

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:	- Romania-
Date of entry into force of 1993 Hague Convention in your State:	May 1 st , 1995
<u>Information for follow-up purposes</u>	
Name and title of contact person:	Gabriela Coman, President
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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.
 - a) Most of the children eligible for international adoption with the habitual residence in Romania are over 4 years old, come from foster care or foster care centers of residential / familial type and may present different particularities regarding the state of health, from delays in development to framing in different degrees of handicap.
 - b) The total number of the children eligible for international adoption is of 613 (on December 15, 2014), among them, only 66 being less than 7 years old.

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

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

- (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

No difficulties were encountered regarding this aspect. See point 10 in Country Profile - Romania "The adoptability of a child"

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

According to the Romanian legislation, the international adoption of the child with the habitual residence in Romania by a person / family with the habitual residence abroad may be approved only for the children who are in the evidence of the Romanian central authority and only in the following situations:

- a) the person who adopts or one of the spouses of the family who adopts is a relative up to the fourth degree inclusively of the child for whom it was approved the opening of the internal adoption procedure.
b) the person who adopts or one of the spouses of the family who adopts is a Romanian citizen.
c) the person who adopts is a husband of the natural parent of the child for whom the adoption is requested.

From the practice until now, on the grounds of Law 273/20074 on the adoption procedure, as it was amended through Law 233/2012, no special difficulties were encountered up to now.

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

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”.

- The encountered difficulties are determined by the insufficient information regarding the medical familial history of the child and also regarding the prenatal period. Also, if the child was, for a period, in the care of the parents / relatives, there are cases in which there cannot be obtained complete / enough data regarding the care received by the child in this period, the evolution and reactions of the child regarding the received treatment.

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 -

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.

We have no such situations. The matching is performed starting from the elements of the profile of the child for which they were certified.

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 normative framework foresees the fact that, during the entire adoption procedure, the social services at the domicile of the child offer him clear and complete explanations, adequate to his age and maturity degree, regarding the stages and duration of the adoption process, its effects and also regarding the person who adopts, the adopting family and their relatives. In this context, in the process of preparation of the child for adoption, there are presented to him photos and information regarding the persons who adopt, their environment and life style. Also in the process for the preparation of the child, there are involved the representatives of the social services and the reference person of the child, with whom he developed a relation of confidence.

Also, in the documentation drafted regarding the international adoptable child, it is underlined the opinion of the child regarding his adoption and, also, the expectations of the child regarding the potential persons who will adopt, these being taken into consideration in proportion to the age and development level of the child.

Also for the obtaining of the accommodation of the child with the person who will adopt him, the Romanian legislation foresees the procedure of the practical matching in which the persons who

adopt spend time with the child, in his environment, for a period of 30 days (which, based on the identified needs, can be prolonged to 45 days).

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.

There were situations in which the international adoption applications were accompanied by incomplete Reports of social investigation, in the sense that, they did not include clear conclusions regarding the adoption capacity of the adopting person / family, from the point of view of the number of children, age group, sex and special needs of the children, to which the adopting persons can answer, according to the requirements of the Romanian law. In these Reports of social investigation, there were only information regarding the expectations of the adopting families and not regarding their adoption capacity.

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?

If the Social Report is incomplete, our institution notifies through an official address the need for its completion, indicating, in a precise manner, the information which must be included.

- (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.

It would be necessary for the Report of social investigation of the adopting family to include as many information as possible regarding the profile of the applicants reported to their experience to take care of children, the characteristics of their personality and behavior, the support of the extended family, the psychological profile, all these elements being able to contribute to the performance of a selection which may lead to a higher compatibility with the needs of the child.

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.

From the cases of international adoption approved until now, according to Law 273/20074 on the adoption procedure, as it was amended by Law 233/2012, it was noticed that the adopting families were, generally, well prepared and informed regarding the adoption process.

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

We consider that completion of training courses for PAP's in which specific issues related to the child's development and issues on the adoptable child's characterization, implications and intercountry adoption procedure should be discussed, may be useful to the adopters. Also, after

achieving the matching procedure based on actual information regarding the child, the adopters can be counseled on the care needs and how to interact with a particular child. A real support is providing free of charge post-adoption support services / counseling.

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?

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”.

