

COUNTRY PROFILE

1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION¹

RECEIVING STATE

COUNTRY NAME: Malta

PROFILE UPDATED ON: May 2023

PART I: CENTRAL AUTHORITY

1. Contact details ²	
Name of office:	Social Care Standards Authority
Acronyms used:	SCSA
Address:	469, Bugeia Institute, St Joseph High Street, Santa Venera Malta
Telephone:	2549 4400
Fax:	
E-mail:	adoptionca.scsa@gov.mt
Website:	www.scsa.gov.mt
Contact person(s) and direct contact details (please indicate language(s) of communication):	Dr Noel Cutajar, Director noel.cutajar.1@gov.mt (English and Maltese)
<i>If your State has designated more than one Central Authority, please provide contact details for the further Central Authorities below and specify the territorial extent of their functions.</i>	
There is only one designated Central Authority in Malta	

¹ Full title: the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (referred to as the "1993 Hague Intercountry Adoption Convention" or the "1993 Convention" in this Country Profile). Please note that any reference to "Articles" (or Art. / Arts for short) in this Country Profile refers to Articles of the 1993 Hague Intercountry Adoption Convention.

² Please verify whether the contact details on the Hague Conference website < www.hcch.net > under "Intercountry Adoption Section" then "Central Authorities" are up to date. If not, please e-mail the updated contact information to < secretariat@hcch.net >.

PART II: RELEVANT LEGISLATION

2. The 1993 Hague Intercountry Adoption Convention and domestic legislation	
<p>a) When did the 1993 Hague Intercountry Adoption Convention enter into force in your State?</p> <p><i>This information is available on the Status Table for the 1993 Hague Intercountry Adoption Convention (accessible via the Intercountry Adoption Section of the Hague Conference website < www.hcch.net >).</i></p>	<p>1st February 2005</p>
<p>b) Please identify the legislation / regulations / procedural rules which implement or assist with the effective operation of the 1993 Convention in your State. Please also provide the date of their entry into force.</p> <p><i>Please remember to indicate how the legislation / regulations / rules may be accessed: e.g., provide a link to a website or attach a copy. Where applicable, please also provide a translation into English or French if possible.</i></p>	<ol style="list-style-type: none"> 1. Adoption Administration Act, Chapter 495 of the Laws of Malta https://legislation.mt/eli/cap/495/eng/pdf 2. Civil Code (Chapter 16 of the Laws of Malta), Title III of Book First https://legislation.mt/eli/cap/16/eng 3. Agency Accreditation Regulations, S.L. 495.01 https://legislation.mt/eli/sl/495.1/eng 4. L.N. 379/2015, Adoption Accredited Agencies Regulations https://legislation.mt/eli/ln/2015/379/eng 5. L.N. 191/2018, Designation of Central Authority in Adoption Regulations https://legislation.mt/eli/ln/2018/191/eng 6. L.N. 445/2018, Social Regulatory Standards on Adoption of Children Regulations https://legislation.mt/eli/ln/2018/445/eng 7. National Adoption Strategy for Children and their Families 2019-2022 https://scsa.gov.mt/en/Documents/Publications/Adoptions/SCSA%20Adoption%20ENG.pdf 8. Social Regulatory Standards for Adoption of Children https://scsa.gov.mt/en/Documents/Publications/Adoptions/Adoption%20for%20Children%20-%20EN.pdf 9. Act XI of 2015, Gender Identity, Gender Expression and Sex Characteristics Act https://legislation.mt/eli/act/2015/11/eng/pdf 10. Maltese Citizenship Act, Chapter 188 of the Laws of Malta https://legislation.mt/eli/cap/188/eng/pdf

3. Other international agreements on intercountry adoption³	
<p>Is your State party to any other international (cross-border) agreements concerning intercountry adoption?</p> <p><i>See Art. 39.</i></p>	<p><input checked="" type="checkbox"/> Yes:</p> <p><input type="checkbox"/> Regional agreements (please specify):</p> <p><input type="checkbox"/> Bilateral agreements (please specify):</p> <p><input type="checkbox"/> Non-binding memoranda of understanding (please specify):</p> <p><input checked="" type="checkbox"/> Other (please specify): Protocol with Slovakia; Agreement of Co-operation with Portugal; Memorandum of administrative arrangements with Vietnam;</p> <p><input type="checkbox"/> No</p>

PART III: THE ROLE OF AUTHORITIES AND BODIES

4. Central Authority(ies)	
<p>Please briefly describe the functions of the Central Authority(ies) designated under the 1993 Convention in your State.</p> <p><i>See Arts 6-9 and Arts 14-21 if accredited bodies are not used.</i></p>	<p>In Malta the Central Authority derives its power through the Adoption Administration Act which grants to the Central Authority the power to inspect all international adoptions which are carried out in Malta. Indeed, the Adoption Administration Act imposes criminal penalties on anyone who engages in private adoptions without informing the Central Authority. The Malta Central Authority is granted the specific task to ensure that Malta is compliant with the 1993 Hague Convention in the field of intercountry adoptions. The law empowers the Central Authority to accredit adoption agencies and delegates some of the functions to these accredited adoption agencies.</p>

5. Public and competent authorities	
<p>Please briefly describe the role of any public and / or competent authorities, including courts, in the intercountry adoption procedure in your State.</p> <p><i>See Arts 4, 5, 8, 9, 12, 22, 23 and 30.</i></p>	<p>Different authorities and institutions contribute in different ways to the adoption process. The Central Authority will either directly or indirectly (through Accredited Agencies) work with the foreign counterparts so that all the duties mentioned in Articles 9 and 22 (1) of the 1993 Hague Convention are fulfilled. On a separate level the Adoption Board will examine the Home Study Reports of the PAPs, and determine the eligibility and suitability or otherwise of a prospective adoptive parent. In certain cases, it may also make recommendations to the Court and or to the Central Authority regarding a prospective</p>

³ See Art. 39(2) which states: "Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention" (emphasis added).

	<p>adoptive parent. In this way the requirements mentioned in Article 4 of the 1993 Hague Convention are fulfilled. Following a positive outcome from the Adoption Board, the Malta Central Authority will directly or through accredited agencies ensure that all documents and permits as are required by Article 5 of the 1993 Hague Convention are issued. At this stage, the Central Authority would issue a certificate so that the requirements provided in Article 23 are fulfilled. Once the child arrives in Malta, an application is made to the Court of Voluntary Jurisdiction asking that the same Court to recognise the adoption and upon acceptance would issue the necessary directives to the public registry so that the necessary changes are effected on the adoptive parents' and child's certificates. Should the Court of Voluntary Jurisdiction object to the adoption in the applied procedure, it would not issue recognition and authorisation to the public registry.</p> <p>Periodically the Central Authority requests information and audits accredited agencies to ensure that no improper financial gain, as is specified in Article 8 of the convention, is made. In accordance with guidelines issued by the Malta Central Authority, the accredited adoption agencies are required to preserve information in accordance with Article 30 of the 1993 Hague Convention. Through informal agreements and through direct contact with Central Authorities or the institutions in the country of origin, the Central Authority ensures that Article 12 of the 1993 Hague Convention is respected.</p>
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6. National accredited bodies⁴	
<p>a) Has your State accredited its own adoption bodies?</p> <p><i>See Arts 10-11.</i></p> <p>N.B. the name(s) and address(es) of any national accredited bodies should be communicated by your State to the Permanent Bureau of the Hague Conference (see Art. 13).⁵</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No – <u>go to Question 8</u></p>
<p>b) Please indicate the number of national accredited bodies in your State, including whether this number is limited and, if so, on what basis.⁶</p>	<p>Currently, the Malta Central Authority has 3 accredited agencies. The number is not limited.</p>

⁴ "National accredited bodies" in this Country Profile means adoption bodies based within your State (receiving State) which have been accredited under the 1993 Convention by the competent authorities in your State. See further *Guide to Good Practice No 2 on Accreditation and Adoption Accredited Bodies* (hereinafter "GGP No 2"), available on the [Intercountry Adoption Section](http://www.hcch.net) of the Hague Conference website < www.hcch.net > at Chapters 3.1 *et seq.*

⁵ See GGP No 2, *ibid.*, Chapter 3.2.1 (para. 111).

