

INTRODUCTION

This Questionnaire is the second and last to be prepared for the purposes of the upcoming meeting of the Special Commission on the practical operation of the 1993 Hague Convention.¹ The first Questionnaire (Prel. Doc. No 1 of July 2014) requested information from Contracting States concerning the impact which implementation of the 1993 Convention has had on laws and practices relating to intercountry adoption and child protection systems more generally over the past 20 years. That information was sought in order to inform the first day of the Special Commission meeting which will be dedicated to "20 years of the 1993 Convention". This second Questionnaire is the more usual questionnaire on the practical operation of the 1993 Convention. It seeks to elicit information from States concerning their current practices and any problems and / or challenges they may have faced in relation to the implementation and operation of the Convention.

This Questionnaire is addressed to Contracting States to the 1993 Convention. As a result, non-Contracting States (whether Members of the Hague Conference on Private International Law or not) should not feel bound to respond but may provide a response or any comment should they so wish. In addition, please note that questions are addressed to both States of origin and receiving States, save where a heading expressly provides otherwise.

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 22 December 2014**. The Permanent Bureau will place all replies to this Questionnaire on the Hague Conference website < www.hcch.net > unless expressly asked not to do so.

Please note: if information provided by your State in response to the first Questionnaire (Prel. Doc. No 1) or your State's Country Profile for the 1993 Hague Convention assists with your answer to any question herein, please cross-refer to these other responses. There is no need to repeat information.

Thank you for your kind co-operation as the Permanent Bureau prepares for the next Special Commission meeting in June 2015.

¹ This Fourth Meeting of the Special Commission will take place in June 2015. 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:	Bulgaria
Date of entry into force of 1993	01.09.2002
Hague Convention in your State:	
<u>Information for follow-up purposes</u>	
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I. ADOPTABLE CHILDREN, ADOPTEES AND PROSPECTIVE ADOPTIVE PARENTS²

A. Adoptable children and adoptees

The profile of children in need of intercountry adoption

States of origin only

1. Please explain any *challenges* your State has encountered, and any *good practices*³ it has developed, in relation to the compilation and provision of information to receiving States regarding the:
 - (a) characteristics and needs of adoptable children in your State;⁴ and
 - (b) approximate number of children in need of intercountry adoption in your State.

With a view to the subsidiary nature of the intercountry adoption and its application as an extreme measure for protection, the Ministry of Justice of Bulgaria does not have information about the children whom intercountry adoption shall be appropriate and applicable for. The approximate number, respectively characteristics and needs of the children who will need intercountry adoption may not be defined, and such information may not be presented to the receiving States. The Ministry of Justice publishes on its Internet site characteristics of the children whose adoption the Minister of Justice has provided consent for by people with habitual residence abroad during the preceding year.

Receiving States only

2. Please explain any challenges your State has encountered in ensuring that:

² Part I of this Questionnaire has been prepared in light of Conclusion and Recommendation No 10 from the 2010 Special Commission meeting which states: "The Special Commission recommended that the Permanent Bureau, in consultation with Contracting States and non-governmental organisations, collect information on the selection, counselling and preparation of prospective adoptive parents, with a view to the possible development of the Guide to Good Practice No 3. This may include a discussion on good practices in dealing with failed adoptions and the period of validity of the 'home study' report." Please note: hereinafter, Conclusions and Recommendations from past Special Commission meetings are referred to as "SC 20XX C&R No X". All Conclusions and Recommendations are available on the Hague Conference website < www.hcch.net > under "Intercountry Adoption Section" then "Special Commissions".

³ In this Questionnaire, "good practices" should be given a broad meaning and should be taken to include any legislative reform, procedures or practices which your State might have implemented regarding the particular topic.

⁴ See SC 2005 C&R No 12 which states: "[t]he Special Commission recognises the importance of States of origin sending information to receiving States on the needs of children to better identify prospective adoptive parents". Please note that the Country Profile for States of origin requests that States of origin provide information concerning the profile of adoptable children (at question 9) and thus it may be that your State has encountered challenges in responding to this question which you wish to describe here.

- (a) the *nature* and *number* of applications for intercountry adoption which your State sends to States of origin appropriately match the profile of children in need of intercountry adoption in those States;⁵ and
- (b) the information provided by States of origin concerning the characteristics, needs and number of adoptable children is adequately taken into account in the counselling and preparation of prospective adoptive parents ("PAPs").⁶

Please also share any good practices your State has developed in this regard.

- Please insert text here -

Adoptability

Both States of origin and receiving States

3. (a) Please briefly describe any difficulties your State has encountered in relation to the decision regarding a child's adoptability, including the transparency of any such decision and the independence of the body taking this decision.⁷

The decisions about the adoptability of the child as an appropriate measure for protection, inclusive of intercountry adoption, are made by the relevant Social Assistance Directorate with regard to the place of residence of the child. There are certain difficulties related to making decisions for adoption jointly or severally with sibling groups based on the availability or absence of emotional connections between them.

- (b) Has your State encountered any particular difficulties with adoptability decisions in the context of *intra-family* intercountry adoptions? If so, please explain.

No.

Reports on children

Both States of origin and receiving States

4. Please explain any challenges your State has encountered in preparing (States of origin) or obtaining (receiving States) full, accurate and up-to-date reports, including medical reports, on adoptable children in accordance with Article 16(1) a).⁸ Please specify any particular difficulties encountered in the case of children with "special needs".⁹

The Ministry of Justice encounters certain difficulties in connection with obtaining full, accurate and up-to-date information about the health status of the children for intercountry adoption, as the collection and the provision of this information are performed by other state authorities. Special measures for adoption are undertaken with regard to children with "special needs", which include the collection of additional information, even medical, from the accredited bodies in Bulgaria.

⁵ See para. 553 of *Guide to Good Practice No 2 "Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice"* ("GGP No 2") which states that receiving States should respect "the requirements of States of origin regarding the profile and number of adoptable children, as well as the desired profile of prospective adoptive parents".

