

NAME OF COUNTRY OR ORGANISATION: SLOVAKIA

A EXPLANATIONS AND QUESTIONS

If a question does not apply to your State, please answer "Not applicable".

1. Description

- (a) Is your country (primarily) a receiving State or a State of origin? If both, please ensure your answers to the questions clearly distinguish, when necessary, between your role as a receiving State and your role as a State of origin.

Slovakia is (primarily) a State of origin

- (b) If your country is not yet a Party, please specify if your country is considering becoming a party to the Convention.

Not applicable

- (c) Was your country represented at the 2000 Special Commission? Were the Conclusions and Recommendations of that meeting discussed or implemented by relevant authorities in your country?

Slovakia was represented at the 2000 Special Commission by Mrs. Alena Mátejová – the former director of the Centre of International Legal Protection of Children and Youth. Conclusions and Recommendations of the meeting were discussed by Slovak courts, local social services and competent ministries.

2. Good practice

The Permanent Bureau has commenced work on a Guide to Good Practice on Implementation of the Convention. A consultative group met in September 2004 to provide advice to the Permanent Bureau on this project. It is anticipated that the draft Guide will be circulated, in English, French and Spanish, to all Contracting States in June 2005 seeking comments and for discussion at the Special Commission.

- (a) In relation to any aspect of intercountry adoption, what examples of good practice can you report, (i) from your own country or (ii) from another country?
- (b) Please indicate what topics you would suggest for future chapters in the Guide to Good Practice (in addition to "Implementation", "Central Authority Practice" and possibly "Accreditation").
- (c) Have you experienced any major concerns or problems (i) in your State and (ii) in another State, associated with implementation of the Convention, such as a lack of implementing legislation, inadequate staffing or funding issues?

no

- (d) If your State has signed but not yet ratified the Convention, please indicate whether your State would like implementation assistance from the Permanent Bureau or other States. What type of assistance would be most beneficial?

Not applicable

3. Questions concerning scope

Please specify any difficulties you have experienced in determining whether certain situations do or do not come within the scope of the Convention.

In particular, have there been any problems in determining whether:

- (a) a child was or was not habitually resident in the State of origin;

no

- (b) a prospective adopter was or was not habitually resident in the receiving State (as e.g. in the case of a short-term or temporary resident); and

Not applicable

© the removal of the child was or was not "for the purpose of adoption" in the receiving State (as e.g. where the child is initially moved to the receiving country on a temporary basis or for foster care, and later on adoption is considered)?

no

4. General principles for protection of children

- (a) What are the different types of care available to a child in need of care and protection in your State?

Alternative solicitude (alternative personal solicitude, foster care, constitutional solicitude), guardianship and custody

- (b) Please specify the procedures or other measures in place to ensure that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is considered (the principle of subsidiarity - see Article 4 *b*) and Preamble, paragraphs 1-3).

The local social services in Slovakia strive to find alternative solicitude, guardianship or custody before the whole documentation of the child is delivered to the Centre.

- (c) What are your procedures to establish if a child is adoptable?

Competent Slovak court passes a decision if a child is adoptable after judicial proceeding

- (d) What procedures are in place to ensure that consent to an adoption is given in accordance with Article 4 *c*) and *d*) of the Convention?

Competent Slovak court examines that the consent to an adoption is given in accordance with Article 4c) and d) of the Convention

- (e) Do you make use of the Model Form for the "Statement of consent to the Adoption"? See < www.hcch.net >, "Intercountry Adoption", "Practical Operation Documents", "Annex B to the Special Commission Report of October 1994".

no

- (f) Have you applied the "Recommendation concerning the application to refugee children and other internationally displaced children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption"? See Annex A to the Special Commission Report of October 1994.

no

- (g) How is the eligibility and suitability of prospective adoptive parents assessed in your country (see Article 5 *a*))?

Not applicable

- (h) What preparation (counselling, education or training) is given to prospective adoptive parents to prepare them for the intercountry adoption?

Not applicable

- (i) Please also specify the measures / procedures in place to ensure that the requirements concerning the counselling of prospective adopters are complied with (see Article 5 b)).

Not applicable

- (j) Please specify any post-adoption services established or contemplated in your country (see Article 9 c)).