⁶ See GGP No 2, *supra*, note 4, Chapter 3.4.

<p>c) Please briefly describe the role of national accredited bodies in your State.</p>	<p>The accredited agencies are delegated with some of the functions related to adoptions, as specified in Article 7(2) of the Adoption Administration Act. In particular, they provide training to the PAPs, prepare the Home Study Report, and ensure that any adoption placement will be in the best interest of the person to be adopted (Article 22(1)(a) - (f) of Cap 495 of the Laws of Malta). They also guide the PAPs in collecting the necessary documentation and present the case to the Adoption Board. The Accredited Adoption Agencies also draw up the Post Adoptions Reports as per Article 22(1)(h) of Cap 495 of the Laws of Malta.</p>
<p>6.1 The accreditation procedure (Arts 10-11)</p>	
<p>a) Which authority / body is responsible for the accreditation of national adoption bodies in your State?</p>	<p>The Social Care Standards Authority (SCSA), which in accordance with Legal Notice 191 of 2018 of the Laws of Malta, is designated as the Central Authority in Malta.</p>
<p>b) Please briefly describe the <i>procedure</i> for granting accreditation and the most important accreditation <i>criteria</i>.</p>	<p>A prospective adoption agency must first fill in the form which is required by Subsidiary Legislation 495.01 of the Laws of Malta. This form will provide information about the set up of the agency. It will also require the agency to furnish documents accompanying the application outlining internal policies and procedures to be followed by the agency when carrying out adoptions.</p>
<p>c) For how long is accreditation granted in your State?</p>	<p>2 years</p>
<p>d) Please briefly describe the criteria and the procedure used to determine whether the accreditation of a national adoption body will be <i>renewed</i>.</p>	<p>The Central Authority in Malta is now part of the Social Care Standards Authority, in accordance with Legal Notice 191 of 2018 of the Laws of Malta. The Inspectorate office within the SCSA carries out monitoring visits throughout the accreditation period. It also requires periodical registers, annual reports and financial reports.</p> <p>The Central Authority also deals with complaints against the agencies by service users and carries out questionnaires relating to service provision. The above tools aid the Central Authority in its decision to either renew or revoke accreditation.</p>
<p>6.2 Monitoring of national accredited bodies⁷</p>	
<p>a) Which authority is competent to monitor / supervise national accredited bodies in your State?</p> <p><i>See Art. 11 c).</i></p>	<p>The Social Care Standards Authority (SCSA), which in accordance with Legal Notice 191 of 2018 of the Laws of Malta, is designated as the Central Authority in Malta.</p>

⁷ See GGP No 2, *supra*, note 4, Chapter 7.4.

b) Please briefly describe how national accredited bodies are monitored / supervised in your State (e.g., if inspections are undertaken, how frequently).	In addition to reply given in 6.1(d), the Social Care Standards Authority's assessors monitor the agencies. Inspections vary and may also be outsourced to experts in the field. (e.g. financial audits carried out by audit firm).
c) Please briefly describe the circumstances in which the accreditation of bodies can be revoked (i.e., withdrawn).	Accreditation can be revoked if there is a significant proof that the agency is no longer compliant with the legislation, no longer compliant with the authority's standards and criteria, or service users are being abused in any way (Article 14(1)(b),(c),(d) of Cap 495 of the Laws of Malta).
d) If national accredited bodies do not comply with the 1993 Convention, is it possible for sanctions to be applied?	<input checked="" type="checkbox"/> Yes, please specify possible sanctions (e.g., fine, withdrawal of accreditation): suspension or revocation of accreditation (Article 14(1) of Cap 495 of the Laws of Malta) <input type="checkbox"/> No

7. Authorisation of national accredited bodies to work in other Contracting States (Art. 12)⁸

7.1 The authorisation procedure

a) Which authority / body in your State is responsible for the authorisation of national accredited bodies to work with, or in, other Contracting States?	The Social Care Standards Authority (SCSA), which in accordance with Legal Notice 191 of 2018 of the Laws of Malta, is designated as the Central Authority in Malta.
b) Is authorisation granted as part of the accreditation procedure or is a separate authorisation procedure undertaken?	<input type="checkbox"/> Authorisation is granted as part of the accreditation procedure. <input checked="" type="checkbox"/> A separate procedure is undertaken for authorisation.
c) Is authorisation granted to national accredited bodies to work in <i>all</i> States of origin or must national accredited bodies apply for authorisation to work in specific, pre-identified State(s) of origin?	<input type="checkbox"/> Authorisation is granted generally: once authorised, national accredited bodies are able to work in <i>all</i> States of origin. <input checked="" type="checkbox"/> Authorisation is granted specifically: national accredited bodies must apply for authorisation to work in one or more pre-identified State(s) of origin.
d) Please briefly describe the <i>procedure</i> for granting authorisation and the most important authorisation <i>criteria</i> . ⁹ If your State does not have authorisation criteria, please explain on what basis decisions concerning authorisation are made. Please also explain whether your State has any criteria concerning how the national accredited body must establish itself in the State(s) of origin or whether this is left entirely to the requirements of the State of origin (e.g., requirements that the body must have a local representative in the State	<p>The Malta Central Authority tries to establish contact with states of origin, particularly states party to the Hague Convention.</p> <p>The CA aids the agencies with the documentation required by the states of origin relating to the agency.</p> <p>Some states of origin require the agencies to be listed in the agreements between the countries.</p> <p>The Malta Central Authority also cooperates with the Ministry for Foreign and European Affairs and Trade.</p>

⁸ In relation to authorisation of accredited bodies, see further GGP No 2, *supra*, note 4, Chapter 4.2.

⁹ In relation to authorisation criteria, please see GGP No 2, *supra*, note 4, Chapters 2.3.4.2 and 4.2.4.

of origin, or must establish a local office).	
e) For how long is authorisation granted?	Depending on the procedure applied by the state of origin.
f) Please briefly describe the criteria and procedure used to determine whether authorisation will be <i>renewed</i> .	Depending on the procedure applied by the state of origin.
7.2 Monitoring the work of your authorised national accredited bodies in other Contracting States	
a) Please briefly describe how your State ensures that authorised national accredited bodies (including their representatives, co-workers and any other staff ¹⁰ in the State of origin) are monitored / supervised by your State in relation to their work / activities <i>in the State of origin</i> .	The Social Care Standards Authority's assessors routinely run documentary audits. In addition to this, the Central Authority collects information from adoptive parents, including their experience when interacting with agency staff.
b) Please briefly describe the circumstances in which the authorisation of national accredited bodies can be revoked (<i>i.e.</i> , withdrawn).	Same as for accreditation.