⁶ See SC 2005 C&R No 13: "[t]he Special Commission recognises that as a matter of good practice, authorities in receiving States should co-operate with authorities in States of origin in order to better understand the needs of children in States of origin", and SC 2010 C&R No 8: "States of origin may assist receiving States in establishing their criteria for the selection of prospective adoptive parents by providing information about the characteristics and needs of adoptable children. This information will also contribute to the development of preparation materials on intercountry adoption directed to prospective adoptive parents, and to the management of their expectations."

⁷ See SC 2010 C&R No 1 b).

⁸ *E.g.*, concerning children's physical and psychological health, identity or social situation.

⁹ You may wish to cross-refer to your State's Country Profile at question 13 (States of origin) and question 11 (receiving States) concerning your State's definition of children with "special needs".

Receiving States only

5. (a) If reports on children appear deficient or incomplete, what measures, if any, does your State take to remedy or ameliorate the situation?
- Please insert text here -
- (b) Please specify how, in your State's view, reports on children provided in accordance with Article 16(1) a) could be improved in general.
- Please insert text here -

MatchingBoth States of origin and receiving States

6. Has your State had any experience of cases in which PAPs are declared eligible and suited to adopt a particular profile of child(ren) but are subsequently matched with a child or children with different needs? (*E.g.*, PAPs are declared eligible and suited to adopt a child under the age of 5 but are subsequently matched with siblings aged 7 and 9.) If so, please explain, in your State's experience, the reasons for this and how your State has dealt with such cases.

The Intercountry Adoption Council to the Ministry of Justice is the competent authority for the determination of suitable prospective adoptive parents with habitual residence abroad. At matching a child and prospective adoptive parents, the Council takes into consideration the indicated characteristics about the child from three documents - an application from the prospective adoptive parents, a home study report and a permission for adoption. Characteristics stipulated in the last one are of decisive significance. If the permission does not contain characteristics, the home study report on the prospective adoptive parents shall be the deciding factor. The Council cannot make a decision beyond the parameters of the permission, respectively the home study report.

Preparation and counselling of childrenBoth States of origin and receiving States

7. Please share (a) any *challenges* encountered in your State or in other Contracting States, and (b) any *good practices* implemented in your State or in other Contracting States, regarding the preparation of children for intercountry adoption, including counselling and informing children and ensuring that, having regard to their age and degree of maturity, their wishes and opinions have been adequately heard and taken into account.

The preparation of children for intercountry adoption is made mainly by the social worker from the relevant Social Assistance Directorate in charge of the case of the child and who is competent also to express opinions regarding his/her interest, after having informed him/her in a proper manner and has taken his/her opinion and attitudes into consideration in so far as the child may form such. With the initiation of a procedure for an intercountry adoption and provided by the prospective adoptive parents consent for the adoption of the child, the accredited body from Bulgaria shall also take part in the process of its preparation. There are certain challenges in the procedures for adoption of children at an older age, for instance aged 10 and over with a view to the language barrier and the longer continuous adaptation process.

B. Prospective adoptive parents ("PAPs")***Selection of PAPs: eligibility and suitability to adopt intercountry***Both States of origin and receiving States

8. Please explain any challenges your State has encountered, and any good practices it has developed, in relation to preparing (receiving States) or obtaining (States of origin) full, accurate and up-to-date reports on PAPs, as required by Article 15, including eligibility and suitability assessments of PAPs.

The Intercountry Adoption Council is of the opinion that the availability of full and up-to-date information about the prospective adoptive parents is of exceptional significance for the appropriate matching with a child, as the topicality and the completeness of the information about the child is of importance as well. Simultaneously in a lot of States the permission for adoption, respectively the home study reports are without a term of validity and there is no up-to-date information in them. The requirement of information from the prospective adoptive parents themselves is an attempt at overcoming this problem, as well as annual confirmation of the project for adoption from Bulgaria.

States of origin only

9. (a) If reports on PAPs appear deficient or incomplete, what measures if any does your State take to remedy or ameliorate the situation?

The Minister of Justice in conformity with Art. 15 of Hague Convention defined the contents of the home study report for the prospective adoptive parents. Provided that certain data are missing or are incomplete, the presentation of a supplement report is required.

- (b) Please specify how, in your State's view, reports on PAPs provided by receiving States in accordance with Article 15 could be improved in general.

There are no specific proposals.

Counselling and preparation of PAPs

States of origin only

10. (a) Has your State encountered any difficulties resulting from inadequate counselling and preparation of PAPs by receiving States? If so, please provide examples and explain what measures your State takes to remedy or ameliorate the situation in these cases.

We would say that rather no difficulties are encountered resulting from inadequate counselling and preparation of PAPs by receiving States. Consultations are also conducted by the accredited bodies from Bulgaria.

- (b) In your State's experience, what could be done to improve the counselling and preparation of PAPs in general?

There are no specific proposals.

Receiving States only

11. What are the main challenges your State encounters when counselling and preparing PAPs for an intercountry adoption?¹⁰ Please share any good practices your State has developed to address these challenges.

- Please insert text here -

12. The Special Commission has previously emphasised “the need for country specific preparation and for prospective adoptive parents to have some knowledge of the culture of the child and his or her language in order to communicate with the child from the matching stage”.¹¹ How does your State ensure that this recommendation is complied with? Does your State have any good practices to recommend in this regard?

- Please insert text here -

13. How does your State deal with the waiting time between:

- (a) the eligibility and suitability assessment of PAPs and the transmission of their application to the State of origin?

- Please insert text here -

and

- (b) the transmission of the PAPs’ application to the State of origin and the receipt of the proposed match from the State of origin?¹² (*E.g.*, does your State routinely update the reports on PAPs in this period?¹³ Does your State, or the relevant adoption accredited body, engage in regular communication with the State of origin on this issue?)