Children adopted intercountry habitually resident in Romania show quite often "special needs", respectively they may have a physical or mental disability, or behavioral deviations, they may suffer from trauma due to abandonment or institutionalization, they may be older children (over 7 years) or may be part of groups of siblings.

- (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)?

Most of the eligible children for intercountry adoption are part of hard to adopt children category. The Romanian law requires the need to carry identification approach for adoptive families at national level for 2 years, from the time the court declares the child as being adoptable. If during this period it failed to find an adoptive family for domestic adoption, the child becomes eligible for intercountry adoption.

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

At this moment in Romania it is not regulated a special procedure for children with special needs. However a positive impact in the process of adjustment of children with adopters it is the practical matching performed in intercountry adoption procedure, which allows a direct relationship with the child in his life environment and also it provides an opportunity for the adopters (PAP) to interact and to obtain information from children's reference/closed persons.

Also, starting year 2012, the moment at which Romania restarted the intercountry adoptions, it was introduced as a condition of adopters' eligibility the Romanian citizenship for at least one of the spouses, motivated by facilitating the integration of the child in the adoptive family, meaning that the adopters can communicate directly and immediately with the child, being Romanian language speakers.

- (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?

The report containing information on the child, in children with "special needs" case, should include a comprehensive and complex assessment of the development needs, or as appropriate of the child's recovery, with more detailed information on the health status and the psychological profile of the child. Children with "special needs", intercountry adoptable, may have a physical or mental disability, may suffer from or trauma due to abandonment or institutionalization.

Taking into consideration the medical problems, the length of the intercountry adoption procedure in these children's case may last longer, the number of requests for adoption in these cases being smaller.

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

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

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

In Romania, it is recognized the right of the children to know the origins and their own past, being assisted in the process of searching and relating with the biological family by the Romanian authorities and by the social services. Also, in the framework of this procedure, the Romanian central authority for adoption collaborates with the other central authorities / with the private authorized bodies involved in the international adoption procedure.

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 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).

Unfortunately, not in all situations there could be comprehensively evaluated the causes which led to the failure of the adoptions (we herein refer to the adoptions approved until 2004). However, from the data we have, and based on the cases which could be more detailed analyzed, we may appreciate that, in such cases, the causes are not singular and are determined by several factors as:

- the insufficient preparation and evaluation of the adopting persons and, especially, of their parental capacities and to answer in a real manner to the needs of the children.

- the insufficient preparation of the child, the lack of a practical matching, correlated with

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.

the big age of the children (generally, children being 7-8 years old suffer from adaption difficulties).

- certain needs of the children (medical or emotional) were not underlined in the drafted documents and, so, these were not assumed by the adopting persons or they could not be administered by them.

- certain internationally adopted children were not taken over by the adopting persons without for us to know the reasons which caused this reaction.

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

Following the confrontation with such situations, it was started the amendment of the legislative framework and it was drafted a model of the report regarding the child, which items are in compliance with the ones in the Form model of medical report regarding the child, recommended in the Guide of good practices no. 1, drafted by the Conference of international private law from Hague.

It was introduced in the normative framework, as compulsory stage in the international adoption procedure, the practical matching of the adopting persons with the child, which means the direct interaction between the child and the adopting persons for a period of at least 30 days (which may be prolonged up to 45 days). If, during this period, it is found the fact that the child cannot accommodate with the adopting persons / difficulties in their relations, the adoption cannot be finalized.

In punctual cases, there were promoted actions for the dissolution of the international adoption and the children returned to their previous situation; in other situations, the children entered in the special protection system of the receiving state or from Romania.

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

See the first two paragraphs of point b). We also recommended the supplementation of the number of hours for the training of the PAP's, in order to assume their parent role.

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 open adoption term is not defined in the framework of the Romanian legislation.

As general understanding of the term, the open adoption refers to the situations in which the adopting persons and the biological parents of the child have mutual information regarding their identity / they know each other.

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

The national legislation institutes the principle of the confidentiality regarding the identity of the biological parents and of the adopting persons, so that they cannot obtain information regarding their personal data. However, in practice, the adopting persons can find out information regarding the identity of the biological parents, because they have access to the Birth Certificate of the child, a document in which it is written the name of the biological parents.

Also, in the process for the finding of the roots and personal history, the adopting person may obtain information regarding the biological family and parents, and can be assisted in order to contact

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

them (with the approval of the respective persons).

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 all cases, the adopters have access to some biological parents' personal data (we herein refer to their names and surnames).

