

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: FINLAND

**DATE OF ENTRY INTO FORCE OF 1993 HAGUE CONVENTION IN YOUR STATE:²
1.7.1997**

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.

Yes, many sections in the adoption act (175/1996) were revised even though main principles were already in accordance to Hague convention. Main changes in legislation and in practice concerned the recognition of the adoptions in other Hague country, role of central authorities and accredited bodies and the term habitual residence. The Finnish adoption act was totally revised in 2012. New adoption act (22/2012) entered into force in 1st July 2012. The purpose of revision was for example to tighten the rules regarding independent adoptions, emphasize more the best interest of the child and provide the age limits in law.

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 Finnish Adoption Board became the Central Authority as referred in the Hague Convention and according to the adoption act (175/1996). The accredited bodies became authorised bodies referred to in chapter III of the Hague Convention.

The co-operation between central authorities was strengthened as a result of the Hague 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): -

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 *to* your State (receiving State): 373, official adoptions through accredited bodies

(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): 528, official adoptions through accredited bodies

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).

To our understanding the changes in the figures of intercountry adoption are related in the Finnish context more to changes in the domestic child protection, specifically growing demands for foster care families and diminishing of domestic adoptions simultaneously.

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;
- The level of the costs were not affected. The reporting of the costs to the central authority was at this point only during the accreditation every 5 years and only later on in a yearly bases.
- and / or
- (b) Contributions, co-operation projects and donations,⁶ including their transparency? If so, please provide details.
- The same mechanism took place also here - there was a period where CA was informed every 5 years and later on the reporting was yearly reporting.

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.

It seems that in several countries there were considerably shorter adoption waiting times in comparison to these days. However it is unclear what is the reason for this or at what stages of the process procedures were quicker.

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)?

Although the discussion with countries such as Ethiopia and Russia about entering the Hague Convention were not fruitful also the applicants that were sent to these countries had profited from the general development of adoption counselling after entering the Hague. The overall affect of the Hague Convention took however several years.

State of origin questions

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)*.

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) Yes the content of counselling, selection and preparation of PAP's did develop for the purpose of being consistent with the Hague Convention (entered 1997). For example the Guideline for adoption counselling published by the Ministry of social welfare and health was renewed.
 - (ii) There is a gradual change towards countries of origin providing domestic alternatives for the easy to place children and as a consequence special needs children and older children being available more often for intercountry adoption. However this change has been a consequence of development in a longer period of time in these environments.
- (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: Small changes, mainly about the availability of adoption counselling and adoption mediation.
 - (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): More detailed information from the adoption counselling in the home study reports.

- (iii) The procedure to accept a proposed match: No
- (iv) The migration procedures for the child: Yes, they became more simplified in the cases where the adoption was finalized in the country of origin.
- (v) The post-adoption services provided: No. Definitely no. Not enough is stated in the Hague Convention about these needed services and about the collaboration between different authorities.
- (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?

Yes, we definitely have a preference for Hague Convention partners and we advocate for this convention also in countries that are non-members. The Hague Convention has added to our own understanding of different important issues to be aware of and to take notice of in our collaboration.

Most of our co-operation partners are members of Hague Convention. We have 11 countries we co-operate with and two of them are not member states (Ethiopia and Russia). Our legislation does not set any limits to co-operate with non-contracting states. In practice it has been difficult to co-operate especially with Russia, because we don't have any CA-partner there. We have a long collaboration with Russia and Ethiopia. If we now would consider establishing new contacts with non-contracting states, we would evaluate and consider very, very carefully. It would be problematic.

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 biggest change took place rather late, in our new Adoption Act (22/2012) and it was provisions concerning independent adoptions. Before these changes it was too easy to enforce independent adoptions in Finland.

Before this:

Centralization of managing information about children in need of adoption (India, China, South-Afrika) and reviewing the domestic alternatives primarily before entering intercountry adoption.

After the periods of collaborating with intercountry adoptions, several countries have developed domestic adoptions.

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

Undue pressure by sending too many applications / finding the suitable number of needed applications remains an issue that needs constant communication.

All central authorities aren't so active. Sometimes it's very difficult, even impossible, to get information and answers from them. There can also be misunderstandings, because systems vary a lot.

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.

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;

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 >).

- (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?

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?

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?

Yes this is an improvement which shortens the time spent in the sending country during the adoption procedures and allows easy entering in to the country of the PAP's. This also reduces to some extent costs.