- Please insert text here -

C. Intercountry adoptions involving children with special needs¹⁴

Both States of origin and receiving States

14. (a) In your State’s experience, what are the most common “special needs” of children adopted intercountry?

A great part of the children for intercountry adoption have a wide spectrum of specifics in their health status and development which may not be generalized. Bulgaria does not use the concept “special needs” as decisive for the procedure for adoption. All the children entered into the Intercountry Adoption Register are presented before the Intercountry Adoption Council for the determination of proper prospective adoptive parents. When the Council establishes that no appropriate prospective adoptive parents can be matched for a specific child (due to age and/or specifics in the health status), special measures for adoption are taken for the child.

- (b) If possible, please specify approximately what percentage of children adopted intercountry from or to your State¹⁵ have “special needs” (as defined by your State)?

140 children out of a total of 407 were adopted through the special measures for adoption in 2013.

- (c) What measures, if any, has your State taken to adapt intercountry adoption procedures in light of the needs of these children?

¹⁰ You may wish to refer to your State’s response to the Country Profile at question 15. *E.g.*, managing their expectations concerning the profile of adoptable children or waiting times, ensuring preparation materials / courses adequately prepare PAPs for the specific needs of an adoptable child.

¹¹ See SC 2010 C&R No 9.

¹² Your State may engage in a “reversal of the flow of files” with States of origin or other procedures such that waiting times are minimised: see further *Guide to Good Practice No 1 “The Implementation and Operation of the 1993 Intercountry Adoption Convention”* (“GGP No 1”) at Chapter 7.3.3, para. 394.

¹³ You may wish to refer to your State’s response to the Country Profile at question 17 d).

¹⁴ See note 9 above regarding your State’s definition of “special needs”.

¹⁵ Depending upon whether your State is a State of origin or a receiving State.

With a view to the great number of children whom no appropriate prospective adoptive parents from those entered into the Register may be matched for, a procedure for adoption through special measures has been introduced. The special measures include publication of a list exclusive of personal data of children on the Internet site of the Ministry of Justice, provision of possibility of an accredited body from Bulgaria for collection of additional information about a child from the list and search of a specific family which wishes to adopt him/her through accredited bodies - partners from abroad.

- (d) What are the main challenges which your State encounters in relation to the intercountry adoption of children with special needs? How does your State address those challenges?

Predominantly successful procedures for adoption are implemented through the special measures for adoption of children, but the number of children whom no families were found for in conformity with this sequence is still big.

Receiving States only

15. In relation to the intercountry adoption of children with special needs, how does your State ensure that:
- (a) the parenting abilities of PAPs and their ability to cope with the particular special needs are appropriately assessed?
- Please insert text here -
 - (b) any PAPs selected are suitably prepared for such adoptions and for the specific needs of each child?
- Please insert text here -
 - (c) adoptive families are provided with appropriate post-adoption support in light of the child's special needs?
- Please insert text here -

D. Post-adoption services for adoptees and adoptive parents

Both States of origin and receiving States

16. How, if at all, has your State implemented the recommendation of the 2010 Special Commission meeting that States should "provide different forms of assistance and counselling for different stages of the child's development to adulthood, including preparation for origin searches and reunions of the adoptees with members of their biological families"?¹⁶

The provision of information about the origin of the adoptee is possible after the enactment of a decision for the purpose by the relevant Court in Bulgaria. No special procedures are regulated as at this time in connection with rendering assistance and counselling the adoptee in cases of eventual search of such information.

Receiving States only

17. Please specify any challenges your State has encountered in ensuring that adequate support is in place for adoptive parents and adoptees following an intercountry adoption, including where parents have adopted a child with special needs.¹⁷ Please also share any good practices your State has developed to overcome these

¹⁶ SC 2010 C&R No 29.

¹⁷ E.g., difficulties coping with an increased demand for post-adoption services or with a need for more specialised services, or difficulties in determining how services should be funded. You may wish to cross-refer to your State's response to the Country Profile at Part IX concerning the services and support which your State provides.

challenges.

- Please insert text here -

E. Breakdown of intercountry adoptions

Both States of origin and receiving States

18. If your State has had experience of intercountry adoptions which have broken down subsequent to the adoption (sometimes referred to as "failed" or "disrupted" adoptions), please explain, in general terms:

- (a) what have been the main causes of the breakdowns in these cases (*e.g.*, deficient reports on the child, including failure to identify specific physical or psychological health needs in the report, inadequate preparation of the child or PAPs, inadequate post-adoption support).

In some cases of admitted adoption of a child by persons with habitual residence abroad, accommodation and subsequent adoption of the child by another family in the receiving State are initiated. Up to date these cases have been few due to various reasons which may not be generalized.

- (b) how your State has *addressed* these situations. Does your State have any good practices to share in this regard?

The monitoring of these cases and the provision of the Ministry of Justice with information about their development are of the greatest significance here.

- (c) what steps, if any, your State has taken to try to *prevent* these situations occurring in future.

The steps taken are directed at the precision of the preparation of the children for intercountry adoption and requirement of appropriate training, preparation and support for the adoptive parents.

F. Open adoption

Both States of origin and receiving States

19. Does the term "open adoption" (or similar) exist in your State's domestic legislation or rules? If so, please explain how it is defined. If not, please explain what is understood in your State by the term "open adoption" or "openness in adoption".

The implementation of "open adoption" is not regulated in Bulgarian legislation. The incomplete adoption, which is inapplicable in the cases of intercountry adoption, may be defined as similar to the "open adoption".

20. Please specify what type of openness in intercountry adoption is: (a) permitted according to your State's domestic *legislation or rules*; and (b) promoted *in practice* in your State.¹⁸

Inapplicable at intercountry adoption.

21. If possible, please specify approximately what percentage of intercountry adoptions involving your State include some element of openness. Has this number increased in recent years and, if so, what, in your State's view, are the reasons for this? What challenges have arisen as a result and how has your State sought to address these challenges?

Inapplicable at intercountry adoption.