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 appreciate as subjects of interest for the discussions in the special Commissions the followings: the adoption of the children with special needs - preparation and evaluation of the adoptive parents for the adoption of certain children in this category; the post-adoption services which need to be developed for the support of the integration of the difficult to adopt children in the adopting families and their easy adaption to the new environment.

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?

Yes. The aspects of a particular interest are:

- the underlining of the parental capacities of the adopting persons and their capacities to take care of the children with certain characteristics;
- the training / support courses for the adopting persons (both in the evaluation period and in the period in which they wait to be selected and matched with the child).
- selection and matching criteria of the adopting persons with the children.
- the impact of the post-adoption services in the success of the adoption.

II. SOME SPECIFIC ISSUES ARISING IN THE INTERCOUNTRY ADOPTION PROCEDURE

A. Article 17 agreements

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).

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

Certain receiving states request that, together with the transmission of the report foreseen at art. 6 in the Convention, to send also copies of the Birth Certificate and of the documents which prove the fact that the minor child is an adoptable child.

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.

No. Romania has no difficulties regarding the issuance of the certificate foreseen by article 23, this being put at the disposal of the adopting persons before they leave the territory of Romania together with the adopted child (the child can leave Romania only accompanied by the adopting persons). At this moment, the Romanian legislation does not foresee the transmission of a copy of the certificate foreseen by article 23 of the Convention in the attention of the central Authority in the receiving state.

- (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

No

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.

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.

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 certain contracting states of the Hague Convention, the evaluation and certification procedure of the adopting families as being able to adopt may have a big duration, exceeding, in certain case, one year from the moment when the family requests their adoption certification.

Also, in certain cases, it was noticed that the procedural stage of approval of the adoption in front of the competent Romanian court, had a bigger duration, this affecting both the child and also the adopting family. For this purpose, now, it is in progress a project for the amendment of the legislation in the adoption matter which can lead to the reduction of the waiting / settlement period of the adoptions.

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.

From the practice up to now, there existed situations with certain contracting states in which the established working methodology had to be restarted because of the change of the persons responsible in the adoption matter.

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?

The amendments at the level of the legislative framework in 2004 and 2012 determined modifications at institutional level, but, to the extent of the possibilities, there were made efforts in

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.

order to ensure a continuity in the development of the activities of the specialists with experience in the international adoption matter. However it is felt the need for continuous professional training of the personnel involved in these activities, both at central and local level (we refer to the professionals who work directly with the eligible children for international adoption).

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?

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.

See point 11 in Romania - Country Profile

States of origin only

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

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 differences in the application of the subsidiarity principle are foreseen for the intra-familial international adoption cases (when the international adoption is performed by the spouse of the natural parent of the child or in the situations in which the international adoption is requested by a relative of the child, until the 4th degree inclusively). In such cases, the international adoption procedure may be initiated without searching for an adopting persons adequate for the child on the territory of Romania (a procedure which, in the other situations, has a duration of 2 years).

But, in the situation in which the adoption of the child is requested by a relative who has the habitual residence in Romania and also by a relative with the habitual residence abroad, a priority is

given to the adopting person in Romania, and it is going to be performed a national adoption.

The procedure differences appear also in the situation of the internationally adopted child by the spouse of the natural parent, a case in which it is not necessary the stating of the adoptability of the child, being enough the approval of the adoption made by the natural parent / parents and by the adopting person.

In the situation foreseen at point (ii) we have no special provisions in the normative framework.

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 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 definition of the habitual residence of the adopting persons is presented at article 3 in Law no. 273/2004 (republished II) and the habitual residence of the child is defined at article 4 of the same

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...".

normative document which foresees that:

"Article 3- Within the meaning of this law, adopters/adoptive families who are habitually residents in Romania are those:

(a) who are Romanian citizens or Romanian citizens with multiple citizenship, whichever applicable, domiciled in Romania and who have effectively and continuously lived on the territory of Romania in the last twelve months before applying for the certificate of suitability; on establishing continuity, temporary leaves for less than three months and those due to staying in another country based on employment agreements for work performed in the interest of the Romanian state, as well as based on international commitments taken by Romania shall not be considered interruptions;

(b) who are nationals of European Union/European Economic Area member states or foreign citizens and have the right of permanent residence or the right of indefinite leave to remain in Romania, as the case may be (we specify that the right of permanent residence or the right of indefinite leave to remain in Romania is obtained after a permanent and continuous living in Romania of those citizens, for a period of 5 years).