Not applicable

5. Central Authorities

- (a) Please specify any of the functions under Chapter IV of the Convention performed directly by your Central Authority or Central Authorities.

Applications of the prospective parents are delivered to the Centre, where is found a register of the applicants. The Centre also obtains documentations of the children suitable for international adoption from competent Slovak social authorities. There is an Assignment Committee of the Centre, which suggests a child to the applicants. The Centre also directly performed functions of the Article 18 and Article 20 of the Convention.

- (b) Please indicate the number of personnel employed by your Central Authority to deal with intercountry adoption, their experience and qualifications, and what type of training they have received. (Where personnel undertake other functions, count them only for the amount of time spent on intercountry adoption, for example, if a person spends 50% of their time on intercountry adoption, count them as 0.5 of a person.)

1.5 – lawyers with previous experiences in international private law

- (c) What procedures are in place to ensure continuity of experienced staff and training for new staff?
- d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?

no

- (e) Please provide details of any difficulties you have experienced communicating with "central" Central Authorities in other countries or with provincial Central Authorities (in your own country or other countries)?

No difficulties have occurred in our practice

6. Accreditation

At the Special Commission meeting in September 2005, the first day will be devoted to an examination of accreditation issues. Your responses to this part of the questionnaire will be very helpful to the Permanent Bureau in the planning and preparations for that day.

Slovakia intends to use accredited bodies in intercountry adoption. A new legal act concerning accredited bodies was passed and will be effective in September 2005. Slovakian Ministry of Labour, Social Affairs and Family prepare all necessary procedures for granting accreditation.

Accredited bodies – **not applicable**

(1) Please indicate whether your country uses or intends to use accredited bodies in intercountry adoption. If so, please provide details on the topics (a) to (m) below.

- (a) Please provide details (including powers and resources) of the authority or authorities which grant accreditation.
- (b) How many bodies have been accredited by your country? Federal States may provide the number for each state or province. If possible, please indicate how many bodies have been refused accreditation.
- (c) Please give a brief outline of your accreditation criteria, guidelines or legislation.
- (d) What is the process by which accreditation is granted?
- (e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.
- (f) How is the supervision of accredited bodies carried out in your State (Article 11 c))? Are there regular reporting requirements (including financial reporting) by the accredited body to the supervising authority?
- (g) How is the performance of the accredited body assessed or evaluated?
- (h) Has the competent supervisory authority encountered any difficulties in relation to (f)?
- (i) Are you aware of any acts or behaviour by accredited bodies or approved bodies or persons that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?
- (j) What are the conditions for renewal of accreditation?
- (k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?
- (l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?

- (m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?
- (2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?
 - (a) What steps are involved in the process of authorisation?
 - (b) What supervision of foreign authorised bodies occurs?
 - (c) Have you experienced any difficulties regarding a body accredited in one State and authorised to act in another State?
- (3) If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision.
- (4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?
- (5) Would you like to see a chapter on Accreditation developed for the Guide to Good Practice for Intercountry Adoption? What issues do you think should be covered in this chapter?

Approved bodies and persons

- (6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in intercountry adoption. If so,
 - (a) How many bodies or persons have been approved by your country to provide adoption services in accordance with Article 22(2)?
 - (b) Do you grant approval to persons or bodies from abroad?
 - (c) What are the guidelines by which approval is granted (if different from 1(c))?
 - (d) What is the process by which approval is granted and renewed?
 - (e) How is the supervision of approved bodies or persons carried out in your State (Article 22(2))?
 - (f) Has your country made a declaration under Article 22(4)?

7. Procedural aspects

- (1) Please indicate any operational difficulties that have been experienced, including in particular:
 - (a) obtaining accurate and sufficient health and social information on the child;
No difficulties have occurred in our practice
 - (b) obtaining accurate and sufficient information on prospective adoptive parents;¹
No difficulties have occurred in our practice

¹ The Convention, Articles 15 and 16.

- (c) obtaining an accurate estimate of fees to be paid by adoptive parents prior to adoption and / or travel to collect the child;²

no

- (d) documentation requirements, including requirements for legalisation or authentication of documents, or the acceptance of documents by the other country;

no

- (e) obtaining the agreements required in Article 17;

no

- (f) receiving post-placement reports from adoptive parents or Central Authorities;³

Some difficulties occurred in receiving post-placement reports from Central authorities, in particular we get the reports not on time, sometimes are those reports too bald.