G. Discussion at the upcoming Special Commission meeting

¹⁸ *E.g.*, disclosure of identities of biological and adoptive families, post-adoption contact.

Both States of origin and receiving States

22. Which topics / issues does your State consider are the most important to discuss at the Special Commission in relation to the counselling and preparation of children and the selection,¹⁹ counselling and preparation of PAPs for intercountry adoption?

The issue of counselling of the adoptive parents by the receiving States with regard to the changed number and profile of the children for intercountry adoption as a whole - reduction of the number of the children and predominant number of children at an older age and/or with specifics in the health status and development is of essential significance.

23. Does your State consider that there is any merit in developing a Guide to Good Practice on the selection, counselling and preparation of PAPs for intercountry adoption, as recommended by the last meeting of the Special Commission in 2010, and on the preparation and counselling of children?²⁰ If so, which particular issues would your State wish to see addressed in such a Guide?

As a state of origin we will be facilitated by a Guide to Good Practice during the preparation of the children for intercountry adoption.

II. SOME SPECIFIC ISSUES ARISING IN THE INTERCOUNTRY ADOPTION PROCEDURE

A. Article 17 agreements

Both States of origin and receiving States

24. Please indicate any operational difficulties which your State has experienced, either in your State or in other Contracting States, in relation to obtaining the agreements required in Article 17 and, in particular, Article 17 c).²¹

In some cases a long period is needed to receive of an answer from the receiving State.

B. Recognition of adoptions made in accordance with the Convention (Chapter V)²²

Both States of origin and receiving States

25. (a) Previous Special Commission meetings²³ have repeatedly emphasised the importance of:

¹⁹ The "selection" of PAPs in this context is taken to mean the assessment of the PAPs' eligibility and suitability to adopt intercountry.

²⁰ See SC 2010 C&R No 10 (*op. cit.* note 2).

²¹ *E.g.*, lack of clarity concerning the body which should provide the Art. 17 c) agreement, breakdown of State-to-State communications concerning the agreement, lack of clarity concerning which State should provide its agreement first.

²² When answering this section, you may wish to cross-refer to your State's response to question 13 of Questionnaire No 1.

²³ *E.g.*, see SC 2000 C&Rs Nos 17 to 19, SC 2005 C&R No 3 and SC 2010 C&Rs Nos 15 to 17.

- clearly designating the authorities competent to issue Article 23 certificates and keeping this information updated;
- promptly issuing such certificates without delay following an adoption decision made in accordance with the Convention;
- providing parents with a copy of the Article 23 certificate before they come to take the child;
- providing a copy of the certificate to the Central Authority in the receiving State;
- using the "Model Form for the Certificate of Conformity of Inter-country Adoption"²⁴ to promote consistent practice; and
- where an Article 23 certificate is incomplete or defective, co-operating to regularise the situation.

Despite the above recommendations, has your State continued to experience difficulties with the issuance or receipt of certificates of conformity under Article 23?²⁵ If so, please explain the difficulties encountered, including how your State has sought to remedy or ameliorate the situation.

The Certificate pursuant to Art. 23 of the Convention is issued by the Ministry of Justice within a 14-day term from the presentation of the decision for adoption, enacted by the Bulgarian Court. Bulgaria uses the published model of the Certificate.

- (b) Taking into account the previous recommendations made on this topic, does your State have any novel suggestions concerning how to improve practices regarding Article 23 certificates?²⁶

There are no specific proposals.

C. Delays in intercountry adoption procedures

Both States of origin and receiving States

26. Does your State have any comments on the speed with which Convention adoptions are processed?²⁷ If your State has experienced any unnecessary delays, what has caused these delays and are they at a particular stage of the intercountry adoption procedure?

In some cases a long period is needed to obtain an answer pursuant to Art. 17 of the Convention from the receiving State.

27. Does your State have any good practices to share or recommendations as to how delays in the intercountry adoption procedure might be minimised, whilst still ensuring that the safeguards of the Convention are respected?

There are no specific recommendations.

D. Co-operation issues

Both States of origin and receiving States

²⁴ See GGP No 1, Annex 7.

²⁵ *E.g.*, deficient or no certificates issued, delays in sending certificates, confusion concerning which authorities should issue the certificate, confusion concerning to whom the certificates should be sent.

²⁶ *E.g.*, how to better promote the use of the Recommended Form, ensure designations under Art. 23.

²⁷ See SC 2005 C&R No 14: "[t]he Special Commission reminds States Parties to the Convention of their obligations under Article 35 to act expeditiously in the process of adoption, and notes in particular the need to avoid unnecessary delay in finding a permanent family for the child".

28. In your State's experience, is the day-to-day co-operation with other Contracting States working well (e.g., sending and receiving documents,²⁸ prompt responses to enquiries and questions, openness to discussing problems and finding solutions)? Please specify any difficulties and concerns.

When needed the Ministry of Justice requires and provides information about the procedures as a whole or under specific cases from/to the other central authorities under the Convention.

29. At the meeting of the Special Commission in 2000, "[t]he need for adequate resources and appropriately trained staff in Central Authorities was accepted, as well as the importance of ensuring a reasonable level of continuity in their operations." ²⁹ Has your State continued to encounter difficulties in this regard, whether in your State or in other Contracting States?

As a central authority under the Convention Ministry of Justice makes efforts for enhancement the competence of the officials engaged with this activity and the provision of continuity.

30. Has your State made or received from other Central Authorities any "general evaluation reports" about experiences with intercountry adoption as specified in Article 9 d)?

If so, have these reports proved useful? Please explain to what use they have been put and the follow up undertaken.

If not, does your State consider that the preparation of such reports should be encouraged as helpful in promoting the regular review of practices and co-operation between States?

The Ministry of Justice has not received and has not presented any general evaluation reports as specified in Art. 9d of the Convention.

