

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: ROMANIA

**DATE OF ENTRY INTO FORCE OF 1993 HAGUE CONVENTION IN YOUR STATE:²
01.05.1995**

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.

After the ratification of the 1993 Convention, successive amendments of the normative framework took place, in 1995 (Law no. 65/1995 for completion and amendment of Law no. 11/ 1990), in 1997 (Emergency Ordinance 25/1997 regarding legal regime of adoption), in 2001 (Emergency Ordinance 121/2001 for temporary suspension of all procedures referring to intercountry adoptions), 2004 (Law no. 273/2004 regarding legal regime of adoption, enforced on 01.01.2005) and 2012 (by amendments and completions to Law no. 273/2004 by Law no. 233/2012 and preparation of new Methodological norms for implementing it, approved by Government Ordinance no. 350/2012).

To what concerns the laws that regulated the intercountry adoptions in Romania, it is worth noticing that in the first 6 years after the ratification of the 1993 Convention, although legislative amendments took place, they could not transpose in practise the principles and requirements of the Convention.

For this reason, the intercountry adoption system of Romania was constantly criticized by the international community and during 2000-2001 it became a subject associated directly or indirectly to corruption and crime. The critics were especially triggered by the lack of transparency of the phases of intercountry adoption procedure and the lack of transparency regarding its financial aspects. Moreover, due to the weak administrative capacity of public authorities, the management of intercountry adoptions were taken in a great extent by private bodies, which were insufficiently controlled and coordinated in their activities, which led to some abuses and infringements of certain provisions of the Convention (infringement of subsidiary of intercountry adoption in balance with national adoption, insufficient information about persons called to agree on the child's adoption regarding the consequences of expressing this agreement, the lack of information of the intercountry-adopted child and failure to consider his opinion, the lack of some criteria of matching between child and adopters).

Due to such reasons, in 2011, in Romania, a moratoria regarding intercountry adoption was imposed, initially for 12 months and later on it was postponed successively until the enforcement of Law no. 273/2004 regarding the legal status of the adoption, namely until 01.01.2005.

The main amendments brought by the new normative frame referred to the declaration, by the Court, of the adoptability of children, after observing the failure of activities made with the purpose of reintegrating them in their biological family. Also, the consent of the biological parents on the child's adoption is expressed only before the Court, later on during the counseling they receive from social services.

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 >.

During 2005-2012, Romania allowed the intercountry adoptions for children from Romania to be made only by their relatives of the IInd and IIIrd degree (grandparents and uncles/aunts). For this reason, no intercountry adoption was made. The involvement of Romanian accredited private bodies in the procedure of intercountry adoption was not allowed, they could undertake activities only in the procedure of national adoption. Also, starting with 2005, for the purpose of keeping some national records to what concerns the adoption (internal and intercountry), The National Registry of Adoptions was incorporated and organized.

Starting with 2012, on the occasion of enforcement of amendments brought to Law 273/2004 regarding the procedure of adoption and the approval of Methodological Norms of applying it, one can talk about the restarting of the intercountry adoption of children with habitual residence in Romania.

The amendments and completions brought to the law concern:

- operationalizing of principle of subsidiary of intercountry adoption in balance with the internal adoption: only the children, for whom an adopter or an adopting family with habitual residence in Romania could not be found in 2 years since declaring their adoptability, can be adopted intercountry. The authorities in charge and the social services have the duty to prove the accomplishment of real activities of identifying some adopters (PAPs) at the national level.

- the redefinition of internal and intercountry adoption, by taking into consideration the criterion of habitual residence of adopter and adoptee, thus correlating the internal normative framework with the provisions of art. 2 point 1 of Convention from 1993. Previous to this amendment, the case that generated confusion and led to the agreement of some national adoptions was made by adopters domiciled in Romania and habitual residence in another stat.

- the possibility of executing intercountry adoptions of some children with habitual residence in Romania by certain adopters who are relatives up to the IV th degree with the child or by persons/ couples where at least one of the adopters is a Romanian citizen or in case the adoption is made by the husband of the natural parent of the child whose adoption is being asked for. In this sense, up to 30.06.2014, the intercountry adoption of 17 kids was agreed and 31 adoptions requests are being registered by us and made by the adopters.

