

ADOPTION

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**QUESTIONNAIRE ON THE PRACTICAL OPERATION
OF THE 1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION**

drawn up by the Permanent Bureau

*Preliminary Document No 2 of October 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 2 de octobre 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*

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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:	
Date of entry into force of 1993 Hague Convention in your State:	1 November 1997
<u>Information for follow-up purposes</u>	
Name and title of contact person:	ast@ast.dk
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I. ADOPTABLE CHILDREN, ADOPTEEES 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.

- Please insert text here -

Receiving States only

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

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.

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".

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

In Denmark it is the accredited bodies' responsibility to scan the PAP's cases and to forward the applications to the States of origin. The Central Authority is not involved in deciding which applications appropriately match the profile of the children in specific States of origin. However, the accredited bodies are naturally aware of it and respect possible demands from individual States of origin saying for instance that the State only accepts applications regarding children with "special needs" or children of a certain age. The PAPs can only be on one waiting list. Only in very rare situations may the PAP's have their file sent to two States of origin.

In today's adoption system in Denmark most PAP's get a general approval for a child of 0-36 months without physical or mental problems. If a proposed child is considered not to be within the applicants' frame of approval because of the child's special needs or the child's age and the applicants wish to accept the proposed child they may apply to have their approval extended to include the proposed child. In reality the accredited bodies considered that 44 % of the children proposed to Danish PAPs in 2013 were not covered by the PAPs general approval.

As a consequence of the fact that the children's profile have changed over the years the coming reform work in Denmark will include adapting the Danish approval system to meet the needs and the profile of the children. This means that most likely there will only be one kind of approval which will also include the older children and the children with "special needs" - this will mean greater demands on the PAP's.

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 adoptability of the child must be dealt with before the child's file is sent to Denmark. According to the Guide to Good Practice no. 1 it must be established by the competent authorities of the State of origin that the child is adoptable before an adoption may take place. However, with regard to adoptions from Ethiopia (non-Contracting State) and due to previous difficulties the Danish accredited bodies must according to a recommendation from the Danish Board of Adoption ensure that the biological parents have been properly advised/informed on the legal consequences of an adoption to Denmark before their consent is given and the adoption is carried out in Ethiopia.

In general it is our experience that the Danish accredited bodies in certain situations are checking the documents regarding adoptability in the individual case. Today it is the Danish accredited bodies who handle the cases and issue the Danish Article 17 c agreement unless the child is considered outside of the PAP's approval meaning that the PAP's must get an extended approval in order to adopt the child. However, a change to the Danish adoption legislation is expected, e.g. meaning that from the autumn 2015 it will be the Danish Central Authority that issues the Article 17 c agreement and thereby ensuring that the necessary documents on e.g. adoptability are available.

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

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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).

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

In some cases the accredited bodies, the Joint Council at the State Administration and the Danish Board of Adoption experience that it is difficult to receive enough information on the child from the States of origin to properly consider whether the PAP's possess the needed resources in order to adopt the child. (See the Danish Country Profile for an explanation regarding the Danish adoption procedure and the involved authorities/bodies). Denmark experiences a great difference with regard to the extent of the reports.

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?

In such situations the accredited bodies/the bodies' pediatricians will try to get more information from the State of origin in order to be able to make an assessment on a reasonable basis

- (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.

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Matching

Both 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.

See question 2.

Preparation and counselling of children

Both 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 Danish Board of adoption and the Division of Family Affairs have made some restrictions and recommendation on the adoption mediation in relation to intercountry adoption from Ethiopia to Denmark; If e.g. the child is 3 years or older there should be a talk with the child regarding its own

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”.

view on its situation and its age. This talk should normally be held by a social worker from the children's home or the accredited body's contact person. This talk should be thorough and give a detailed picture of the child's view on its situation. The content of the talk should appear from a written note.

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.

See the Danish Country Profile question 17.

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?
- Please insert text here -
- (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.
- Please insert text here -

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

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.