8. Approved (non-accredited) persons (Art. 22(2))¹¹

<p>Is the involvement of approved (non-accredited) persons permitted in intercountry adoption procedures in your State?</p> <p>N.B. see Art. 22(2) and check whether your State has made a declaration according to this provision. You can verify this on the Status Table for the 1993 Convention, available on the Intercountry Adoption Section of the Hague Conference website.</p> <p>If your State has made a declaration according to Art. 22(2), the Permanent Bureau of the Hague Conference should be informed of the names and addresses of these bodies and persons (Art. 22(3)).¹²</p>	<p><input type="checkbox"/> Yes, our State has made a declaration under Article 22(2) and the involvement of approved (non-accredited) persons is possible. Please specify their role:</p> <p><input checked="" type="checkbox"/> No</p>
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PART IV: THE CHILDREN PROPOSED FOR INTERCOUNTRY ADOPTION

9. The adoptability of a child (Art. 4 a))

Does your State have its own criteria concerning the adoptability of a child (<i>e.g.</i> , maximum age) which must be applied <i>in addition to</i> the requirements of the State of origin?	<input checked="" type="checkbox"/> Yes – please specify: The Health Authorities also have criteria regarding the adoptability of a child.
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¹⁰ For an explanation of the terminology used concerning the staff of the national accredited body working in the State of origin, see the GGP No 2, *supra*, note 4, Chapters 6.3 and 6.4.

¹¹ See GGP No 2, *supra*, note 4, Chapter 13.

¹² See GGP No 2, *supra*, note 4, Chapter 13.2.2.5.

	<input type="checkbox"/> No, there are no additional criteria concerning adoptability – the requirements of the State of origin are determinative.
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10. The best interests of the child and subsidiarity (Art. 4 b))

<p>Does your State request information / evidence from the State of origin to satisfy itself that the State of origin has respected the principle of subsidiarity (<i>i.e.</i>, proof that family reunification was attempted, or that the possibility of in-country permanent family placements has been explored)?</p>	<input checked="" type="checkbox"/> Yes – please specify: Through co-operation instruments between the central authority and the respective central authority of the sending countries. <input type="checkbox"/> No
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11. Children with special needs

<p>Does your State have its own definition of the term “special needs children” which is applied in intercountry adoption cases?</p>	<input type="checkbox"/> Yes – please provide the definition used in your State: <input checked="" type="checkbox"/> No – the definition used in the State(s) of origin is determinative.
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12. The nationality of children who are adopted intercountry¹³

<p>Do children who are adopted intercountry to your State acquire the nationality of your State?</p>	<input checked="" type="checkbox"/> Yes, always. Please specify: <ul style="list-style-type: none"> (i) At what stage nationality is acquired by the child: Maltese nationality will be granted to the child ipso jure once the adoption decree is registered at the Maltese Court and the Public Registry if the child is less than 10 years old according to Article 17(2)(b) of Cap 188 of the Laws of Malta, while children over the age of 10 who are minor children of any citizen of Malta would be granted a certificate of naturalisation as a citizen of Malta upon application made in the prescribed manner by the personal who according to law has authority over him (Article 11(1) of Cap 188 of the Laws of Malta).; and (ii) The procedure which must be undertaken (or whether acquisition of nationality is <i>automatic</i> upon the occurrence of a particular event, <i>e.g.</i>, the making of the final adoption decision): see previous reply <input type="checkbox"/> It depends – please specify which factors are taken into consideration (<i>e.g.</i> , the nationality of the prospective adoptive parents (“PAPs”), whether the child loses his / her nationality of the State of origin): <input type="checkbox"/> No, the child will never acquire this nationality.
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¹³ Regarding nationality, see further the *Guide to Good Practice No 1 on the implementation and operation of the 1993 Hague Intercountry Adoption Convention* (hereinafter, “GGP No 1”), available on the [Intercountry Adoption Section](http://www.hcch.net) of the Hague Conference website < www.hcch.net >, at Chapter 8.4.5.

PART V: PROSPECTIVE ADOPTIVE PARENTS ("PAPs")

13. Limits on the acceptance of files	
a) Does your State place any limit on the total number of applications for intercountry adoption which are accepted at any one time?	<input type="checkbox"/> Yes, please specify the limit applied and the basis on which it is determined: <input checked="" type="checkbox"/> No
b) Does your State allow PAPs to apply to adopt from more than one State of origin at the same time?	<input checked="" type="checkbox"/> Yes, please specify whether any limits are applied: No limits are applied <input type="checkbox"/> No – PAPs may only apply to adopt from one State of origin at any one time.

14. Determination of the eligibility and suitability of PAPs wishing to undertake an intercountry adoption¹⁴ (Art. 5 a))	
14.1 Eligibility criteria	
a) Do PAPs wishing to undertake an intercountry adoption have to fulfil any criteria in your State concerning their relationship status(es)? <i>Please tick any / all boxes which apply and indicate in the space provided whether any further conditions are imposed (e.g., duration of marriage / partnership / relationship, cohabitation).</i>	<input checked="" type="checkbox"/> Yes, the following person(s) may apply in our State for an intercountry adoption: <input checked="" type="checkbox"/> Married, heterosexual couples: <input checked="" type="checkbox"/> Married, same-sex couples: <input checked="" type="checkbox"/> Heterosexual couples in a legally registered partnership: <input checked="" type="checkbox"/> Same-sex couples in a legally registered partnership: <input type="checkbox"/> Heterosexual couples that have not legally formalised their relationship: <input type="checkbox"/> Same-sex couples that have not legally formalised their relationship: <input checked="" type="checkbox"/> Single men: <input checked="" type="checkbox"/> Single women: <input checked="" type="checkbox"/> Other (please specify): Gender non-conforming and Non-binary persons may also apply to adopt. They will be assessed equally as other participants. The Law stipulates that discriminating against gender is illegal (Article 11(1), (2), (3) of Act XI of 2015, Gender Identity, Gender Expression and Sex Characteristics Act). <input type="checkbox"/> No, there are no relationship status criteria for PAPs.
b) Are there any age requirements in your State for PAPs wishing to undertake an intercountry adoption?	<input checked="" type="checkbox"/> Yes, please specify: <input checked="" type="checkbox"/> Minimum age requirements: 28 years

¹⁴ I.e., this section refers to the eligibility criteria applied, and suitability assessment undertaken, in relation to PAPs who are habitually resident in your State and who wish to adopt a child who is habitually resident in another Contracting State to the 1993 Convention: see further Art. 2 of the 1993 Convention.