- the selection of adopters is made starting from the needs and characteristics of the child, being stated a series of matching criteria. Moreover, in view of having the perfect matching, the adopters come to Romania and they interact with the child. Upon the end of this period, the Romanian social services make a report where they state their appreciations about the quality of interaction and the familiarization of the child with the adopters and the prospective adoptive parents (PAPs) decide on the continuation of the adoption procedure;

- PAPs are called to agree upon the intercountry adoption in a direct manner, their presence being necessary in the Court.

- in the intercountry adoption procedure of certain children from Romania, that took place on Romanian territory, only the Romania central authority is involved and the social services and child protection. Private bodies and their members are not allowed to interfere whatsoever in this procedure. Detailed information about the procedure can be found in "Country profile for intercountry adoption".

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?

Romania appointed, even from the ratification of Convention, the central authority to what concerns the intercountry adoption- we refer to the Romanian Committee for Adoptions (during 1994-2005), namely the National Authority for the Protection of Child Rights and Adoption (April 2014- to present). The functions of the central authority are described in the country profile of Romania, point 4.

To what concerns Romanian private bodies, starting with 01.01.2005, in Romania it is forbidden the involvement of Romanian private bodies in the international adoption procedure.

To what concerns the collaboration with foreign accredited bodies, we mention that it shall be made based on their certification to collaborate with our institution, the activities that they undertake are described at point 7 from "Country profile for intercountry adoption-Romania". Currently, in Romania, there are certified 13 foreign private bodies.

The present provisions create the premises for coordination and thorough control of the state in all the phases of the international adoption procedure.

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): 3500 (estimate)

Number of intercountry adoptions *to* your State (receiving State): 0 (estimate)

(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): 3955 (source: The Second Periodical Report of Romania regarding the implementation of UN Convention regarding child's rights)

Number of intercountry adoptions *to* your State (receiving State): 0

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

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

- (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).

The ratification of the Convention did not trigger right in the following period a significant modification of numbers and the report between the internal and international adoptions. In reference to the subsidiary principle, unfortunately, in the period right after the ratification of the Convention, although it was transposed in the internal law, no mentions of the procedural activities were stated that would provide proper enforcement into practise and no control mechanisms of a proper implementation were made.

During 2005-2012, in Romania, the intercountry adoptions were not allowed.

Starting with 2012 the principle of subsidiary is described explicitly, in the sense that they are eligible for intercountry adoption only those children for whom no proper family could be identified in Romania, for 2 years. Also the law framework was strengthened by means of legal provisions in the sense of identification of certain adopters on the internal level. In this context, we are witnessing a decrease of the balance between the children eligible for international adoption and those for national adoption and also to an obvious decrease of demands of international adoption and the national one and also to a clear decrease of requests for intercountry adoption and the number of intercountry adoptions approved.

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;

In the current legislation there is no mention about the costs implied with intercountry adoption and no strong analyses concerning these financial issues were made.

and / or

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

Up to the introduction of the moratorium regarding the intercountry adoptions, in 2001 there was a direct correlation between the financial contributions and the donations made by certified private bodies and the number of intercountry adoptions made by them. This aspect is one of the reasons that has initially led to the suspension of the intercountry adoptions in Romania (in 2001) and later on to the ammendment of legislation.

At this moment in Romania donations and sponsorships are prohibited, as well as offering by the adopters of any financial advantages to the public institutions involved in the international adoption procedure.

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)*.

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.

Whereas the relatively recent practise (less than 2 years), from the implementation of the latest modifications in the area of adoptions, no relevant appreciations can be made concerning the duration of intercountry adoption procedure.

Also, from the experience of the last two years, we mention that the duration of the adoption process is highly influenced by the option of adopting families to what concerns the sex, age, health state or special needs of children they wish to adopt. For example, many children eligible for intercountry adoption are older than 4 years and they have certain particularities to what concerns their health state.

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)?