As mentioned in the Country Profile for Denmark the preparation course is a mandatory part of the adoption approval process in order to prepare PAPs towards the specificities and risks with regard to the specific affiliation in relation to adoption. With regard to good practices we refer to the document "Ready for Adoption" which is mandatory reading for the PAPs and sent to them before the course. The document is previously sent to the Permanent Bureau. With regard to challenges and future improvements of the course can be mentioned addressing the issue of age, hereby addressing the specific issues/challenges regarding e.g. the loss of the child's first language and the specific bonding process' challenges as well as the particular opportunities that the adoption of an older child creates in the family.

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?

See question 11. Furthermore, it can be added that the accredited bodies contribute to the preparation and counselling of the PAP's. Thus, the accredited bodies organises country information meetings focusing on the particular country from which the PAP's have signed up to adopt from. Likewise, the applicants may participate in country group reunions organised by the accredited bodies for families that have already adopted from the said country.

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 see (b)
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?)
Regarding updates on the reports on PAP's please see Country Profile question 17.

The waiting time for a child has increased over the years. As a consequence hereof it is expected that the coming reform work in Denmark will include that counselling just before and just after the child is brought to Denmark will become mandatory for the PAPs as this is seen as an important part of the preparation for becoming an adoptive family. Furthermore, it is expected that there will be an opportunity for the PAPs to attend "theme evenings" with PAS consultants and families who have already adopted. The country meetings held by the accredited bodies will also be mandatory for the PAPs as a part of the continued preparation while the PAPs are waiting for being matched with a child.

C. Intercountry adoptions involving children with special needs¹⁴

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".

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?

Please see question 2 regarding the Danish general approval of PAP's and the fact that 44 % of the matchings proposals were considered to be outside of the PAP's approval in 2013. According to statistics from the Danish National Board of Adoption for the year 2013, the reason for the child's profile being outside of the PAP's approval was;

- the physical conditions of the child - 54 %
- the child was older than the approved age frame - 25 %
- the mental condition of the child - 17 %
- Insufficient information of the child - 6 %
- Siblings - 4 %
- Others - 19 %

- (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)?

See (a)

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

See question 2

- (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?

See question 2

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?

As mentioned above the coming reform work in Denmark in relation to adapting the Danish adoption system to the changed conditions of intercountry adoption, including the special needs and the profile of the children, will include a changed system with regard to the approval procedure for PAP's. As there will be greater demands on the PAPs the mandatory pre-adoption course and the approval process will be adapted in respect hereof, including a greater focus on for instance the fact that many adoptable children are older.

- (b) any PAPs selected are suitably prepared for such adoptions and for the specific needs of each child?

See (a)

- (c) adoptive families are provided with appropriate post-adoption support in light of the child's special needs?

See Country Profile question 28 regarding the existing post adoption services in Denmark.

It should also be mentioned that naturally the adoptive families have the same access to social benefits /assistance as all other families in Denmark with children with "special needs".

D. Post-adoption services for adoptees and adoptive parents

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

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

As part of the coming reform work in Denmark it is very likely that the adoptive families will have access to post adoption services for a longer period than the first five years of the child coming to Denmark as the need for assistance and counselling also may arise at a later stage. It is expected that the services will continue until the child reaches the age of 18. As the child grows older the counselling will to a greater extent be turned towards the child/youth itself just as the age of the child will partly be determining for the counselling themes. Questions regarding openness and preparation for origin searches could also be a theme.

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 challenges.

Please see previous answers.

E. Breakdown of intercountry adoptionsBoth 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).

The age of the child and resulting affiliation issues have been raised.

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

Post adoption service counselling

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

These kind of issues will be part of the future counselling and preparation of PAPs at the mandatory pre adoption course as well as there a possibility of extensive post adoption service counselling.

F. Open adoptionBoth States of origin and receiving States

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.

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 rule of anonymity is predominant in Denmark. However, the tendency is now towards greater openness but the question regarding "openness in adoption" is only limited regulated in the Danish legislation. "Openness in adoption" is a wide term and may cover the child's own story, access to information, influence on the choice of family (getting involved in the matching), contact between the adoptee, the adoptive family and the biological family as well as exchange of and keeping of information.

