

NAME OF COUNTRY OR ORGANISATION: Finland

EXPLANATIONS AND QUESTIONS

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

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.

Finland is a receiving State.

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

Finland is a Party to the Convention.

(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?

Finland was represented at the 2000 Special Commission. The Conclusions and Recommendations of that meeting were discussed at the meeting of the Finnish Board of Inter-Country Adoption Affairs (i.e. Central Authority).

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?

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(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").

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(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.

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

We refer to our reply to the Questionnaire in 2000 (answer to question 2).

(c) 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.

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?

assistance in open care

foster care or residential care

after-care

(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).

In Finland it is the accredited body which receives this information (if receives at all). Information from the countries of origin varies. In practice, the accredited bodies trust that the country of origin has given due consideration to the possibilities for placement of the child within the State of origin. This can also be stated in some reports (which we consider to be good practice).

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

In Finland it is the accredited body which receives this information. In practice, the accredited bodies trust the documents which have been sent to them from the countries of origin. All countries of origin do not send the copy of the statement of consent of the mother.

(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?

In Finland it is the accredited body which receives this information. In practice, the accredited bodies trust the documents which have been sent to them and/or what the foreign service provider tells them.

(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.

To our knowledge, no such children have been adopted to Finland.

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

By adoption counselling and through the procedure in the Finnish Board of Inter-Country Adoption Affairs (i.e. Central Authority).

Adoption counselling is provided by municipal welfare bodies and by adoption agencies which have been licensed thereto by the Ministry of Health and Welfare. Social workers work up a home study about the prospective adoptive parents when the adoption counselling is over. In the home study social workers also

express their opinion whether the prospective adoptive parents are eligible and suitable to adopt a child from abroad or not.

The home study, together with other relevant documents, is sent to the Finnish Board of Inter-Country Adoption Affairs. The Board then assesses the eligibility and suitability of the prospective adoptive parents. If the Board assesses that the prospective adoptive parents are eligible and suitable to adopt a child from abroad, the Board grants the permission for intercountry adoption.

If the Board does not grant the permission, the decision is subject to appeal at the administrative court.

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

compulsory adoption counselling

optional information sessions (about the inter-country adoption in general and/or in respect of the specific country)

optional preparation courses

optional peer groups

occasional lectures and seminars

(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)).

Before an adoption is granted in Finland or abroad, the prospective adopter shall obtain the permission of the Finnish Board of Inter-Country Adoption Affairs (i.e. Central Authority), if the adopter is habitually resident in Finland and the adoptee under 18 years of age is habitually resident abroad. It is enacted in the law that the home study (the report made by the social workers after adoption counselling) shall be annexed to the application when applying the permission for intercountry adoption.

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

- *first of all, the adoptive families are offered same welfare services than other families (family counselling, school welfare officer services, financial support, health care services etc.)*
- *adoption counselling. The adoptive family has right to gain support and advice when necessary (they have this right also years after the adoption)*
- *when the adopted child has arrived into her/his new family, social workers follow up the life in the family for some time (this is a part of adoption counselling)*
- *adoption counsellor (she gives counselling mostly on the phone, but she also takes part in seminars etc.). Adoption counsellor is a project started year 1998. Behind the project are all three Finnish accredited bodies.*
- *support persons / contact persons named for the adoptive family*
- *seminars and lectures on the issue*
- *regional activities*
- *cultural groups*
- *discussion groups (for example peer groups)*
- *camps for the children, youth and parents*
- *get-togethers for the youth and young adults adopted from abroad*
- *organizational activities*
- *recreational services*
- *help with the trips to visit the child's home country*
- *"the post adoption follow up" offered by the accredited bodies*

Central Authorities

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

In Finland, it is the Central Authority that accepts adoption applications from prospective adoptive parents.

(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.)

The Finnish Board of Inter-Country Adoption Affairs is the Central Authority in Finland. Only one person is working there full-time (she is a lawyer). The chairperson of the board spends about 25% of her work time with the intercountry adoptions (she is also a lawyer).

Other members of the Board (nine persons) are only taking part in the work of the board on the side of their full-time work. It is enacted in the decree on the Finnish Board of Inter-Country Adoption Affairs that both the chairman and the vice-chairman shall represent the Ministry of Social Affairs and Health. At least one of the other members must represent the Ministry of Foreign Affairs, one the Ministry of Justice and one the Directorate of Immigration. One member must be an expert on municipal child welfare work and one an expert on social sector research and development. In addition, one representative of each service provider having permission of the Ministry of Social Affairs and Health (i.e. accredited body) will be elected as member. The majority of the members of the Board shall be representatives of the public authorities.

In addition, the Finnish Board of Inter-Country Adoption Affairs has also a doctor as a member of the board.

(c) What procedures are in place to ensure continuity of experienced staff and training for new staff?

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(d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?