The implementation of the 1993 Convention did not have an impact on the accomplishment of some intercountry adoptions in collaboration with states which are not part of it. Pursuant to the Romanian legislation, the intercountry adoptions can be accomplished in states members of 1993 Convention or states non-ratifying the Convention, based on certain conventions of collaboration made between the Romanian central authority concerning the adoptions and the foreign central authorities in charge in the aforesaid states.

We state that after the restart of intercountry adoptions of children from Romania (year 2012), all intercountry agreed adoptions were made in states part of the 1993 Convention.

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.

Yes. Starting with 2005 the children became adoptable due to stating their adoptability by Courts, the decision being based on the failure of attempts to reintegrate the child in his family (to his parents or his extended biological family). Moreover, the persons called to agree to stating the adoptability of the child (parents or if necessary the tutor) express themselves only in front of the Court, after passing a counselling procedure. In addition, the completions brought to the normative frame in 2012 set the fact that in case of children who turned 14 years old, the starting of activities to declare their adoptability is made only with the children's agreement.

- (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.

In the first years of implementing the 1993 Convention, its provisions did not lead to the modification of eligible child's profile for intercountry adoption, motivated especially by the insufficient operationalising of the subsidiary principle.

Alongside the modifications brought to the internal normative frame in 2012 and explicit transposing in the law of this principle (statutory as basic condition for granting the intercountry adoption), the age of intercountry adoptable children increased, the intercountry adoption of a child with an age less than 3 years is not possible anymore. Also the children eligible for intercountry adoption are generally children difficult to adopt, that could not find a suitable family in Romania on a period of 2 years- *i.e.* groups of brothers, children with certain health issues/ delays of development/ handicap.

- (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: Yes, there are changes that happened in time. In the first years after the ratification of Convention from 1993, the child's adoptability was a consequence for the Court's declaration of his abandon or the expression of an authentic agreement by the parent/representative or legal or, if necessary, by public authorities. Legal provisions did not provide though enough guarantees regarding the informed expression of such an agreement. Starting with 2005, the agreement for adoption is stated only before the Court in charge and it is noted by it, coming mandatorily before the counselling of persons who express it. Also, the agreement of the adoption of child who turned 10 years old is a basic condition for granting the adoption. The children age less than 10 years old can be asked their opinion, and this opinion is given the appropriate importance depending on the degree of understanding and maturity of each child. Also, the desires expressed by a child in balance to intercountry adoption are taken into consideration in the matching procedure and are mentioned also in the report made pursuant to art. 16 point 1 letter a) of 1993 Convention. To what concerns the way in which the agreements on adoption are expressed, the normative frame from Romania contain provisions which qualify as crimes the actions by which parents or persons who were accountable for the child claimed for money or used materials in view of adopting a child. Starting with 2005, the internal normative frame institutes in the responsibility of the Romanian central authority in matters of intercountry adoptions, the responsibility to take all measures imposable in view of preventing any earnings which could be made and to discourage any practises adverse to 1993 Convention.
- (ii) The information provided to, and the counselling and preparation of, an adoptable child: In the adoption law, it is mentioned that during the procedures of child adoption, clear and concrete information and explanations are provided, given the age and the degree of maturity, referring to the implications, duration and phases of the adoption procedure. The information of the child is made by the social service representative and/or by the child's reference person. In practise, in the intercountry adoption procedure, we request the adopters to send us photographs and information concerning their own person/ family/ community which are presented to the child in view of preparing him for matching. Also, before expressing the consent for adoption, the child is informed regarding this activity.
- (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): see point 20 of Country Profile
- (iv) The matching of the child and PAPs: see point 22.1 of Country profile
- (v) The entrustment of the child to the PAPs: see point 25 of Country profile
- (vi) The making of the final adoption decision: see point 27 of Country profile
- (vii) The transfer of the child to the receiving State: see point 26 of Country profile
- (viii) The post-adoption services provided (*e.g.*, when and how an adoptee may access information concerning his / her origins): Since 2005, the adopters are being recognized their right to know their origins and their own past. The adopter can access information referring to the life and context of achieving the adoption either depending on their full capacity of exercise or ever since the period of being a teenager, assisted by his adoptive parents. Yet, the data referring to the identity of his biological parents can be supplied to him only after acquiring full capacity of exercise (exception is made from medical reasons). Also the adopted children are assisted by Romanian social services in view of accomplishing the contract with parents/ biological relatives, in case they are asked that.
- (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) not applicable- Romania is not a receiving state
- (ii) not applicable- Romania is not a receiving state

(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:
- (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):
- (iii) The procedure to accept a proposed match:
- (iv) The migration procedures for the child:
- (v) The post-adoption services provided:
- (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?