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

Even if there is a principle of anonymity in the Danish adoption legislation the adoptee has a right to his/her own story meaning that the adoptee may contact the accredited body and get access to the information available in the case file. If the adoptee is a minor it is the adoptive parents who on behalf of the child may ask for access to information. The accredited body is required to assist with information which only the body can get and to help contacting the counterpart abroad who mediated the adoption.

With regard to follow up reports (anonymous) the adoptive parents are through their contract with the accredited body obliged to assist with making the reports. However, if they do not participate it is not possible to force them.

In cases regarding domestic adoptions the adoptive parents must make a follow up report (anonymous) every 3. year until the child turns 18. The biological parents may ask for the reports if they so wish.

According to the Danish Parental Responsibility Act the biological family may in exceptional cases apply for access or other kind of contact with the child if the child prior to the adoption has had regular access or contact with the biological relative who has applied. If the State Administration receives a request from the child regarding contact with the biological parents the State Administration must in view of Article 8 of the European Human Rights Convention and the child's best interests consider how to advise the child on how to get in contact with the biological parents. So far no case of such reunions have yet been finalised. The provision is mainly meant for cases of domestic adoption, especially in cases on adoption without consent.

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?

In connection with a recent in depth analysis of the Danish adoption system the Division of Family Affairs made a survey regarding the adoptees' and the adoptive parents' experiences regarding "openness". The adoptees' who took part were adopted in 1979, 1980, 1994 and 1995.

Regarding knowledge of biological family the adoptees answered the following;

43 % had information about their biological family. Most adoptees have information about the biological parents' reason for choosing adoption. Most adoptees have got the information from the adoptive parents. About half of them have received the information by getting access to their case file.

22 % do not have information on the biological family but miss it.

70 % of the adoptees who do have information on the biological family have replied that this knowledge to some or to a high degree has made it easier for them to understand their situation as an adoptee while 21 % have replied that it has not made it easier at all.

Only 8 % of all adoptees participating in the survey have contact with the biological family. 65 %

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

of the adoptees do not wish to have contact with the biological family at present while 28 % do not have contact as it has not been possible to trace the biological family.

Following the in depth analysis it has been decided to initiate a research project on "openness in adoptions" in 2015, focusing on the influence of "openness" on the adoptees' well being and quality of life.

G. Discussion at the upcoming Special Commission meeting

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?

We find it important to discuss how we can prepare prospective adoptive parents for receiving a child with special needs.

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?

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 Denmark it is the accredited body or the State Administration who issue the Article 17 c agreement. Whether it is the accredited body or the State Administration which is competent in the individual case depends on whether the child is within the PAP's general approval. However, it is expected that from the end of 2015 it will no longer be the accredited body but the Danish Central Authority who issues the Article 17 c agreement when the child is within the PAP's approval.

In 2013 the Danish Central Authority the Division of Family Affairs made a survey regarding the issuing of Article 17 c agreements and the certificate of conformity under Article 23 in all adoption cases closed by the accredited bodies in 2013. With regard to the Article 17 c agreement it appeared

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.

in the survey that in 22 % there was not an Article 17 c agreement from the State of origin. There was also cases where a Danish agreement was not issued. The accredited bodies as well as the Danish Central Authority has now intensified the focus on ensuring the issuing of the agreements and ensuring that the information given in the agreements regarding names, dates and competent authorities/bodies is correct. Where relevant the Central Authorities in the States of origin have been contacted.

Furthermore, the Division of Family Affairs considers that to some extent there is a lack of clarity concerning which State should provide its agreement first. We consider that there is no difference in the investigation that each Central Authority (or body who has been designated to issue the agreement) should perform before issuing the agreement but we would appreciate discussions/recommendations on this subject.

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:
- 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 Intercountry 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.