	<input checked="" type="checkbox"/> Maximum age requirements: according to the age of the child as specified below <input type="checkbox"/> Difference in years required between the PAPs and the child: minimum 21 years and maximum 48 years <input type="checkbox"/> Other (please specify): <input type="checkbox"/> No
c) Are there any <i>other</i> eligibility criteria which your State requires PAPs to fulfil?	<input type="checkbox"/> Yes, please specify: <input type="checkbox"/> Additional / differing criteria must be met for PAPs wishing to adopt a child with special needs (please specify): <input type="checkbox"/> Couples must supply evidence of infertility: <input type="checkbox"/> For persons with children already (biological or adopted), there are additional criteria (please specify): <input type="checkbox"/> Other (please specify): <input checked="" type="checkbox"/> No
14.2 Suitability assessment¹⁵	
a) Which body(ies) / expert(s) perform the assessment of whether the PAPs are suitable persons to undertake an intercountry adoption?	The Adoption Board
a) Please briefly describe the procedure which is used to assess the PAPs and determine their suitability to undertake an intercountry adoption.	PAPs must attend the training course and then the social worker of the agency will carry out a detailed Home Study Report. This is presented to the Adoption Board together with health certificates, a psychological report, police conducts, and other documentation as may be required by the Board. The Board may also request to meet the applicants.
14.3 Final approval	
Which body / person gives the final approval that the PAPs are eligible and suited to undertake an intercountry adoption?	The Adoption Board. The PAPs may appeal the decision of the Adoption Board by filing an application in front of the Board of Appeal by not later than twenty days from the date of service of the decision by registered mail, as stated in Article 6(1) of Cap 495 of the Laws of Malta.

¹⁵ This suitability assessment will usually form one part of the report on the PAPs (Art. 15): as to which, see GGP No 1, *supra*, note 13, Chapter 7.4.3 and Question 17 below.

15. Preparation and counselling of PAPs (Art. 5 b))	
<p>a) In your State, are courses provided to prepare PAPs for intercountry adoption?</p>	<p><input checked="" type="checkbox"/> Yes, please specify the following:</p> <ul style="list-style-type: none"> - Whether the courses are mandatory: Yes - At what stage of the adoption procedure they are offered: At the initial stage, following contact with any of the accredited adoption agencies. - Who provides the courses: Courses are facilitated by Social Workers within the accredited adoption agencies. - Whether they are provided to PAPs individually or collectively (<i>i.e.</i>, in a group): Courses may be provided individually or collectively. - Whether they are provided "in person" or electronically: "in person" and online - How many hours the courses last: Different accredited adoption agencies have different layouts. - The content of the courses: Different accredited adoption agencies have different course contents. - Whether there are specific courses for PAPs wishing to adopt a child with special needs: No as the course already covers the topic of children with special needs. - Whether the courses are (or can be) targeted at preparing PAPs for the adoption of a child from specific States of origin: No <p><input type="checkbox"/> No</p>
<p>b) Aside from any courses provided, what, if any, (other) counselling or preparation is provided to individual PAPs (<i>e.g.</i>, meeting with adoptive parents, language and culture courses)?</p> <p>Please specify, in each case:</p> <p>(i) If it is mandatory for PAPs to use the service;</p> <p>(ii) Who provides the service; and</p> <p>(iii) At what stage in the adoption procedure the service is provided.</p>	<p>Additional courses are not mandatory. The accredited adoption agencies may add training sessions. The Adoption Board may also recommend that the PAPs follow further preparation prior to the Board issuing a positive recommendation.</p>

PART VI: THE INTERCOUNTRY ADOPTION PROCEDURE

16. Applications	
<p>a) To which authority / body should PAPs apply for an intercountry adoption?</p>	<p>The initial application is always with an accredited adoption agency.</p>
<p>b) Please indicate which documents your State requires to be included within the</p>	<p><input checked="" type="checkbox"/> An application form for adoption completed by the PAPs</p>

<p>PAPs' file for transmission to the State of origin:¹⁶</p> <p><i>Please tick all which apply.</i></p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> A statement of "approval to adopt" issued by a competent authority <input checked="" type="checkbox"/> A report on the PAPs including the "home study" and other personal assessments (see Art. 15) <input checked="" type="checkbox"/> Copies of the PAPs' passports or other personal identification documents <input checked="" type="checkbox"/> Copies of the PAPs' birth certificates <input checked="" type="checkbox"/> Copies of the birth certificates of any children living with the PAPs <input checked="" type="checkbox"/> Copies of marriage, divorce or death certificates, as applicable (please specify in which circumstances): <input checked="" type="checkbox"/> Information concerning the health of the PAPs (please specify in which circumstances and what type of information is required): <input checked="" type="checkbox"/> Evidence of the financial circumstances of the family (please specify in which circumstances and what type of information is required): <input checked="" type="checkbox"/> Information concerning the employment status of the PAPs (please specify in which circumstances and what type of information is required): <input checked="" type="checkbox"/> Proof of no criminal record <input checked="" type="checkbox"/> Other(s): please explain Any other documents as requested by the State of origin
<p>c) Is it compulsory in your State for an accredited body to be involved in an intercountry adoption procedure?¹⁷</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Yes, please specify at which stage(s) of the procedure an accredited body must be involved (<i>e.g.</i>, for the preparation of the home study, for the submission of the adoption file to the State of origin, for all stages of the procedure): For all stages of the procedure. <input type="checkbox"/> No. Please specify who assists PAPs if no accredited body is involved in the adoption procedure:
<p>d) Are any <i>additional</i> documents required if PAPs apply through an accredited body?</p> <p><i>Please tick all which apply.</i></p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Yes <ul style="list-style-type: none"> <input type="checkbox"/> A power of attorney issued by the PAPs to the accredited body (<i>i.e.</i>, a written document provided by the PAPs to the accredited body in which the PAPs formally appoint the accredited body to act on their behalf in relation to the intercountry adoption): <input type="checkbox"/> A contract signed by the accredited body and the PAPs: <input type="checkbox"/> A document issued by a competent authority of the receiving State certifying that the accredited body may undertake intercountry adoptions:

¹⁶ Please remember that a specific State of origin may have other / additional requirements concerning the documentation that must be submitted to it. A list of documents required by the specific State of origin can be found in the State of origin's Country Profile.

¹⁷ See GGP No 1, *supra*, note 13, paras 4.2.6 and 8.6.6: "independent" and "private" adoptions are not consistent with the system of safeguards established under the 1993 Convention.

	<input checked="" type="checkbox"/> Other (please specify): As requested by the State of origin <input type="checkbox"/> No
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17. The report on the PAPs (Arts 5 a) and 15(1))

<p>a) Which body(ies) / expert(s) prepare the report on the PAPs? Please include all those involved with the preparation of any of the documents which are included within such a report.</p>	<p>Social workers engaged with the accredited adoption agency.</p> <p>Warranted psychologist involved in the preparation of the Psychological Report of the PAPs.</p> <p>Medical professional involved in the compilation of medical reports on the PAPs.</p>
<p>b) Is a "standard form" used for the report on the PAPs in your State?</p>	<p><input type="checkbox"/> Yes, please provide a link to the form or attach a copy:</p> <p><input checked="" type="checkbox"/> No. Please indicate whether your State has any requirements concerning the information which must be included in the report on the PAPs and / or the documentation which must be attached to it: The agencies provide a template in the accreditation process and the Central Authority presents this to the Adoption Board for approval of the template.</p>
<p>c) For how long is the report on the PAPs valid in your State?</p>	2 years
<p>d) Who is responsible in your State for renewing the report on the PAPs if the period of validity expires before the intercountry adoption is completed and what is the procedure for renewal?</p>	<p>The accredited adoption agency is responsible. The social worker will communicate with the applicant/s, update the report and present it again to the Adoption Board.</p>