III. SPECIFIC TOPICS FOR CONSIDERATION

A. The subsidiarity principle (Art. 4 b))

Both States of origin and receiving States

31. Please describe the laws, procedures and practices in your State which seek to ensure that an appropriate balance is struck between providing sufficient support to biological families to enable the family to be preserved or reunified where possible, while at the same time preventing excessive delay in declaring a child adoptable and finding a suitable alternative permanent family for the child if necessary.

The decisions about the appropriate for each child measure for protection are made by the relevant Social Assistance Directorate with regard to the place of residence of the child. Paramount importance is attributed to the upbringing of the child in family environment, if possible by the biological or extended family at making the decision. With regard to children accommodated beyond the family - in an institutional or foster care - a six-month term from the accommodation has been introduced during which the parent should undertake actions for the return of the child. In events of an absence of actions on the part of the parent and if it is in the interest of the child, entry into the

²⁸ E.g., has your State encountered any difficulties due to other Contracting States requesting documents / information which your State is not permitted to provide according to your domestic legislation, or due to your State requesting documents / information from other Contracting States which they are not permitted to provide (such as identities of biological parents, statements of consent, judgments regarding the withdrawal of parental rights, medical reports on PAPs)?

²⁹ See SC 2000 C&R No 3.

register of children for complete adoption is initiated.

States of origin only

32. What are the main challenges in implementing and applying the subsidiarity principle in intercountry adoption cases in your State?

The subsidiarity of the intercountry adoption is introduced as the main principle after the accession of Bulgaria as a party under the Convention and it is strictly applied.

33. In your State, is the subsidiarity principle applied in the same manner to:

- (i) *intra-family* intercountry adoptions; and
- (ii) intercountry adoptions concerning children with *special needs*?

If not, please describe any different procedures used and explain the reasons for the different procedures.

The subsidiary principle is applied in all the cases of intercountry adoption with the exception of adoption within the of the family.

Receiving States only

34. (a) In accordance with the principle of co-responsibility,³⁰ what information, if any, does your State routinely request *in each intercountry adoption case* to ensure that the subsidiarity principle has been respected in the State of origin?

- Please insert text here -

- (b) Is it possible and / or common in your State for a proposed matching of child and PAPs to be rejected on the basis that the relevant competent authority / body is not satisfied that the subsidiarity principle has been respected in the particular case?

- Please insert text here -

35. In some States of origin, the child protection infrastructure necessary to implement the subsidiarity principle does not exist or is severely deficient, making proper implementation of the Convention in this respect challenging. Does your State undertake any programmes to assist States of origin with the development of their child protection systems³¹ in order for them to better implement the subsidiarity principle either:

- (a) at State level (e.g., in the form of development aid or technical assistance)?
- Please insert text here -

and / or

- (b) through other bodies such as non-governmental organisations (which are not adoption accredited bodies)?
- Please insert text here -

If so, please specify how it is ensured that any such programmes do not compromise the integrity of intercountry adoption procedures and / or result in

³⁰ See, e.g., Chapter 12 of GGP No 2.

³¹ See SC 2000 C&R No 10, which stated that "[r]eceiving countries are encouraged to support efforts in countries of origin to improve national child protection services... However, this support should not be offered or sought in a manner which compromises the integrity of the intercountry adoption process", as well as SC 2010 C&R No 6. See also para. 553 of GGP No 2 which states that receiving States have "an additional responsibility to assist States of origin to improve their child protection and adoption systems. This is essential if all of the Convention's safeguards are to be applied...".

a dependence upon these forms of assistance:
 - Please insert text here -

B. Mobility and globalisation

Both States of origin and receiving States

36. How, if at all, does your State define "habitual residence" for the purposes of the Convention? What factors are considered when determining where persons are habitually resident for Convention purposes?

The legal definition of the term "habitual residence" in Bulgarian law is provided in the Private International Law Code. Within the meaning of this Code the place where a natural person has settled down predominantly to reside without its being related to need of registration or an authorization for residence or settlement is understood as his/her habitual residence. Circumstances of personal or professional nature which ensue from permanent connection of the person with this place or from his/her intention to create such connections should be especially taken into consideration for the determination of this place. This definition is general and is applied in all cases when the habitual residence of a certain person is to be defined.

37. What are the most common scenarios in which your State has encountered difficulties in determining the "habitual residence" of PAPs and / or a child?

There are certain difficulties at the application with regard to petitioners - adoptive parents - Bulgarian citizens for the purposes of an adoption related procedure.

38. Please describe any restriction that your State places on individuals' ability to adopt intercountry based on their:

- (a) nationality; and / or
- (b) immigration status (*i.e.*, permission to reside in your State).

There are no such restrictions.

39. How does your State deal with situations in which PAPs, habitually resident in one State, move to another Contracting State after initiating intercountry adoption proceedings (in accordance with Art. 14) but *while the adoption process is ongoing*? Does your State's response vary if the move is instead to a non-Contracting State?

According to the Bulgarian legislation the procedure for intercountry adoption of a child from Bulgaria is implemented in cooperation with the Central Authority of the State with regard to the habitual residence of the adoptive parents. Provided that the adoptive parents move to another Contracting State during the course of the procedure, a confirmation from the competent authorities of this State must be presented that they agree and approve of the continuation of the procedure with them. Provided that the adoptive parents move to a State which is not Contracting, the procedure may continue solely in case that an accredited body from Bulgaria has an authorization for mediation for the relevant State.

40. How does your State deal with situations in which PAPs are either non-nationals living in your State, or nationals of your State living in another State, and:

- (a) your State does not consider the PAPs to be habitually resident in your State and the other State also does not consider them to be habitually resident in their State (*i.e.*, the PAPs are in a situation where they cannot make an application to adopt intercountry)?

When the habitual residence of the persons is to be defined by Bulgarian authorities, the definition of the Private International Law Code indicated in point 36 is applied, and the judgment is individual and various circumstances of personal and professional nature are especially taken into consideration for the determination of this place. It should be noted down that the Bulgarian

legislation does not contain any special rules for determination of the habitual residence of the persons for the purposes of an adoption.

or

- (b) both your State and the other State consider the PAPs to be habitually resident in their State?