No. It is allowed the collaboration with authorities in charge in the area of intercountry adoption from states which are part/non-part of the 1993 Hague Convention.

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 development of a cooperation system with the central authorities/ private certified bodies and expressing the agreements for continuing the procedure by the central authorities in cause;
- Recognition of adoptions in the receiving countries
- Expressing agreements for adoption from adopters, based on the notification and direct information with the child;
- Certifying the conformity of adoption concluded with provisions of Convention from 1993.

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

- The differences existing in the internal laws in regard to the assessment and preparation for undertaking the procedure of intercountry adoption;
- The non-unitary practises referring to the manner in which the recognition of intercountry adoptions is being made;
- Difficulties in the appreciation of habitual residence of applicants (in certain particular cases)
- Effects of the statute of person adopted in the receiving state, in exceptional cases when it is imposed the declaration of nullity for some adoptions given in the states of origin.

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.

It is not permitted/ possible the direct contact between the adopters and the parents/ biological relatives of the child.

-Only the children included in the special protection system/ for whom guard ship is being imposed and the ones declared as fit for adoption by Courts can be adopted (except adoptions made by the husband of the natural parent of the child).

- The adoption was passed under the control of Court and the adoption agreements were not expressed in the authentic form, but in front of a Court invested with the request to state the adoptability of the child (and after a proper counselling of the one who is expressing the consent). See also notes from point 7 c), i) of this survey. Moreover, the moment when the biological parents agree to the adoption comes before the one in which the PAPs agree to the adoption, being excluded the possibility to obtain data referring to adopters/ child' new identity.

- theoretical matching is made by the National Authority of Protection of Child's Rights and Adoption and the practical one is monitored by Romanian social services (public institutions)

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 >).

- The children can leave Romania only accompanied by their adopters
- Are qualified and sanctioned as crimes the actions of parents/ legal representatives of the child to claim and receive money or other material advantages in the purpose of the adoption.
- There are prohibited the donations and sponsorships and any material advantages offered by PAPs or by persons coming between the representatives of the institutions involved in the adoption procedure.

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?

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?

Yes. Following the harmonization and successive completions brought to the national law, guarantees were provided for preventing some illicit practices in the area of adoption, such as the ones mentioned at points (a)-(g).

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?

In Romania the intercountry adoption is recognized of right, if it is an adoption certified pursuant to 1993 Convention, without any further procedures.

- (b) What challenges remain regarding the automatic recognition of adoptions made in accordance with the Convention? We believe that in Romania there are no such challenges, because Romania is not at this moment a receiving state.

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.

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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) For the time requested, the only numbers that we have refer to the year 1994 where there were granted 2792 national adoptions (source: The second periodical report of Romania regarding the implementation of UN Convention regarding child' s rights).

(ii) During 1995-1998, we estimate that the number of national adoptions was about 4000.

(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).

As mentioned before, the correlation of national laws with the provisions of 1993 Convention of Hague was made in phases. Thus in the following years of the ratification, it impact wa snot noticeable, because its principles were insufficiently operationalised and controlled, For this reason in that period the number of intercountry adoptions was approximately 30% larger than the national one. Only after the legislative modifications from 2005 and 2012 (when in fact Romania restarted the intercountry adoptions) there were noticed the effects of transposing in practice the principles of Convention. In this context it is seen a huge difference between the number of internal and intercountry adoptions if children in Romania. During 2012- up to mid-2014 in Romania there were accomplished 1642 internal adoptions and 17 international ones.

(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.