The new section 47a was provided as a result of Hague convention. According to this section the court which has granted the adoption may, upon petition, certify that the adoption has been made in accordance with the Hague Convention. The same thing is provided in the new adoption act section 77: A court of law that has granted an adoption may, upon petition, certify that the adoption took place in accordance with the Hague Convention.

The purpose of this provision is to certify that the adoption is valid in Finland without further measures.

- (b) What challenges remain regarding the automatic recognition of adoptions made in accordance with the Convention? In countries that still require follow-up reports prior to finalizing the adoption (f.eg. Thailand and Philippines) the child is placed to the family according to a temporary guardianship. The finalization of the adoption takes place after several months after the child is placed in the family. If the placement were to be contradictory to the child's best interest (family is incapable of taking care of the child) the responsibility of planning for the new placement is not clearly solved as this is in these cases shared responsibility.

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.

Court procedure for finalizing adoptions from Thailand and Philippines.

We require the court process. According to the adoption act (22/2012) section 77: A court of law that has granted an adoption may, upon petition, certify that the adoption took place in accordance with the Hague 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) Total of 542 domestic adoptions INCLUDING adoptions within family members and relative adoptions (1994 - 197, 1995 - 188, 196 - 157), Out of these adoptions into families with 2 parents 259 (1994 - 86, 1995 - 92, 1996 - 81). These last figures INCLUDE relative adoptions.

(ii) Total of 523 domestic adoptions INCLUDING adoptions within family members and relative adoptions (1998 - 172, 1999 - 172, 200 - 179). Out of these adoptions into families with 2 parents 213 (1998 - 69, 1999 - 74, 2000 - 70). These last figures INCLUDE relative adoptions. * Please note statistics of domestic adoptions of non family members are included in these statistics and are NOT available separately.

(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).

(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.

Some changes in adoption act (175/1996) concerned also domestic adoptions though the main changes concerned inter country adoptions. They were provisions regarding consents of the biological parents, maintenance allowance, adoption counselling, following the adoptions and archiving of adoption documents.

The new adoption act (22/2012) changed also the procedure of domestic adoptions so, that a licence is needed also in domestic adoptions. Before that, only foreign adoptions were subject to a licence. The Adoption Board (CA) is the licence authority.

⁸ 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;⁹ in-State alternative permanent family care promotion in revised / new legislation in preference to institutionalisation).

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- (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?

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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?

In our context this is not a relevant question.

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?

-Adoption counselling has developed

- Usefull tools for the adoption accredited bodies to analyze and discuss the issues around intercountry adoption

- The tasks of Central Authorities and accredited bodies are well-defined in adoption legislation.

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

No

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

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

1) There is a growing amount of adoptees and families needing and requesting post-adoption services. What is stated in the Hague Convention needs to be remodeled and concretely suggested for member countries. There is a tendency to see post-adoption services as general services provided by states although we know adoption specific services are required.

2) Role, resources and support from Central Authorities should be specified more. There is growing demands on the accredited bodies in providing more specialized services with limited resources.

3) The Central authorities should have adequate resources to support the system. Lack of resources (economic and personnel) incurs some challenges to fulfil all CA-duties perfectly

4) Problems of funding activities of accredited bodies with diminishing numbers of new adoptions.

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?

In the countries we work with:

- Good practise in adoptions has spread to the countries of origin we collaborate with
- The centralization of adoption practices is overall a positive development that has been triggered by the contention.
- The subsidiarity principle has served the purpose of finding local solutions for children and added to children's alternatives in their own country
- From the view point of the Central Authorities the co-operation system between the CA's has significantly improved.

- (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?

The problems of too much pressure from sending countries side by providing too many applications and/or simultaneously too little restrictions from the receiving countries side have in some places led to problematic waiting times and also growing risks of malpractice.

- (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?

Resource problems - the more we know and understand how we should implement the Convention (both in receiving and sending countries) - the clearer it becomes that more resources are needed for this work in practise.

One big challenge is that the legislation, interpretation and practices in convention states can vary a lot. For example we don't automatically recognise adoptions granted in other Hague countries.

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?

Central Authorities point of view:

We as a central authority think that the current mechanism is pretty much satisfactory. The regular meetings between CAs are useful and the change of information works well (for example e-mail network). The guides to good practice (1 and 2) are very helpful in daily work. We have also good experiences of asking help to interpretation from Permanent Bureau.

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.

We have asked the opinion of Permanent Bureau, when we have planned to start co operation with new country. Then we have also asked help to interpret some articles (the question concerned independent adoptions)

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

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