- (g) translation requirements;

No difficulties have occurred in our practice

- (h) time taken to process Convention cases.

No difficulties have occurred in our practice

- (2) Do you permit prospective adopters, once their eligibility and suitability have been established, to make their own arrangements for contacting directly the placement agencies in the country of origin?

no

- (3) Has the practice referred to in the preceding question given rise to particular problems of which you are aware?

no

- (4) Please provide details on the breakdown of placements in the Receiving State. What steps have been or are being taken in your country to address this problem (Article 21)?⁴

Not applicable

- (5) Legalisation of foreign documents can be very time consuming for Contracting States. At the Special Commission on the Apostille, Evidence and Service Conventions in November 2003,⁵ a recommendation was made concerning the 1993 Convention. The Report states that:

"The Special Commission stressed the usefulness of linking the application of the Hague Adoption Convention of 1993 to the Apostille Convention [the 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents]. In light of the high number of public documents included in a typical adoption procedure, the Special Commission recommended that States that are party to the Adoption Convention but not to the Apostille Convention

² See Report of the Special Commission of 2000, page 42, paragraph 7.

³ See the Convention, Article 20.

⁴ The number of placement breakdowns is sought in the new draft Statistics Form.

⁵ See "Conclusions and Recommendations adopted by the Special Commission on the Practical Operation of the Hague Apostille, Evidence and Service Conventions", 2003, page 5, available on the Hague Conference website at < www.hcch.net >.

consider actively becoming party to the latter.”⁶

Would you favour a similar recommendation from the forthcoming Special Commission meeting for the 1993 Convention?

yes

- (6) DNA testing has been used to establish identity (if, for example, a consent is in doubt). Can you provide details of such cases, including the cost and procedures involved?

Such cases didn't occur in our practice

8. Private international law issues

(1) The Convention does not determine which authorities have jurisdiction to grant or amend / revoke an adoption nor which law applies to the conditions governing, or the effects of, an adoption.

- (a) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the jurisdiction of the authorities to grant or amend / revoke an adoption?

no

- (b) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the law or laws to be applied to the conditions governing, or the effects of, an adoption?

no

If the answer to either or both of these questions is “yes”, do you wish the Permanent Bureau to study these questions further?

(2) Issues of applicable law may arise when bodies accredited in one Contracting State act in another Contracting State (Article 12), for example:

- whether and to what extent agents of that body are authorised to act and bind their principal;
- whether they have exceeded or misused their authority.

Have you experienced any difficulties in this respect (see also the *Hague Convention of 14 March 1978 on the Law Applicable to Agency*)?

Not applicable

9. Recognition and effects

(1) Have your courts used the Recommended Model Form “Certificate of Conformity of Intercountry Adoption”? See < www.hcch.net >, “Intercountry Adoption”, “Practical Operation Documents”, “Annex C to the Special Commission Report of October 1994”.

No

(2) Have you knowledge of any difficulties that have arisen in obtaining certificates under Article 23(1)?

No

(3) Do you have information about any case in which recognition of a Convention

⁶ See paragraph 6.

adoption has been refused under Article 24?

No

- (4) Are there any circumstances in which you would recognise the validity of a foreign adoption coming within the scope of the Convention despite Convention procedures or requirements not having been followed?

no

Please specify any other difficulties that have arisen in relation to Chapter V of the Convention.

10. Payment of reasonable charges and fees

- (1) Please quantify the costs and expenses charged or fees paid in your country in respect of intercountry adoptions (Article 32(2)). Is this information freely available and accessible to prospective adoptive parents and competent authorities?

Costs and expenses charged in our country in respect of intercountry adoptions are cca. 1.000,- EUR. This information is freely available and accessible to prospective adoptive parents and competent authorities.

- (2) Have you had any experiences with the use of fee caps, established and publicised appropriate fees, established expediting fees, or other similar controls?

no

- (3) Do you have any comments on the practice in some countries of requiring a mandatory contribution by adoptive parents for the support or development of child protection services in such countries?

no

- (4) Do you have any comments on or experiences of uneven processing amongst countries due to large disparities in fees (for example, applications from countries that offer higher fees may be processed more quickly)?