18. Transmission of the PAPs' file to the State of origin

<p>a) Who sends the finalised application file of the PAPs to the State of origin?</p>	<p>The accredited adoption agencies or the Central Authority; depending on the State of origin.</p>
<p>b) If no accredited body is involved with the intercountry adoption application (see Question 16 c) above), who assists the PAPs with compiling and transmitting their application file?</p>	<p><input checked="" type="checkbox"/> Not applicable – an accredited body will always be involved (see response to Question 16 c) above).</p>

19. Receipt of the report on the child (Art. 16(2)) and acceptance of the match (Art. 17 a) and b))

19.1 Receipt of the report on the child (Art. 16(2))

<p>Which authority / body in your State receives the report on the child from the State of origin?</p>	<p>The accredited adoption agencies or the Central Authority; depending on the State of origin.</p>
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19.2 Acceptance of the match	
a) Does your State require that the matching be accepted by a competent authority in your State?	<input type="checkbox"/> Yes, please provide the following details: <ul style="list-style-type: none"> - Which authority determines whether to accept the match (e.g., the Central Authority or another competent authority): and - The procedure which is followed (e.g., the report on the child is transmitted <u>first</u> to the competent authority to determine whether the match is accepted and only if this authority accepts the match is the report sent to the PAPs): <u>Go to Question 19.2 b)</u> <input checked="" type="checkbox"/> No. Please explain the procedure which is followed once the authority / body referred to in Question 19.1 has received the report on the child from the State of origin: the applicants are informed of the matching through the accredited adoption agency or the Malta Central Authority, and information is relayed back depending on the couple's decision. Throughout the process, the health report of the child will be vetted by Maltese Health Authorities. Children with specific illnesses are not allowed in Malta. <u>Go to Question 19.2 c)</u>
b) Which criteria must be fulfilled for the relevant authority in your State to accept the match?	The Medical Reports must be accepted by the Health Authorities and the PAPs must accept the matching.
c) Does your State impose any requirements on PAPs concerning the length of time they are given to decide whether to accept a match?	<input type="checkbox"/> Yes, in addition to any requirements of the State of origin, our State has a time-limit – please specify: <input checked="" type="checkbox"/> No, the requirements of the State of origin are determinative in this regard.
d) Do PAPs receive any kind of assistance from your State when deciding whether to accept a match?	<input checked="" type="checkbox"/> Yes – please specify what type of assistance is provided (e.g., counselling): Assistance from the accredited adoption agency and the Health Authorities. <input type="checkbox"/> No

20. Agreement under Article 17 c)	
a) Which competent authority / body agrees that the adoption may proceed in accordance with Article 17 c)?	The Social Care Standards Authority (SCSA), which in accordance with Legal Notice 191 of 2018 of the Laws of Malta, is designated as the Central Authority in Malta.
b) At what point in the adoption procedure is the Article 17 c) agreement given in your State?	<input type="checkbox"/> Our State waits for the State of origin to provide its agreement first OR <input type="checkbox"/> Our State sends its agreement to the State of origin with a notice that the match has been accepted OR <input checked="" type="checkbox"/> Other (please specify): Depending on the procedure set by the state of origin.

21. Travel of the PAPs to the State of origin¹⁸	
a) Does your State impose any travel requirements / restrictions on PAPs in addition to those imposed by the State of origin?	<input type="checkbox"/> Yes, please specify the additional requirements / restrictions: <input checked="" type="checkbox"/> No
b) Does your State permit an escort to be used to bring the child to the adoptive parents in your State in any circumstances?	<input type="checkbox"/> Yes, please specify in which circumstances: <input checked="" type="checkbox"/> No

22. Authorisation for the child to enter and reside permanently (Arts 5 c) and 18)	
a) Please specify the procedure to obtain authorisation for the child to enter and reside permanently in your State.	There may be visa requirements for a child from certain countries to enter Malta. Once the adoption is registered at the Maltese court, he or she will be granted Maltese Citizenship.
b) Which documents are necessary for a child to be able to enter and reside permanently in your State (e.g., passport, visa)?	A passport. Depending on the State of origin, sometimes both a passport and a visa are required.
c) Which of the documents listed in response to Question 22 b) above must be issued by your State? Please indicate which public / competent authority is responsible for issuing each document.	In some cases, a visa must be issued. The competent authority is Identity Malta Agency.
d) Once the child has arrived in your State, what is the procedure, if any, to notify the Central Authority or accredited body of his / her arrival?	There is no specific requirement to notify the Central Authority, however the Central Authority will eventually be informed by the accredited adoption agency.

23. Final adoption decision and the Article 23 certificate	
a) If the final adoption decision is made in your State, which competent authority: <ul style="list-style-type: none"> (i) Makes the final adoption decision; and (ii) Issues the certificate under Article 23? <p>N.B. According to Art. 23(2), the authority responsible for issuing the Art. 23 certificate should be formally designated at the time of ratification of / accession to the 1993 Convention. The designation (or any modification to a designation) should be notified to the depositary of the Convention. The answer to (ii) above should therefore be available on the Status Table for the 1993 Convention (under "Authorities"), available on the Inter-country Adoption Section of the Hague Conference website.</p>	<ul style="list-style-type: none"> (i) Court of Voluntary Jurisdiction, whereby the court decrees the adoption to be registered. (ii) Central Authority

¹⁸ See GGP No 1, *supra*, note 13, Chapter 7.4.10.

<p>b) Does your State use the "Recommended model form – Certificate of conformity of intercountry adoption"?</p> <p><i>See GGP No 1 – Annex 7.</i></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>c) Please briefly describe the procedure for issuing the Article 23 certificate. <i>E.g., how long does it take to issue the certificate? Is a copy of the certificate always given to the PAPs? Is a copy sent to the Central Authority in the State of origin?</i></p>	<p>Certificates are issued following the request by the accredited adoption agencies shortly following such request when there is the issuance of the Court decree. A copy is sent to the state of origin.</p>
<p>d) In cases in which the Article 23 certificate is issued in the State of origin, which authority or body in your State should receive a copy of this certificate?</p>	<p>The Central Authority</p>