Yes. The principle of subsidiarity influenced the procedures undertaken in the internal adoption, in the sense that it was explicitly notified in the legislation the duty to achieve some activities of identification of certain adopters in Romania and only if they were not found, the child could be adopted intercountry. Starting with 2012, the legal provisions foresee that the duration of search for right adopters in the internal area is of 2 years.

The counselling of biological parents previous to the agreement for the child' adoption was triggered by the transposing in law of provisions of art. 4 point 1 of 1993 Convention.

The regulation of involvement and certification of private bodies to work in the area of adoption was also triggered by the transposing in practise of the provisions of 1993 Convention.

⁸ See Art. 4 b) of the Convention.

Another impact of the 1993 Convention implementation was the development of support services given to the adoptee and the adopters as well as the explicit regulation of duration and periodicity of post-adoption monitoring.

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) Yes. The number of children from institutions decreased in Romania, by development of some alternative services and of support of biological family.

Thus in 1997 in Romania there were 39.569 children in special protection institutions, in the year 2000 the numbers went up to 57.181 (as consequence of undertaking in the special protection system of children from medical units) and later on the number of children from institutions went low, reaching 21.986 (on 30.06.2014)*.

(ii) Yes. Romania developed family type- protection measures (placement of children at professional foster parents, placement of children in the extended family) but there are not considered as having a permanent character. The development of family-type alternatives had the following evolution: in 1997 the number of children placed in family was of 11.899, in 2000- 33.356 and on 30.06.2014 the number of children placed in families was of 39.273.

*Source: www.copii.ro

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).

The decrease of number of children from institutions was a consequence of modification of legislative frame and the policy of de-institutionalisation of children, achieving thus their reintegration in the natural or extended family be that by replacing the placement of the child in the institution with his placement in a family, being promoted the idea that the harmonious development of a child and his social integration are best kept inside a family. Also here were developed the services of prevention of separation of children from their parents and reducing the admissions of children in the special protection system.

In Romania, the admission to institutions of children aged below 3 is prohibited.

Upon the moment when it is taken into consideration the setting of a measure of protection for a child that cannot be taken care by his parents, it is analysed with priority the possibility of placing that child to his relatives or inside a replacement family and only in cases when this is not possible institutionalization is taken into consideration, which is considered to be the last option. Moreover, in case of children from institutions, upon each reassessment of heir situation, social services have the duty to analyse the placement of these children in a family-type alternative.

- (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?

The ratification of the Convention did not trigger modifications under this aspect, in Romania the alternative measures with permanent character are just guard ship (for children with deceased/ unknown parents) and adoption, these being regulated also previously to the implementation of 1993 Convention provisions.

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?

By the modifications brought to the normative frame and the work procedures, it was underlined and accentuated the primordial role of parents to what concerns raising and bringing about the child, state intervention being subsidiary. There were developed services of prevention of separation of children from their parents and procedures were elaborated to

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

allow the separation of children from their parents only in special cases, imposed in the children's interest and submitted for legal revision. Also the normative frame mentions that before taking into consideration the possibility to declare the adoptability of children, actions are taken in view of reintegrating the child to his parents or that he is taken care by his biological extended family.

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 subsidiarity of intercountry adoption in balance with the alternatives of caring in the internal plan;
- Certification of private bodies with whom the Romanian central authority collaborates for the exclusion of intermediaries;
- Expressing certain agreement about the adoption, by the biological parents and by the child and adopters;
- Providing guarantees concerning the entrance and maintenance on the child on the territory of the receiving state;
- Recognition of intercountry adoptions;
- Post-adoption monitoring.

(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?

See the clarifications made at point 10 b).

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 principle of subsidiarity and recognition of intercountry adoption in the receiving state.

- (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.

- (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?

See point 10 b) of this survey.

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?

Yes. Romania participated to periodical meetings organised by the Conference of Private International Law of Hague and we participated with the tools and guides of good practices promoted, they being very useful in the review of national legislations.

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?

- The debate and analysis of certain particular situations which raised difficulties of interpretation of certain provisions mentioned in 1993 Convention.

- The development of certain programs of formation/ operational assistance for specialists involved in the international adoption.

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

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