Not applicable

- (5) Are you aware of any instances of disparity between professional salaries or fees charged for adoptions compared to other forms of legal work? (For example, large legal fees may be charged for adoption, while standard or lower fees are paid for other family law matters such as divorces – see Article 32(3).)

Not applicable

- (6) Are you aware of any significant differences in fees charged for intercountry adoption by regional or provincial authorities?

Not applicable

- (7) To what extent, if any, are intercountry adoption fees used (a) to support or develop the national childcare and protection system; or (b) to contribute to funding resources of Central Authorities or accredited bodies?

To any extent

- (8) Do you have any other comments about reasonable or unreasonable costs and

expenses or fees?

no

(9) Are you aware of any other problems arising from the payment of fees or charges in your country or in other countries with which you have adoption arrangements?

no

11. Improper financial gain

(1) Please indicate the laws (including criminal sanctions), measures and procedures in place to give effect to the principle that no one shall derive improper financial or other gain from an activity related to an intercountry adoption (Article 32(1)).

Apart from the Convention there are no criminal sanctions in Slovak law. Such cases haven't occur in our practice.

(2) Are you aware of any instances of success in enforcing penalties to discourage improper financial gain?

no

(3) Are you aware of any difficulties in the enforcement of laws or regulations or in prosecution of criminal activity?

No

(4) Apart from the measures referred to in Question 11(1) above, have any other preventive measures been taken in your country to combat improper financial gain?

no

(5) Please provide details of any measures taken to prevent solicitation (e.g. through inducements to consent) of children for adoption (Articles 8 and 29).

Such cases haven't occurred in our practice

(6) Have you experienced any difficulties in obtaining co-operation or assistance from other States in eliminating practices that lead to improper financial gain?

no

12. Relative adoptions

Do you have any comments on the application of the Convention procedures to relative (inter-family) adoptions?

no

13. Children with special needs

What policies or programmes do you have to ensure that children with special needs are given the same opportunity to find a family through intercountry adoption as other children?

No programmes

14. Other forms of cross-border child care

International foster care, transnational *kafala* and other forms of child care with a cross-border element are not covered by the 1993 Convention, but by 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*: See for example its Articles 3 e) and 33(1).

(1) Is your country involved in international placements of children other than for purposes of adoption?

no

(2) Are you aware of any difficulties concerning such placements?

no

(3) If your country is not yet a Party to the 1996 Convention, is your country actively studying ratifying or acceding to it?

Not applicable

15. Avoiding the Convention

Are you aware of any attempts to circumvent the Convention or to avoid protections afforded to children, including the moving of children or birth parents to other countries?

no

16. Additional safeguards and bilateral arrangements

Please describe any additional safeguards, requirements or procedures, which you apply to Convention adoptions (*i.e.* over and above those which are set out in the Convention itself). Are these applied generally, or only in relation to particular States?

Have you made agreements with one or more other Contracting State (see Article 32(2)) with a view to improving the application of the Convention? If so, please specify with which States and what matters are covered by the agreements.

Do you have any comments on the efficacy of bilateral arrangements:

(a) with non-Contracting States? Are Convention safeguards applied?

(b) with Contracting States? Do they improve the operation of the Convention? Have they caused any difficulties?

17. Limits on number of States with whom co-operation is possible

In making arrangements for intercountry adoption (whether as a receiving State or as a State of origin), have you found it necessary to confine co-operation under the Convention to a limited number of other Contracting States? If so, please explain the reasons (e.g. no appropriate accredited body, lack of resources to process applications from large number of States, etc) and indicate what has influenced the choice of these States.

no

B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION

18. Do you regularly hold seminars, training sessions or workshops on the Adoption Convention in your State? **There are few seminars a year on the Adoption Convention in Slovakia.**

Would you welcome participants from other countries?

Would you find it helpful if there was a consistent way to announce such activities to other States? Do you have suggestions?

Yes

19. In the current negotiations for a new Convention on the International Recovery of Child Support and other Forms of Family Maintenance, an Administrative Co-operation Working Group has been established to examine and report on practical problems and issues of administrative co-operation between authorities. Would you favour the establishment of a similar group for the 1993 Convention?

May be useful

20. Please indicate which topics you consider priority issues for the Special Commission in September 2005, and their degree of importance.

Children with special needs

21. Any other suggestions, comments and observations are welcomed.