See answer (a).

Example: PAPs are nationals of State A but, due to the nature of their work, have to move regularly to live in other countries for varying periods. Recently, they moved to State B for a one-year work contract. They now wish to adopt a child from State C.

- (a) State A says these PAPs are not habitually resident in State A as they are not currently living there. State B also determines that they are not habitually resident in State B since they will leave the State at the end of one year.

OR

- (b) State A says the PAPs are habitually resident in State A as they are abroad for a limited, finite period and State A is the only country in which they have the intention to reside long-term. State B also determines that these PAPs are habitually resident in State B as they are currently living in State B.

- Please insert text here -

41. How does your State deal with situations in which PAPs are nationals of your State, are habitually resident in another State and wish to adopt a child from a third State? What role, if any, does your State play in the intercountry adoption in this scenario (e.g., is your State involved in securing the nationality of your State for the child, any other role)?

In the situation thus described the Bulgarian authorities and organizations do not participate in the adoption process.

C. Use of modern technologies³² in intercountry adoption³³

In general

Both States of origin and receiving States

42. Please briefly describe any laws, regulations or policy guidelines which exist in your State concerning the use of modern technologies in the field of adoption.³⁴ Where possible, please provide a hyperlink to these laws, regulations or guidelines or provide a copy, with a translation into English or French.

There are no such up to date.

43. Does your State regularly use modern technologies in the field of intercountry adoption, both generally, as well as in individual intercountry adoption cases?³⁵

If so, please describe which technologies are used, at what stage(s) of the intercountry adoption procedure and how the use of these technologies affects your daily work.

If not, please explain the reasons for this (e.g., no access to modern technologies

³² In this document "modern technologies" is taken to mean the Internet and modern communication methods, such as e-mail, video-conferencing and social media.

³³ If your State responded to the 2013 ISS/IRC Questionnaire on new technologies and adoption (ISS/IRC Circular No 118), you may wish to refer to this response in your answers to this section.

³⁴ E.g., legislation might concern data protection and rules concerning the online storage of data in adoption cases, the use of photo-listings, the use of the Internet in searching for origins or the use of DNA testing in adoption cases.

³⁵ E.g., Internet and websites, e-mail, video-conferencing facilities such as Skype, online posting of informational videos, social media, etc.

due to resource constraints, infrastructure problems or an absence of training).

The Ministry of Justice maintains contact with the Central Authorities of the other Contracting States through e-mail, further to that Internet is used in connection with the implementation of special measures for the adoption of children.

44. In your State's experience, what (a) benefits³⁶ and (b) risks have modern technologies brought to the field of intercountry adoption? Please describe how your State attempts to manage any perceived risks.

Modern technologies provide possibilities for the speed of the communication and the dissemination of information to a great number of addressees. Simultaneously the data related to intercountry adoption are sensitive and confidential and there is risk of illegal access to them. The Ministry of Justice makes an attempt at using modern technologies in a balanced manner.

45. Please briefly explain any specific courses, training or information which is / are provided on the use of modern technologies in the adoption process to:

- (a) the authorities and bodies involved in intercountry adoption in your State.³⁷
There are no such up to date.

and / or

- (b) PAPs, biological families and adoptable children (or adoptees, if the information is provided subsequent to the adoption)³⁸ – *e.g.*, are the risks of the use of these technologies part of the programmes of counselling and preparation of PAPs, adoptable children or biological families and is any post-adoption support provided in relation to these issues?³⁹
There are no such up to date.

In either case, where possible, please provide hyperlinks to or copies of any information or training material provided (*e.g.*, publications, leaflets, websites), along with a translation into English or French.

46. Does your State use and / or accept from other States scanned documents in intercountry adoption cases (*e.g.*, scanned and e-mailed Art. 17 c) agreements, Art. 23 certificates)?

With a view to the subsequent proceedings before Bulgarian authorities on the grounds of the documents pursuant to Art. 17 and Art. 23 of the Convention, the receipt of scanned documents by e-mail is not acceptable. The Ministry of Justice sends the documents under Art. 17 of the Convention scanned by e-mail in some cases with a view to their faster receipt but they are always also sent in hard copy.

If so:

- (a) Please specify which documents are sent or accepted in scanned format:
- Please insert text here -
- (b) Are these scanned versions used or accepted *instead* of the original documents or *in addition to* the original versions (*i.e.*, the original documents follow later by post)?
- Please insert text here -

³⁶ *E.g.*, websites for provision of information, fast sending of applications and reports, facilitation of contact between accredited bodies and PAPs during their stay abroad, facilitation of contact with representatives of accredited bodies, video-conferences to provide information concerning the health of children.

³⁷ *E.g.*, in relation to its use by adoptees or families to search for origins, or in relation to the use of online databases of adoptable children.

³⁸ Depending upon whether your State is a receiving State or a State of origin (or both).

³⁹ *E.g.*, concerning making contact via the Internet, posting confidential information on social media websites or using social media to search for origins.

- (c) Is any authentication of the scanned document required (e.g., legalisation or apostillisation)?⁴⁰
- Please insert text here -
- (d) How are scanned documents stored and how is the security of the information guaranteed?
- Please insert text here -

If not, please explain the reasons for this:
- Please insert text here -

Using modern technologies to assist with finding a suitable family for a child

Both States of origin and receiving States

47. Does your State use, or permit others to create and use, online "photo-listings"⁴¹ of adoptable children?

The Minister of Justice undertakes special measures for adoption of children whom there are no adoptive parents entered into the register for, or rejections were made for their adoption. The special measures include the publication of a list exclusive of personal data about the children on the Internet site of the Ministry. After the publication of the list the accredited bodies in Bulgaria may receive a photo and collect additional information about the health status and development of children from the list. The materials about children from the list are presented to accredited bodies - partners in the receiving States for search of adoptive parents.