Article 4- Within the meaning of this law, children who are habitually residents in Romania are those:

(a) who are Romanian citizens domiciled in Romania and who have effectively and continuously lived on the territory of Romania in the last twelve months before the date on which the petition for the adoption order is filed;

(b) who are nationals of European Union/European Economic Area member states or foreign citizens and have the right of permanent residence or the right of indefinite leave to remain in Romania, as the case may be, and who have effectively and continuously lived on the territory of Romania in the last twelve months before the date on which the petition for the adoption order is filed."

As it can be seen, Romanian law regulates the habitual residence of the adopters / child in Romania and no explicit references are made to the conditions that determine the habitual residence of the adopters/ child in another State. In the latter case, the provisions of the legislation of the respective State are to be applied.

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?

Before 2012, the situations in which Romania had difficulties in the establishing of the habitual residence of the adopting persons appeared in the cases in which it was assimilated to the domicile term. In these cases, the adopting persons who lived abroad but had the domicile on the territory of Romania requested the performance of a national adoption but, after its approval, they abandoned the territory of the country, returning to the state where they lived. In such cases, there were encountered difficulties in the qualification of these adoptions as being national / international and, subsequently, regarding the recognition of these adoptions on the territory of the state in which the adopting persons moved.

Another difficulty in the establishing of the habitual residence appears in the situation in which the adopting person lives on unlimited periods of time on the territory of a certain state, or spends relatively equal periods of time on the territory of two or more states.

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).

For the situation foreseen at point (a): Except the cases in which the adopting person is the spouse of the natural parent or is a relative of the child, it can be performed an international adoption from Romania only by the adopting persons who also have Romanian citizenship or, if at least one of

the adopting spouses has also Romanian citizenship.

For the situation foreseen at point (b) - there are no special regulations regarding the statute of the migrants in the framework of the international adoption procedure.

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?

In such situations, the adoption procedure is suspended and it is going to be established, according to the legislation of each state, which is state where the adopting persons have their habitual residence.

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)?

If it cannot be established that an adopting person has the habitual residence in Romania, he cannot be evaluated and certified for the performance of the adoption procedure, no matter his citizenship.

If it cannot be established the fact that the adopting person has the habitual residence on the territory of another state, as it is foreseen by the legislation of that state, then, the adopting persons cannot request the performance of the international adoption procedure until the moment when it will be established which is the state on which territory they have the habitual residence and, implicitly, which is the central authority with which we are going to collaborate in the framework of the international adoption procedure.

or

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

We have not faced such situations.

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.*

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 such situations, the central authority in the state where the adopting persons have the

habitual residence requested us mentions regarding the recognition of the adoption and also information on their criminal record or regarding the situations in which they were deprived of parental rights.

The involvement of the Romanian central authority in the matter of the international adoption, in such cases, is represented by the formulation of certain mentions regarding the impediments of the adoption foreseen by the Romanian legislation and also regarding the possibility of the recognition of the adoption in Romania (a recognition which is automated, if it is concluded according to the provisions of the Convention, or the recognition made by a court in the other situations which are not governed by the Convention (exequatur)).

Also, we mention the fact that, following the approval of the adoption, the child will acquire Romanian citizenship, if both adopting persons are also Romanian citizens; if only one of the adopting persons is a Romanian citizen, the citizenship of the child will be established by mutual agreement of the adopting persons

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.

The Romanian central authority, in the matter of the adoption, organizes, keeps and organizes the National Register of Adoptions which is a national informatized database which contains data regarding the adopting persons (PAP), adoptable children and also the procedural stages of the adoption. Also, in the Register there are kept information regarding the cases of dissolution of the adoption / establishing of its nullity. Also, the Romanian central authority in the matter of the adoption has organized a database regarding the adopted persons who initiated the procedures for searching the origins.

In all these cases, the officers which administrate / have access to these databases have the obligation to keep the confidentiality regarding the personal data of the persons registered in these evidences. The principle of the guarantee of the confidentiality is stipulated in Law no. 273/2004 (republished II) regarding the adoption procedure and also in the normative documents which do not target the adoption domain – here, we refer to Law no. 677/2001 regarding the protection of the persons with respect to the processing of the personal data and the free circulation of these data (<http://dataprotection.ro>).