In Denmark it is the accredited body which should receive a copy of the Certificate of Conformity. From the survey made in 2013 (see question 24) it appeared that in 15 % of the closed cases in 2013 the certificate of conformity was not received. In those cases where a certificate was issued the information in the certificate was inadequate in 22 % of the cases; e.g. with regard to authorities/bodies having issued the Article 17 agreement, dates and names.

The Division of Family Affairs have stressed the importance of the certificate of conformity to our accredited bodies, in order for the bodies to bring this to the attention of the parties involved in the adoption procedure in the States of origin. This relates both to having the certificate issued and to having inadequate certificates remedied.

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.

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.

- (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

The Division of Family Affairs finds it important to stress the importance of the certificate of conformity to all authorities/bodies involved in the adoption procedure.

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?

We sometimes experience delays in the processing of individual intercountry adoption cases following a State's accession to the Convention and the implementation of the necessary legislation and guidelines and good practices. Delays are to some extent a natural and expected part of ensuring the implementation of the Convention. The balance is to give time to a correct implementation and the obligation according to Article 35 for the competent authorities to act expeditiously in the process of adoption.

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?

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D. Co-operation issues

Both States of origin and receiving States

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.

Often we experience fine and prompt reactions to enquiries etc. In some occasions we experience delays or no answers.

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?

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 *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.

One of the key areas in the coming reform work in Denmark is a stricter supervision of the adoption mediation. In order to meet these targets it is expected that the Central Authority will get further resources.

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?

No

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.

Denmark is only a receiving State. In Denmark the intercountry adoptions have outnumbered the domestic adoptions. According to the Danish executive order on adoption the local authority council must - when receiving an enquiry for a voluntary release of a child for domestic adoption - ensure that the parents are advised of the possibilities of receiving support under the social legislation if they do not give up the child. If the wish to give the child up for adoption is maintained, the case is forwarded as soon as possible, and if possible no later than at the time of the child's birth, to the State Administration. The State Administration will advise the parents if advice has not already been given by the local authority council. If the wish to give the child up for adoption hereafter is maintained, the State Administration ensures that the necessary investigations of the circumstances of the child and the parents are made. The authorities involved work closely together.

States of origin only

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

- Please insert text here -

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.

- Please insert text here -

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?

Denmark does not routinely request information regarding respect of the subsidiarity principle in each case but base our case handling on the considerations/information cf. Article 4 of the Convention from the State of origin.

- (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?

This is not common.

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)?

Some governmental funds are used for development aid which may also contribute or focus on child protection infrastructure. These funds are not administered by the Danish adoption authorities and are administered according to criterias that are not connected with adoption mediation.

and / or

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

-

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 a dependence upon these forms of assistance:

-

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?

When defining "habitual residence" Denmark applies a domicile concept. This means, that if a PAP is domiciled in Denmark (which means that the person has established a home in Denmark with the intention of remaining in Denmark on a non temporary basis) this person must adopt in accordance with Danish law no matter that the PAP has foreign citizenship. When assessing whether

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...".

the stay/residence is durable or at least not temporary the Division of Family Affairs normally make considerable attention to the facts regarding the stay/residence. In practice it will be an altogether assessment of e.g. the duration of the stay/residence, the reasons for the stay/residence, the working and tax relation to Denmark and the other State involved, the duration of possible work- and residence permits as well as whether the applicant owns real estate in Denmark or abroad.

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?

Denmark considers that it could be very useful to have some guidelines on the definition of "habitual residence". Different countries have different definitions. Therefore Denmark recommend that the Permanent Bureau develop more detailed positions on the interplay of prospective adoptive parents' habitual residence and citizenship. And in this context guidelines about when an adoption is a domestic adoption or an international adoption.

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).

If the Division of Family Affairs decides that an applicant has habitual residence (domicile) in Denmark the applicant must adopt according to Danish law no matter that the person does not hold Danish citizenship. The applicant's nationality may have influence on the assessment of the applicant's habitual residence as it is easier to assess that an applicant has changed his/her habitual residence (domicile) from Denmark if the applicant moves back to his/hers State of nationality. On the other hand it is still possible to make a change of habitual residence (domicile) even if the applicant does not have the nationality of the State to which the applicant has moved

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?