If so, please explain:

- (a) whether these listings include profiles of *all* adoptable children in your State or only certain categories of children (e.g., children with special needs):

The Ministry of Justice publishes a list and provides information solely about the children whom special measures for adoption are taken for .

- (b) which authorities or bodies create / operate these online listings in your State (i.e., is this under State control or the control of other adoption actors?):

The accredited bodies in Bulgaria and their organizations - partners in the receiving States.

- (c) who is permitted to access the listings:

As at this time the access to the list published on the Internet site of the Ministry of Justice is not limited but no photos and personal data about the children are published.

- (d) what safeguards have been implemented to protect the privacy of the children concerned (e.g. restricted access for Central Authorities and accredited bodies only):

According to the Bulgarian legislation the publication of materials about a child on the Internet without the access to them being controlled by the accredited body, which they are presented to, is inadmissible.

- (e) how it is ensured that the use of such listings is in conformity with the matching process set forth in the Convention (i.e., matching by the competent authority in the State of origin after the suitability and eligibility of the PAPs has been determined):

A petition for the adoption of a child through the special measures for adoption may be

⁴⁰ See the *Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* (the "Apostille Convention", concluded 5 October 1961).

⁴¹ In this document, "photo-listings" means databases which include photographs and descriptions of the background and characteristics of adoptable children. They often have limited, protected access (e.g., for Central Authorities and accredited bodies only) and may be used to search for families for children who are hard to place.

filed by an adoptive parent who is entered or not entered into the Register of Prospective Adoptive Parents. If the prospective adoptive parent is not entered into the Register, he/she should present the needed for entry documents within a six-month term from filing the application. A Report on the adoptive parents entered into the Register is presented to the Intercountry Adoption Council with the Ministry of Justice for discussion and matching as appropriate adoptive parents for the specific child. The procedure is initiated after a Certificate pursuant to Art. 17 of the Convention is signed by the Minister of Justice at the proposal of the Council.

Using modern technologies to search for origins

Both States of origin and receiving States

48. Do the relevant competent authorities in your State use social media (e.g., Facebook, Twitter) to help adoptees search for their origins? If so, are there any guidelines or good practices regarding the use of social media by authorities / bodies for this purpose?

Inapplicable.

49. Has your State had any cases in which PAPs / adoptees and birth families have contacted each other via social media or other modern methods of communication after an adoption and without the involvement of professionals? If so, please specify the situations which have arisen, the challenges faced and how these challenges have been overcome.

Inapplicable.

D. Illicit practices⁴²

In general

Both States of origin and receiving States

50. Please describe the practices relating to the abduction, sale of or traffic in children or other illicit practices which your State has experienced most frequently in the context of intercountry adoption since the last Special Commission meeting (2010), regardless of whether these practices have taken place in your State or in another Contracting State.

The Ministry of Justice does not have information about practices relating to the abduction or traffic in children in the context of intercountry adoption. There are still data about sales of children aimed at circumventing the procedure for intercountry adoption, and the Bulgarian competent authorities work in close cooperation with the authorities of the relevant receiving State under these cases.

51. Please provide details of any specific examples in which your State has worked either alone or in co-operation with other Contracting States in order to prevent and / or address practices relating to the abduction, sale of or traffic in children or other illicit practices in the context of intercountry adoption. Was Article 33 ever relied upon in

⁴² In this Questionnaire, the term "illicit practices" is used in the same sense as in the "Discussion Paper Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases" (October 2012), available on the specialised "Intercountry Adoption Section" of the Hague Conference website: *i.e.*, it "refers to situations where a child has been adopted without respect for the rights of the child or for the safeguards of the 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)."

such cases? If so, please describe what measures were taken and the outcome.

The Ministry of Justice has not received and has not sent any requests for cooperation pursuant to Art. 33 of the Convention.

52. Has your State ever suspended or restricted its intercountry adoption programme (e.g., introducing a moratorium, refusing to work with a particular Contracting State) because of concerns about the risk of abduction, sale of or traffic in children or other illicit practices? If so, did the suspension or restriction assist with efforts to combat these practices? What challenges did your State encounter in seeking to resume intercountry adoptions or lift any restrictions once practices had been improved?

The Bulgarian state authorities have not undertaken actions for suspension of cooperation with other Contracting States on the reasons indicated hereinabove or on any other grounds whatsoever.

E. Other international placements of children which result in adoption

Kafala resulting in adoption

Receiving States only

53. Are persons, habitually resident in your State who have a child placed into their care under kafala in another State, permitted to subsequently adopt the child in your State?⁴³

Example: a child, habitually resident in State A, is placed into the care of a couple under the regime of kafala by the court in State A. The couple habitually resides in State B (your State) and the understanding is that they will return immediately to State B to live with the child. Under your State's laws, are the couple permitted to subsequently adopt the child in your State, State B?

- Please insert text here -

If so, please explain:

- (a) the reasons for this:
 - Please insert text here -
- (b) the procedure, including any involvement of the State of origin:
 - Please insert text here -
 and
- (c) whether this would be a "simple" or a "full" adoption:
 - Please insert text here -

Respite care abroad resulting in adoption⁴⁴

Both States of origin and receiving States

54. If your State is involved in respite care programmes⁴⁵ for children, please explain:

- (a) whether such programmes specifically aim to be a precursor to adoption for

⁴³ **N.B. the provision of care by kafala falls within the scope of the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children* (the "1996 Convention") (Art. 3 e) of the 1996 Convention) and thus kafala placements benefit from its unified rules on jurisdiction, applicable law and the recognition and enforcement of measures between Contracting States. In addition, the 1996 Convention contains mandatory co-operation provisions with which Contracting States must comply when a cross-border kafala placement is contemplated between them (Art. 33 of the 1996 Convention). For further information concerning kafala and the 1996 Convention, see the Practical Handbook on the 1996 Convention available on the Hague Conference website < www.hcch.net >.**

⁴⁴ See GGP No 1 at paras 561 to 563.