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).

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.

Yes, there are used the modern technologies in the field of the international adoption (website, Skype, video-conferences, e-mail), these being useful in the obtaining of certain information and clarifications. Also, these technologies allow a fast exchange of information and the direct communication with the central authorities / authorized private organizations, both on general problems and also in particular cases.

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) The benefits were mentioned in the answer formulated at the previous item.

(b) The associated risks are similar to the ones established by the use of the information system / modern technologies. For their diminution, there are used specialized information programs of protection and, until now, considering the information sent/received with the help of the modern technologies, we have identified no particular risks associated to the international adoption.

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

In the relation with the authorities / organisms involved in the international adoption in Romania, the used technologies are the website, the e-mail, the conferences on Skype. The supplied information refer to the international adoption procedure in Romania, both previous and after the approval of the adoption by the court and until the exit of the child from the country. Also, on this way, there are supplied information regarding the authorization procedure of the foreign private organisms for the collaboration with them in the framework of the international adoption.-

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

The risks associated to the modern technologies are included in the training and counseling programs of the adopting persons, performed by them before the approval of the adoption.

Regarding the procedures for searching the origin, performed by the adopted persons / adopting persons, if they choose to perform private procedures of searching without the involvement of the authorities (using the socialization networks, mass media, private detectives), there are communicated to them the risks associated to their actions (if we find out about these procedures).

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)?

No. The documents are accepted only in original / certified copy, accompanied by the certified

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.

translation in the Romanian language.-

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 -
- (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:

The documents are accepted only in original / certified copy as a guarantee of their authenticity.

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):
- Please insert text here -
- (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?):
- Please insert text here -
- (c) who is permitted to access the listings:
- Please insert text here -
- (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):
- Please insert text here -
- (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):
- Please insert text here -

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.

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. In the procedure of searching of the biologic parents / biologic relatives of the adopting persons there are not used the socialization networks by the competent authorities.

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.

Yes. Such contacts were performed without a previous counseling and without for the persons in cause to be adequately informed regarding the implications of this contact and the limits which must be maintained. The main difficulties appeared in situations like:

- one of the parties did not want the continuation of the communication and the other party continued to make pressure in this direction;
- the cases in which it could not be performed a clear identification of the persons (in the situations in which the communication between the adopted person and the biologic relatives is performed only through the modern communication means – e-mail, Skype).

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 have not in our evidence notifications regarding illicit actions in the specified period.

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.

For the prevention of a possible avoidance of the principles of the Convention, the Romanian central authority collaborated with the central authority in Belgium, the exchange of information and the performed intervention leading to the hindering of a situation in which it exists the possibility for

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 biologic parent to express a vicious approval for adoption (following the direct contact between him and the adopting parent) and also the possibility of the violation of the subsidiarity principle.

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?

Yes. The Romanian state introduced a moratorium regarding the international adoptions in the period 2001 – 2004 (see also Questionnaire no. 1 – “20 years, 20 questions, point A.1). In this interval, the legislation for this domain was reviewed and, according to the regulations in force, in 2005, the procedure of the international adoption performed on the Romanian territory is done strictly by public institutions / authorities, in collaboration with the Romanian central authority in the matter of the international adoption and the donations and sponsorships are forbidden in this procedure.

Romania encountered no difficulties in the restart of the international adoptions.

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

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.

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):
Romania is not involved in such programs.
 - (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:
Not applicable
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
Not applicable

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.

The Romanian law allows the placement of the children only to persons who have the domicile in Romania, who are evaluated by the Romanian social services. More than that, in order to be able to adopt a child from Romania, the adopting person must have the habitual residence in Romania, respectively, to fulfill the requirements mentioned at point 36 of the Questionnaire hereby.

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.

No. This situation is not permitted by the Romanian law

G. International surrogacy arrangements⁴⁹ and intercountry adoption⁵⁰

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.

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).)

Both 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.

Romania did not confront with such situations.

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:

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 guide of good practices no. 1 was translated in the Romanian language in December 2009 and it was distributed for free by the Romanian central authority in the matter of the international adoption.

The documents and materials drafted by the Conference of private international law from Hague are used and consulted in the framework of the review process of the legislation and working technologies in the matter of the international adoption.

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.

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

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?

- Please insert text here -

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

- Please insert text here -