The decisive moment regarding the assessment of the applicant's domicile/habitual residence is the time of the submission of the application.

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)?

According to the Danish Adoption Act a person who is resident in a foreign State may only adopt under the provisions of the Adoption Act provided that the applicant or his or her spouse holds Danish nationality and, consequently, would be unable to adopt in the applicant's country of residence, and provided that a Danish grant for adoption becomes valid in the country of residence. Furthermore, an adoption may be permitted if the case involves a special connection to Denmark.

or

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

If the Division of Family Affairs considers that the applicants are habitually resident (domiciled) in Denmark, e.g. because they only work temporary abroad, they will have to have to adopt according to Danish law. An adoption carried out abroad will not be recognised in Denmark.

Example: PAPA 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 PAPA 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 PAPA 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 PAPA 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 PAPA 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)?

We can recognize a foreign adoption in Denmark, if the adopter at the time of the application was domiciled in the country where the adoption has been carried out (if a national adoption) or the receiving state (if an intercountry adoption), and the adoption is valid, final and legally binding according to the laws of the country concerned. Furthermore it requires that the adoption has legal effects corresponding to the legal effects of a Danish Adoption cf. The Danish adoption (Consolidation) Act part 2. Finally it requires that the adoption is not evidently incompatible with fundamental Danish legal principles. The Division of Family Affairs is not in a position to approve – in advance – a possible adoption carried out in another State. An application for recognition of an adoption carried out in a country outside Denmark will be considered individually and concrete on the basis of the conditions of which the adoption has been carried out.

If an adoption carried out abroad is recognized according to Danish law, the child will be considered the adopter's legal child and will enjoy all rights in Denmark. It is subsequently possible to apply for Danish citizenship for the adoptee.

According to the Danish Adoption Act a person who is resident in a foreign State may only adopt under the provisions of the Adoption Act provided that the applicant or his or her spouse holds Danish nationality and, consequently, would be unable to adopt in the applicant's country of residence, and provided that a Danish grant for adoption becomes valid in the country of residence. Furthermore, an adoption may be permitted if the case involves a special connection to Denmark.

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

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.

provide a copy, with a translation into English or French.

As mentioned in the Danish Central Authority's response to ISS/IRC' 2013 questionnaire on new technologies and adoption we are aware of the risks imposed by the increasing influence and usage of social medias and the internet.

At this point we do not have much experience in how to monitor and regulate the use of new technologies in intercountry adoption matters. Fortunately, we have neither experienced any concrete cases of abuse or improper use of new technologies in this context.

We agree that this is a highly relevant topic and welcomes that it is to be discussed at the coming Special Commission.

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

Searching for information on relevant websites and email correspondance with all relevant actors in the field of intercountry adoption when it comes to matters regarding general adoption matters is part of the daily work within the Central Authority and the accredited bodies.

Confidential and sensitive information should be forwarded to and from secure email addresses only. It is therefore important that - if at all possible - e.g. the accredited bodies' contact persons in the States of origin have a certificate to send/receive encrypted emails from the Danish accredited bodies just as it is important that the PAP's can receive encrypted emails from the accredited bodies.

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.

(a) - we agree with the benefits referred to in the footnote. (b) please see question 42.

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
please see question 42.

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
please see question 42.

In either case, where possible, please provide hyperlinks to or copies of any information or training material provided (e.g., publications, leaflets, websites),

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

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.

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)?

The Danish authorities normally do not recognize an adoption without having seen the original adoption documents. The Danish Central Authority has previously raised the issue whether there are any good practice when it comes to ensuring the authenticity of adoption documents. As the use of scanned documents, especially the article 23 certificate of conformity, probably will progress with the extensive use of e-communication in case processing world wide the question about original documents versus scanned documents become even more present. We, therefore, share the Permanent Bureau's hope that we will be able to discuss the issue at the Special Commission.