⁴⁵ *I.e.*, programmes in which children from certain States of origin, often children living in institutional or other non-family based alternative care, are hosted temporarily by families in other States for "holidays" to improve the child's mental and physical well-being.

some children (*e.g.*, for children with special needs):

Inapplicable for Bulgaria.

- (b) whether such programmes have, in fact, resulted in the adoption of children and, if so, approximately what percentage of children involved in the programmes are adopted:

Inapplicable for Bulgaria.

and

- (c) where a child is adopted following such a programme, how it is ensured that the safeguards of the Convention have been respected (bearing in mind that it is likely that the child remains “habitually resident” in his / her State of origin and thus the adoption falls within the scope of the Convention according to Art. 2):⁴⁶

Inapplicable for Bulgaria.

Foster care resulting in adoption

Both States of origin and receiving States

55. Is your State aware of cases in which a domestic foster care placement has been used in order to circumvent Convention intercountry adoption procedures? If so, please provide details, including the challenges which these cases have presented and any good practices your State has developed to deal with such cases.

Example: a couple, usually resident in State A, travels to State B and applies to foster a child. They intend to apply to adopt this child in State B and to return shortly thereafter to live in State A.

There are no such cases.

F. Triangular adoptions⁴⁷

Both States of origin and receiving States

56. Does your State allow PAPs wishing to adopt intercountry to use an accredited body located in a *third* State to mediate the adoption (*i.e.*, an accredited body *not* located in the State of origin or in the receiving State)? If so, please briefly describe any conditions imposed by your State,⁴⁸ the procedure used and any challenges encountered. Please also share any good practices your State has developed in relation to such cases.

Inapplicable for Bulgaria. According to the Bulgarian legislation at intercountry adoption the adoptive parents may be represented by the Central Authority of the receiving State or by an accredited body in Bulgaria.

G. International surrogacy arrangements⁴⁹ and intercountry adoption⁵⁰

Both States of origin and receiving States

⁴⁶ *E.g.*, how it is ensured that: the child is legally and psycho-socially adoptable; the subsidiarity principle is respected; the eligibility and suitability of the PAPs is appropriately assessed; the Convention requirements concerning professional “matching” are met; and the child and parents are appropriately prepared, informed and counselled for the adoption.

⁴⁷ For a definition of “triangular adoption”, please see GGP No 1 at Chapter 8.8.7.

⁴⁸ See the good practices recommended at para. 555 of GGP No 1.

⁴⁹ The term “international surrogacy arrangement” is used in this Questionnaire to mean “a surrogacy arrangement entered into by intending parent(s) resident in one State and a surrogate resident (or sometimes merely present) in a different State”. (See further the Glossary attached to the “Report on the desirability and feasibility of further work on the Parentage / Surrogacy Project” (Prel. Doc. No 3B of March 2014).)

⁵⁰ Please note that the issue of international surrogacy arrangements is being studied separately by the Hague Conference in the context of its “Parentage / Surrogacy Project”: for further information on this Project, please see the specialised section of the Hague Conference website, under “Parentage / Surrogacy Project”. These questions therefore only relate to the use of the 1993 Convention and related bodies / authorities in these cases.

57. Following the recommendations of the 2010 Special Commission meeting,⁵¹ has your State experienced any cases of international surrogacy arrangements in which use of the 1993 Hague Convention has been sought in order to remedy the situation of the legal status of the child? If so, please explain the circumstances in which this occurred, how it was ensured that the safeguards of the Convention were respected, and the outcome for the child and family.

Inapplicable for Bulgaria.

IV. SERVICES AND SUPPORT PROVIDED BY THE HAGUE CONFERENCE

Both States of origin and receiving States

58. Are the following documents used in your State as tools to assist with the operation of the Convention and / or to periodically review your State's intercountry adoption system and processes:
- (a) the Conclusions and Recommendations of previous Special Commission meetings:
Yes, they are used.
 - (b) Guide to Good Practice No 1 *"The Implementation and Operation of the 1993 Inter-country Adoption Convention"*:
Yes, it is used.
 - (c) Guide to Good Practice No 2 *"Accreditation and Adoption Accredited Bodies"*:
Yes, it is used.
 - (d) the tools⁵² developed by the Experts' Group on the Financial Aspects of Inter-country Adoption:
Yes, they are used.
 - (e) the "Discussion Paper on Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases":⁵³
Yes, it is used.

Please explain how these tools are currently promoted in your State and how they could, in your State's view, be more effectively promoted at the regional and / or international level:

The Ministry of Justice presents the documents enumerated hereinabove and refers to them before the accredited bodies in Bulgaria and the other authorities included in the intercountry adoption related activity.

59. In light of the fact that the importance of ICATAP (the "Inter-country Adoption Technical Assistance Programme" of the Hague Conference) to the proper implementation and operation of the 1993 Convention has been reiterated by Special Commission meetings and by meetings of the Council on General Affairs and Policy for many years, does your State have any suggestions as to how to secure more regular and consistent funding for this work at the Permanent Bureau, including for the key position of the ICATAP Co-ordinator?

⁵¹ See SC 2010 C&R Nos 25 to 26 in which it was stated that the Special Commission "viewed as inappropriate the use of the Convention in cases of international surrogacy".

⁵² See the tools developed by the "Experts' Group on the Financial Aspects of Inter-country Adoption", available on the Inter-country Adoption Section of the Hague Conference website, under "Expert and Working Groups": *i.e.*, the harmonised Terminology adopted by the Experts' Group on the financial aspects of intercountry adoption, the Note on the financial aspects of intercountry adoption, the Summary list of good practices on the financial aspects of intercountry adoption and the Tables on the costs associated with intercountry adoption.

⁵³ Available on the Inter-country Adoption Section of the Hague Conference website, under "Expert and Working Groups".

We do not have any specific proposals.

Is there any other comment your State wishes to make concerning the implementation and / or operation of the 1993 Convention?
None.