PART VII: INTRA-FAMILY INTERCOUNTRY ADOPTIONS

24. Procedure for the intercountry adoption of a child who is a relative of the PAPs ("intra-family intercountry adoption")	
<p>a) Please explain the circumstances in which an intercountry adoption will be classified as an "intra-family intercountry adoption" in your State. Please include an explanation of the degree of relationship which a child must have with PAPs to be considered a "relative" of those PAPs.</p>	<p>An "intra-family intercountry adoption" is considered to be like all other intercountry adoptions, therefore the prospective adopters have to complete all processes and use the services of an accredited agency to complete the adoption.</p>
<p>b) Does your State apply the procedures of the 1993 Convention to intra-family intercountry adoptions?</p> <p><i>N.B.</i> <i>If the child and PAPs are habitually resident in different Contracting States to the 1993 Convention, the Convention is applicable, irrespective of the fact that the child and PAPs are related: see further GGP No 1 at para. 8.6.4.</i></p>	<input checked="" type="checkbox"/> Yes – <u>go to Question 25</u> <input type="checkbox"/> Yes, in general, although there are some differences in the procedures for intra-family intercountry adoptions – please specify: <u>Go to Question 25</u> <input type="checkbox"/> No – <u>go to Question 24 c)</u>
<p>c) If your State does not apply the Convention procedures to intra-family intercountry adoptions, please explain the laws / rules / procedures which are used in relation to:</p> <p>(i) The counselling and preparations which PAPs must undergo in your State; (ii) The preparation of the child for the adoption; (iii) The report on the PAPs; and (iv) The report on the child.</p>	<p>(i) After initial contact with an accredited agency, PAPs have to successfully complete a preparatory course (ii) As per requirements of the sending country. (iii) After completing the preparatory course, a social worker from the agency will complete a Home Study Report and present this to the Adoptions Board which will issue a recommendation whether PAPs are eligible and suitable to adopt. (iv) As per requirements of the sending country.</p>

PART VIII: SIMPLE AND FULL ADOPTION¹⁹

25. Simple and full adoption	
<p>a) Is "full" adoption permitted in your State?</p> <p><i>See GGP No 1 at Chapter 8.8.8 and note 19 below.</i></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In certain circumstances only – please specify: <input type="checkbox"/> Other (please explain):
<p>b) Is "simple" adoption permitted in your State?</p> <p><i>See GGP No 1 at Chapter 8.8.8 and note 19 below.</i></p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> In certain circumstances only (<i>e.g.</i> , for intra-family adoptions only) – please specify: <input type="checkbox"/> Other (please explain):
<p>c) Does the law in your State permit "simple" adoptions to be converted into "full" adoptions in accordance with Article 27 of the 1993 Convention?</p> <p><i>See Art. 27(1) a).</i></p>	<input type="checkbox"/> Yes – please provide details of how this is undertaken and please specify whether this is done on a regular basis when a State of origin grants a "simple" adoption or only in specific cases: <input checked="" type="checkbox"/> No – go to Question 26
<p>d) If conversion of a "simple" adoption into a "full" adoption is sought in your State following an intercountry adoption, how does your State ensure that the consents referred to in Article 4 c) and d) of the 1993 Convention have been given in the State of origin to a "full" adoption (as required by Art. 27(1) b))?</p> <p><i>See Art. 27(1) b) and Art. 4 c) and d).</i></p>	
<p>e) Following a conversion in your State, please explain which authority is responsible for issuing the Article 23 certificate in relation to the conversion decision. Please also explain the procedure which is followed.</p>	<input type="checkbox"/> The competent authority and the procedure is the same as stated in response to Question 23 above. <input type="checkbox"/> Other (please specify):

PART IX: POST-ADOPTION MATTERS

26. Preservation of, and access to, information concerning the child's origins (Art. 30) and the adoption of the child	
<p>a) Which authority in your State is responsible for preserving information concerning the child's origins, as required by Article 30?</p>	<p>The Malta Central Authority and also the accredited adoption agencies.</p>
<p>b) For how long is the information concerning the child's origins preserved?</p>	<p>Due to Data Protection, such information cannot be destroyed and it is retained.</p>

¹⁹ According to the 1993 Convention, a **simple** adoption is one in which the legal parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his / her adoptive parents is established. A **full** adoption is one in which the pre-existing legal parent-child relationship is terminated. See further Arts 26 and 27 and GGP No 1, *supra*, note 13, Chapter 8.8.8.

<p>c) Does your State permit the following persons to have access to information concerning the child's origins and / or information concerning the adoption of the child:</p> <p>(i) the adoptee and / or his / her representative(s); (ii) the adoptive parent(s); (iii) the birth family; and / or (iv) any other person(s)?</p> <p>If so, are there any criteria which must be met for access to be granted (<i>e.g.</i>, age of the adopted child, consent of the birth family to the release of information concerning the child's origins, consent of the adoptive parents to the release of information concerning the adoption)?</p> <p><i>See Art. 9 a) and c) and Art. 30.</i></p>	<p>(i) <input checked="" type="checkbox"/> Yes – please explain any criteria: Article 127A(1) of Cap 16 of the Civil Code of the Laws of Malta prescribes that an adopter or an adopted person who has attained eighteen years of age may apply to the court for a copy of the relevant adoption decree and, or details of the adopted person's birth family and/or adoption placement. <input type="checkbox"/> No</p> <p>(ii) <input checked="" type="checkbox"/> Yes – please explain any criteria: as per (i) above <input type="checkbox"/> No</p> <p>(iii) <input type="checkbox"/> Yes – please explain any criteria: <input checked="" type="checkbox"/> No</p> <p>(iv) <input type="checkbox"/> Yes – please explain any criteria: <input checked="" type="checkbox"/> No</p>
<p>d) Where access to such information is provided, is any counselling or other guidance / support given in your State?</p>	<p><input type="checkbox"/> Yes – please specify: <input checked="" type="checkbox"/> No</p>
<p>e) Once access to such information has been provided, is any <i>further</i> assistance offered to the adoptee and / or others (<i>e.g.</i>, regarding making contact with his / her biological family, tracing extended family)?</p>	<p><input checked="" type="checkbox"/> Yes – please specify: Search of Origin services are offered by the Malta Central Authority. <input type="checkbox"/> No</p>

27. Post-adoption reports

<p>a) Absent specific requirements of the State of origin in this regard, who is responsible in your State for <i>writing</i> post-adoption reports and <i>sending</i> such reports to the State of origin?</p>	<p>Accredited adoption agencies are responsible for writing the Post-Adoption Reports as stated in Article 22(1)(h) of Cap 495 of the Laws of Malta, while in most cases the Malta Central Authority sends such reports to the State of origin (Article 23(3) of Cap 495 of the Laws of Malta)).</p>
<p>b) Absent any specific requirements of the State of origin in this regard, is there a model form which is used by your State for post-adoption reports?</p>	<p><input type="checkbox"/> Yes – please specify whether use of the form is mandatory and indicate where it may be accessed (<i>e.g.</i>, provide a link or attach a copy):</p> <p><input checked="" type="checkbox"/> No – in which case, please specify the content expected by <i>your</i> State in a post-adoption report (<i>e.g.</i>, medical information, information about the child's development, schooling): Child's health; child's development; family environment; child's educational attainment.</p>
<p>c) How does your State ensure that the requirements of the State of origin in relation to post-adoption reporting are fulfilled?</p>	<p>As stated in Article 22(1)(h) of Cap 495 of the Laws of Malta, this is one of the main delegated functions of the accredited adoption agencies. If the Central Authority receives any complaints in this regard, especially by the</p>

	sending countries, the matter will be looked into and necessary action taken.
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28. Post-adoption services and support (Art. 9 c)

<p>Apart from the matters raised in Question 26 above, what, if any, post-adoption services and support is / are provided by your State to the child and / or PAPs following completion of an intercountry adoption (e.g., counselling, support to preserve cultural links)?</p> <p>In particular, please state whether any specific post-adoption services or support are provided in your State in the case of special needs children.</p>	<p>Families in Malta have free access to psychosocial support services and any other services as required.</p>
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PART X: THE FINANCIAL ASPECTS OF INTERCOUNTRY ADOPTION²⁰

Receiving States are also kindly requested to complete the "Tables on the costs associated with intercountry adoption", available on the [Intercountry Adoption Section of the Hague Conference website](#).