If so:

- (a) Please specify which documents are sent or accepted in scanned format:
-
- (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)?
-
- (c) Is any authentication of the scanned document required (*e.g.*, legalisation or apostillisation)?⁴⁰
-
- (d) How are scanned documents stored and how is the security of the information guaranteed?
-

If not, please explain the reasons for this:
-

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?

No

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

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.

- (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):
-
- (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):
-

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?

No

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.

information not available.

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.

We know of a few individual intercountry adoption cases where there has been concern that the biological parents' consent to the adoption might have been financially motivated.

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

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)."

The Danish Board of adoption and the Division of Family Affairs have made some restrictions and recommendations on the adoption mediation in relation to intercountry adoption from Ethiopia to Denmark;

According to the recommendation the Danish accredited bodies have an extraordinary obligation to provide guidance to the biological parents in order to ensure that the Ethiopian family fully understands the consequences of an intercountry adoption to Denmark. This guidance is provided in addition to the guidance provided by the Ethiopian authorities prior to the adoption being carried out in Ethiopia.

In cases where there is a death certificate regarding one or both biological parents the accredited bodies must ensure that prior to the matching of the child contact is made to the children's home with a request that the children's home initiates steps to verify that the certificate(s) are correct and valid. The children's home must make sure that a social worker revisits the child's possible family or other close relatives to verify the death certificate(s). Following this step the children's home must make a written statement to the accredited body's contact person regarding the course.

It should be noted that the Danish adoption authorities are aware that according to Guide to Good Practice it is assumed that the guidance of the biological parents/guardians should be conducted by the authorities of the State of origin.

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?

In September 2014 the Danish Central Authority revoked an accredited body's authorization to work with its counterpart in Nigeria for the time being. The accredited body was allowed to finish pending cases where the child was already matched with the PAP's at the date when the Danish Authority informed the accredited body of its intention to close the cooperation. The reasons for revoking the authorization were general concerns regarding the risk of child trafficking, corruption and forgery as well as concerns regarding the Nigerian authorities lack of control with the adoption procedures and the fact that documents regarding the child's adoptability were unavailable for the accredited body, the Danish authorities and the PAP's.

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?

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](http://www.hcch.net) available on the Hague Conference website < www.hcch.net >.

Reference is made to the answers to section B. In general, it is not possible to adopt a child in Denmark following that the child has been placed in a family under Kafala in another State.

If so, please explain:

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

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

Denmark is not involved in such programmes.
 - (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:
 -
 - 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
 -

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.

Not that we are aware of.

F. Triangular adoptions⁴⁷

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.

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.

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.

No.

G. International surrogacy arrangements⁴⁹ and intercountry adoption⁵⁰Both States of origin and receiving States

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.

No.

IV. SERVICES AND SUPPORT PROVIDED BY THE HAGUE CONFERENCEBoth 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
 - (b) Guide to Good Practice No 1 *"The Implementation and Operation of the 1993 Intercountry Adoption Convention"*:
yes
 - (c) Guide to Good Practice No 2 *"Accreditation and Adoption Accredited Bodies"*:
yes
 - (d) the tools⁵² developed by the Experts' Group on the Financial Aspects of Intercountry Adoption:

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.

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 Intercountry Adoption", available on the Intercountry 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.

yes

- (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

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 Danish Central Authority finds all the mentioned documents very useful and valuable in the daily work within the field of intercountry adoption. As adoption mediation is developing constantly we often search the documents for information and contributions to the interpretation of the Convention and good practices. Several of the documents have also been very useful with regard to the recent in depth analysis of the Danish adoption system. As previously described the Danish authorities will in the coming years have an intensified focus on the supervision of the financial aspects of intercountry adoption in which regard we will definitely include the tools developed by the Experts' Group on the Financial Aspects of Intercountry Adoption" and hopefully conclusions/recommendations from the Special Commission on the issue.

59. In light of the fact that the importance of ICATAP (the "Intercountry 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?

-

Is there any other comment your State wishes to make concerning the implementation and / or operation of the 1993 Convention?

- Please insert text here -

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