011 - 8 , 2012-8 children adopted
Number of intercountry adoptions *to* your State (receiving State): 6 children
received

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,⁴ increase / decrease in the number of States with which your State partners on intercountry adoption).

There is no exact data on number of intercountry adoptions even on those years statistics shows large number of adoptions before the Central Authority established. Supervision to intercountry adoption sphere strengthened and number of intercountry adoptions controlled strictly according with the Convention.

4. In your State, has implementation of the 1993 Convention had an impact on:
- (a) The costs⁵ of intercountry adoption, including the transparency of these costs? If so, please provide details;
- Actually there are no costs for intercountry adoption except translation and notarization fees.
- and / or
- (b) Contributions, co-operation projects and donations,⁶ including their transparency? If so, please provide details.
- Not available
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.

No changes

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)?
- Mainly intercountry adoption implemented with Convention countries. Non-Convention adoption procedure implemented according to the Convention as well.

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.
- Children if not approved by the citizens of Azerbaijan after six month period sending to general registry for intercountry adoption.

⁴ 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 >.

⁵ 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 > under "Intercountry Adoption Section" then "Expert Group on the Financial Aspects of Intercountry Adoption".

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

- (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.

Azerbaijani Central Authority is responsible to work out the general register list of children deprived from parental care. That list consists of the information provided from various child care institutions and the relevant ministries which are responsible for central registration of such children.

- (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: According the Family Code of Azerbaijan Republic consent can be given by the parents, the guardian of the child. Consent is written permission on the notary by the biological parents or where there are no biological parents, by a guardian, that is given to prospective adoptive parents to adopt a child. If the child under the 10 year old the consent shall be considered during the court process.
- (ii) The information provided to, and the counselling and preparation of, an adoptable child: Guardianship Commissions ensure the meeting of the child with PAPs.
- (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): No changes
- (iv) The matching of the child and PAPs: Available child offered to PAPs from the general base
- (v) The entrustment of the child to the PAPs: No changes
- (vi) The making of the final adoption decision: According to the Family Code of Azerbaijan Republic adoption process finalised by the report of Committee (Central Committee).
- (vii) The transfer of the child to the receiving State: No changes
- (viii) The post-adoption services provided (*e.g.*, when and how an adoptee may access information concerning his / her origins): No changes
- (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) Georgia
(ii)

- (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: Committee examine PAPs possibility to adopt a child when required documents was submitted to Central Authority.
- (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): Examined documents are sending to the Central Authority of State of Origin according to Convention.

- (iii) The procedure to accept a proposed match: Adoption Procedure determined by legislation of Receiving State. State Committee in this process is connective Central Authority.
- (iv) The migration procedures for the child: Migration procedure determined by the legislation of Receiving State
- (v) The post-adoption services provided: No changes
- (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?

Not available

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.

State Committee cooperate closely some Convention countries in the sphere of intercountry adoption, this help to earn experince.

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

Post placement reports help to control the life of the child after the adoption. Most of times Commiittee faces delaying of post adoption reports from Member States and this makes to do strict measures about adoptive parents.

C. THE IMPACT OF THE 1993 HAGUE CONVENTION ON THE PREVENTION OF THE ABDUCTION, SALE OF AND TRAFFIC IN CHILDREN AND OTHER ILLICIT PRACTICES⁷

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.

N/A

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?

⁷ "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 >).

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?

N/A

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?

Generally Azerbaijan Central Authority recognize member states decision in the sphere of intercountry adoption according to legislation.

- (b) What challenges remain regarding the automatic recognition of adoptions made in accordance with the Convention? N/A

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.

Additional procedure doesn't require to complete the adoption accordance with the Convention.

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) Not available
(ii)

- (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 subsidiarity⁸ including promotion of domestic adoption, or a decrease in the number of intercountry adoptions has caused PAPs to turn to domestic adoption).

N/A

⁸ See Art. 4 b) of the 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.

Domestic adoption regulated local legislation therefore procedure may not concern to 1993 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) Not available

(ii)

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;⁹ in-State alternative permanent family care promotion in revised / new legislation in preference to institutionalisation).

Not available

- (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?

No changes

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?

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?

1993 Hague Convention is an international treaty that provides important safeguards to protect the best interests of children, adoptive parents who are involved in intercountry adoptions. The Convention entered into force in Azerbaijan 01 november 2004. A country that is a party to the Convention must have an officially designated Central Authority to ensure that the adoption process is safeguarded. Commiittee apppointed as a Central Authoirty of Azerbaijan in 2007. Second great aspect is post placement report which is Committee supervise the life of condition of the child with reports.

- (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 available

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

Improvement of legislation in Azerbaijan is a signigicant challenge.

⁹ *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?

Main principle of the Hague Convention is intercountry adoption should be child centred, that is, in all stages of the process the child's interests must be paramount. Legislating for intercountry adoption is essential to give protections to children in the process of adoption. The Hague Convention has put in place the equivalent of a contract between states to regulate the standards that will apply in each jurisdiction. As a State of Origin it is especially important to have some confidence in the process of consent to the adoption, the status of the child as adoptable and a guarantee of no improper financial gain from the process.

- (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?

No adverse effect

- (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?

Not available

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?

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.

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

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