29. The costs²¹ of intercountry adoption

<p>a) Are the costs of intercountry adoption regulated by law in your State?</p>	<p><input type="checkbox"/> Yes – please specify any relevant legislation / regulations / rules and indicate how they may be accessed (e.g., link to a website or attach a copy). Please also briefly explain the legal framework:</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State monitor the payment of the costs of intercountry adoption?</p>	<p><input checked="" type="checkbox"/> Yes – please briefly describe how this monitoring is undertaken: Accredited agencies are required by law to submit financial accounts for audit purposes (Article 22(j) of Cap 495 of the Laws of Malta)). Whenever the CA receives information that an improper payment has possibly been made it would investigate accordingly.</p> <p><input type="checkbox"/> No</p>
<p>c) Are the costs of intercountry adoption which must be paid in your State paid through the accredited body involved in the particular intercountry adoption (if applicable – see Question 16 c) above) or directly by the PAPs themselves?</p> <p><i>See the "Note on the financial aspects of intercountry adoption" at para. 86.</i></p>	<p><input checked="" type="checkbox"/> Through the accredited body: fees for training, Home Study Report, Post-Adoption Reports, and documents which are apostilled.</p> <p><input checked="" type="checkbox"/> Directly by the PAPs: Medical, psychological reports, translations, and legal fees paid directly</p> <p><input type="checkbox"/> Other (please explain):</p>

²⁰ 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: i.e., the *Terminology adopted by the Experts' Group on the financial aspects of intercountry adoption* ("Terminology"), the *Note on the financial aspects of intercountry adoption* ("Note"), the *Summary list of good practices on the financial aspects of intercountry adoption* and the *Tables on the costs associated with intercountry adoption*.

²¹ See the definition of "costs" provided in the harmonised Terminology, *ibid*.

<p>d) Are the costs of intercountry adoption which must be paid in your State paid in cash or only by bank transfer?</p> <p><i>See the "Note on the financial aspects of intercountry adoption" at para. 85.</i></p>	<p><input type="checkbox"/> Only by bank transfer:</p> <p><input checked="" type="checkbox"/> In cash: Against a fiscal receipt</p> <p><input checked="" type="checkbox"/> Other (please explain): Depending on the policy of the entity receiving the payment.</p>
<p>e) Which body / authority in your State receives the payments?</p>	<p>Accredited agencies or medical, psychological or legal professionals.</p>
<p>f) Does your State provide PAPs (and other interested persons) with information about the costs of intercountry adoption (e.g., in a brochure or on a website)?</p> <p>N.B. Please also ensure that your State has completed the "Tables on the costs associated with intercountry adoption" (see above).</p>	<p><input checked="" type="checkbox"/> Yes – please indicate how this information may be accessed: This information is provided by the accredited adoption agencies as per Article 20(d) of Cap 495 of the Laws of Malta.</p> <p><input type="checkbox"/> No</p>

30. Contributions, co-operation projects and donations²²

<p>a) Does your State permit contributions²³ to be paid (either through your State's Central Authority or a national accredited body) to a State of origin in order to engage in intercountry adoption with that State?</p> <p><i>For good practices relating to contributions, see the "Note on the financial aspects of intercountry adoption" at Chapter 6.</i></p>	<p><input type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> - What type of contribution is permitted by your State: - Who is permitted to pay it (<i>i.e.</i>, the Central Authority or a national accredited body): - How it is ensured that contributions do not influence or otherwise compromise the integrity of the intercountry adoption process: <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State undertake (either through the Central Authority or national accredited bodies) co-operation projects in any States of origin?</p>	<p><input type="checkbox"/> Yes - please explain:</p> <ul style="list-style-type: none"> - What type of co-operation projects are permitted by your State: - Who undertakes such projects (<i>i.e.</i>, the Central Authority and / or national accredited bodies): - Whether such projects are mandatory according to the law of your State: - Whether such projects are monitored by an authority / body in your State: - How it is ensured that co-operation projects do not influence or otherwise

²² See the definitions of these terms provided in the harmonised Terminology. In addition, on contributions and donations, see Chapter 6 of the Note, *supra*, note 20.

²³ See further the harmonised Terminology, *supra*, note 20, which states that there are two types of contributions: (1) contributions demanded by the State of origin, which are mandatory and meant to improve either the adoption system or the child protection system. The amount is set by the State of origin. These contributions are managed by the authorities or others appropriately authorised in the State of origin which decide how the funds will be used; (2) contributions demanded by the accredited body from PAPs. These contributions may be for particular children's institutions (e.g., for maintenance costs for the child) or for the co-operation projects of the accredited body in the State of origin. The co-operation projects may be a condition of the authorisation of that body to work in the State of origin. The amount is set by the accredited body or its partners. The payment may not be a statutory obligation and accredited bodies may present the demand in terms of "highly recommended contribution", but in practice it is "mandatory" for the PAPs in the sense that their application will not proceed if the payment is not made.

	<p>compromise the integrity of the intercountry adoption process:</p> <p><input checked="" type="checkbox"/> No</p>
<p>c) If permitted in the State of origin, does your State permit PAPs or accredited bodies to make donations to orphanages, institutions or birth families in the State of origin?</p> <p>N.B. This is <u>not</u> recommended as a good practice: see further the "Note on the financial aspects of intercountry adoption" at Chapter 6 (in particular, Chapter 6.4).</p>	<p><input type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> - To whom donations may be made (e.g., to orphanages, other institutions and / or birth families): - What donations are intended to be used for: - Who is permitted to pay donations (e.g., only accredited bodies or also PAPs): - At what stage of the intercountry adoption procedure donations are permitted to be paid: - How it is ensured that donations do not influence or otherwise compromise the integrity of the intercountry adoption procedure: <p><input checked="" type="checkbox"/> No</p>

31. Improper financial or other gain (Arts 8 and 32)

a) Which authority is responsible for preventing improper financial or other gain in your State as required by the Convention?	The Central Authority
b) What measures have been taken in your State to prevent improper financial or other gain?	The CA audits accounts of accredited adoption agencies and request information from third parties, particularly the adoptive parents and where necessary the country of origin.
c) Please explain the sanctions which may be applied if Articles 8 and / or 32 are breached.	Adoption Agencies risk non-accreditation. In addition to this, those who engage in such practices are liable to imprisonment for a term of not less than six months but not exceeding one year or to a fine of not less than 1,164.69 euro but not more than 2,329.37 euro, or to both. In such case the court may order a minor, in respect of whom the offence was committed, to be removed to a place of safety until he can be restored to his parents or tutor or until other arrangements can be made for him. The person convicted of an offence in terms of this article shall also be liable to reimburse any amount which was paid to him.

PART XI: ILLICIT PRACTICES²⁴

32. Response to illicit practices in general

²⁴ "Illicit practices" in this Country Profile 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)" (from p. 1 of the *Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases*, available on the [Intercountry Adoption Section](http://www.hcch.net) of the Hague Conference website < www.hcch.net >).

<p>Please explain how your Central Authority and / or other competent authorities respond to intercountry adoption cases involving alleged or actual illicit practices.²⁵</p>	<p>The Central Authority would start an investigation. In particular the CA would interview the complainant and would interview third parties involved in the process. Should the allegation be one in which a crime is involved the CA would report this to the executive police who would conduct an investigation with the assistance of the Malta CA.</p>
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33. The abduction, sale of and traffic in children

<p>a) Please indicate which laws in your State seek to prevent the abduction, sale of and traffic in children in the context of your intercountry adoption programmes.</p> <p>Please also specify which bodies / persons the laws target (e.g., accredited bodies (national or foreign), PAPs, directors of children's institutions).</p>	<p>Article 26 of Cap 495 of the Laws of Malta makes this an offence punishable by imprisonment and fine any parent who adopts a child without the approval of the Central Authority. Cap 16 of the Civil Code of the Laws of Malta makes this an offence punishable by imprisonment with imprisonment and possibly fine any person involved in adoption who is about to receive or attempt to obtain any payment or other reward for or in consideration of:</p> <p>(a) the adoption by that person of any person;</p> <p>(b) the grant by that person of any consent required in connection with the adoption of a person;</p> <p>(c) the transfer by that person of the care and possession of the person to be adopted with a view to his adoption;</p> <p>(d) the making by that person of any arrangements for the adoption of a person.</p> <p>Article 248D of Cap 9 of the Laws of Malta seeks to prevent human trafficking.</p> <p>The Laws target whosoever is involved in the abduction or traffic of children.</p>
<p>b) Please explain how your State monitors respect for the above laws.</p>	<p>The Central Authority will report to the Executive Police should any offence be committed in this regard.</p>
<p>c) If these laws are breached, what sanctions may be applied? (e.g., imprisonment, fine, withdrawal of accreditation.)</p>	<p>Imprisonment, fines, or both imprisonment and fines.</p>

34. Private and / or independent adoptions

<p>Are private and / or independent adoptions permitted in your State?</p> <p>N.B. "Independent" and "private" adoptions are <u>not</u> consistent with the system of safeguards established under the 1993 Convention: see further GGP No 1 at Chapters 4.2.6 and 8.6.6.</p> <p>Please tick all which apply.</p>	<p><input type="checkbox"/> Private adoptions are permitted – please explain how this term is defined in your State:</p> <p><input type="checkbox"/> Independent adoptions are permitted - please explain how this term is defined in your State:</p>
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²⁵ Ibid.

	<input checked="" type="checkbox"/> Neither private nor independent adoptions are permitted.
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PART XII: INTERNATIONAL MOBILITY

35. The scope of the 1993 Convention (Art. 2)	
<p>a) If foreign national PAPs, habitually resident in your State, wish to adopt a child habitually resident in another Contracting State to the 1993 Convention, are they permitted to do so under the law of your State?</p> <p><i>Example: Indian PAPs are habitually resident in the USA and wish to adopt a child habitually resident in India.</i></p>	<p><input checked="" type="checkbox"/> Yes – please explain whether this would be treated as an <i>intercountry</i> or <i>domestic</i> adoption in your State²⁶ and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: This is an intercountry adoption. The PAPs will have to follow all processes. Furthermore, the PAP will have to receive confirmation in writing from the CA of their country, that if, in the future they would decide to move back to their country, that CA will recognise the adoption of the child.</p> <p><input type="checkbox"/> No</p>
<p>b) If foreign national PAPs, habitually resident in your State, wish to adopt a child also habitually resident in your State, are they permitted to do so under the law of your State?</p> <p><i>Example: Indian PAPs are habitually resident in the USA and wish to adopt a child also habitually resident in the USA.</i></p>	<p><input checked="" type="checkbox"/> Yes – please explain whether this would be treated as an <i>intercountry</i> or <i>domestic</i> adoption in your State²⁷ and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: This would be treated as a domestic adoption.</p> <p><input type="checkbox"/> No</p>
<p>c) If a State of origin treats an adoption by PAPs habitually resident in your State as a <i>domestic</i> adoption when, in fact, it should be processed as an intercountry adoption under the 1993 Convention, how does your State deal with this situation?</p> <p><i>Example: PAPs who are nationals of State X habitually reside in your State. They wish to adopt a child from State X. Due to their nationality, the PAPs are able to adopt a child in State X in a domestic adoption procedure (in breach of the 1993 Convention). They then seek to bring the child back to your State.</i></p>	<p>If the State of origin has completed the adoption process, the PAPs risk that the family court would not recognise the adoption decree issued in the State of origin.</p>

²⁶ According to the 1993 Convention (see Art. 2), this is an *intercountry* adoption due to the differing habitual residences of the PAPs and the child. The Convention procedures, standards and safeguards should therefore be applied to such adoptions: see further, GGP No 1, *supra*, note 13, Chapter 8.4.

²⁷ According to the 1993 Convention (see Art. 2), this is a *domestic* adoption due to the fact that the habitual residence of the PAPs and the child is in the same Contracting State: see further, GGP No 1, *supra*, note 13, Chapter 8.4.

PART XIII: SELECTION OF PARTNERS FOR INTERCOUNTRY ADOPTION²⁸

36. Selection of partners	
a) With which States of origin does your State currently partner on intercountry adoption?	Slovakia; Albania; Portugal; India; Bulgaria; Colombia; Poland; Vietnam
b) How does your State determine with which States of origin it will partner? In particular, please specify whether your State only partners with other <i>Contracting States</i> to the 1993 Convention. <i>To see which States are Contracting States to the 1993 Convention, please refer to the Status Table for the 1993 Convention (accessible via the Intercountry Adoption Section of the Hague Conference website < www.hcch.net >).</i>	States of origin either have to be contracting states or states whose legislation allows for following closely the requirements of the convention. For non contracting states a bilateral agreement will be entered into to safeguard the provisions of the convention. The Malta Central Authority liaises with the Ministry for Foreign and European Affairs and Trade and Embassies of the State of origin. Due diligence is also conducted on the prospective State of origin.
c) If your State also partners with <i>non-Contracting States</i> , please explain how it is ensured that the safeguards of the 1993 Convention are complied with in these cases. ²⁹	For non contracting states a bilateral agreement will be entered into to safeguard the provisions of the convention. <input type="checkbox"/> Not applicable: our State only partners with other <i>Contracting States</i> to the 1993 Convention.
d) Are any formalities required in order to commence intercountry adoptions with a particular State of origin (e.g., the conclusion of a formal agreement ³⁰ with that State of origin)?	<input checked="" type="checkbox"/> Yes – please explain the content of any agreements or other formalities: ³¹ minimum information agreements with contracting States and formal agreements with non-contracting States. <input type="checkbox"/> No

²⁸ In relation to the choice of foreign States as partners in intercountry adoption arrangements, see further GGP No 2, *supra*, note 4, Chapter 3.5.

²⁹ See GGP No 1, *supra*, note 13, Chapter 10.3 regarding the fact that "[i]t is generally accepted that States Party to the Convention should extend the application of its principles to non-Convention adoptions".

³⁰ See note 3 above concerning Art. 39(2) and the requirement to transmit a copy of any such agreements to the depositary for the 1993 Convention.

³¹ *Ibid.*