The number of intercountry adoptions to Finland has increased rapidly in recent years. This has caused pressure on the operation of the Central Authority. Consequently, the possibilities to make the operation of the Central Authority more expedient are presently being studied.

(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)?

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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.

Accredited bodies

(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.

In Finland the accreditation is granted by the Ministry of Health and Welfare.

(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.

There are three accredited bodies in Finland.

(c) Please give a brief outline of your accreditation criteria, guidelines or legislation.

A license to provide intercountry adoption service may be granted to a non-profit applicant which is deemed capable of providing intercountry adoption service with the necessary professional expertise.

(d) What is the process by which accreditation is granted?

The Ministry of Health and Welfare may, after having obtained the statement of the Finnish Adoption Board (i.e. Central Authority) on the application, grant a license to provide intercountry adoption service.

When applying for a license to provide intercountry adoption service, the service provider shall enclose the following documents to the application:

(1) the by-laws of the association, if the service provider is a registered association;

(2) an account on the number of personnel, their education, experience and status in the activities of the service provider;

(3) an annual plan and a budget;

(4) last year's annual report and closing of the accounts and accountants' opinion, if the service provider has provided intercountry adoption service by virtue of a license granted earlier;

(5) an estimate of the costs referred to in section 14(1) of the Adoption Decree over the next license period, tabulated by state and nature of cost; and

(6) the other necessary accounts.

The license to provide intercountry adoption service shall be granted for a fixed period, not to exceed five years at a time. When granting a license, the Ministry of Health and Welfare may issue more detailed provisions on the pursuit of the activities of intercountry adoption service.

(e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.

See appendixes: Adoption Act (153/1985) and Adoption Decree (508/1997)

(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?

The general planning, supervision and control of intercountry adoption service belong to the domain of the Ministry of Health and Welfare.

A provider of intercountry adoption service shall give the Ministry of Social Affairs and Health the requested information and accounts necessary for carrying out the monitoring function of the Ministry.

The Ministry of Health and Welfare may cancel the license, if the intercountry adoption service is not provided in accordance with the provisions in force, or if shortcomings or faults are detected in the activity and they have not been remedied within the time limit set by the Ministry.

(g) How is the performance of the accredited body assessed or evaluated?

See answer to question 6 (1)(f).

(h) Has the competent supervisory authority encountered any difficulties in relation to (f)?

Due to the limited resources, the supervision of the accredited bodies has not been very active.

(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?

There have been few cases when accredited body has not behaved in acceptable way. In these cases the accredited body has been cautioned.

(j) What are the conditions for renewal of accreditation?

See answers to questions 6 (1) (a) – (f).

(k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?

No.

(l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?

Lately we have been concerned about the situation in India. (According to the information we have got the police has arrested several people for kidnapping and selling children to an adoption agency. Also the family running the adoption agency has been arrested.)

(m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?

We think it would be worthwhile to make an effort.

(2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?

No.

(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.

Not applicable.

(4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?

The possible standard or model accreditation guidelines referred to in question 6 (1) (m).

(5) Would you like to see a chapter on Accreditation developed for the Guide to Good Practice for Inter-country Adoption? What issues do you think should be covered in this chapter?

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Approved bodies and persons

(6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in inter-country adoption. If so,

Finland neither uses nor intends to use approved bodies or persons.

(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)?

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;

In some cases, the prospective adopters have gained very little information about the Russian children. On the other hand, Russia requires that the prospective adopters travel to Russia to see the child. After the trip the prospective adopters make a decision if they want to continue.

Also the information on children from China can be very limited.

(b) obtaining accurate and sufficient information on prospective adoptive parents; ¹

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

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

Colombia does not accept the documents translated in Finland from Finnish into Spanish even if they are official translations with apostille.

(e) obtaining the agreements required in Article 17;

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

¹ The Convention, Articles 15 and 16.

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

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- (g) translation requirements;
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- (h) time taken to process Convention cases.
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- (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, Finland does not permit that.

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

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(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

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- (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 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?

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Private international law issues

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 >.

⁶ See paragraph 6.

(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?

The application of Article 26, paragraph 1, sub-paragraph c and paragraph 3 may sometimes cause difficulties. The Finnish law only admits "full adoption". If the adoption granted in another Contracting State has not terminated the pre-existing legal relationship between the child and his or her biological parents in the Contracting State where it was made, it is not always clear how paragraph 3 should be interpreted and, consequently, what effects the adoption should have in Finland. For instance, in the area of inheritance law the termination of the pre-existing legal relationship between the child and his or her biological parents apparently cannot be considered to be more favourable for the child. The need to take into account the effects of the adoption in the Contracting State where the adoption was made can lead to practical difficulties and legal uncertainty.

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

Yes.

(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*)?

No.

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 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?

Not by operation of law but under certain conditions by a decision of Helsinki Court of Appeal.

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

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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?

ADOPTION COSTS IN FINLAND IN 2005

Country	Costs in euros	Adoption grants from government
Estonia	3 500	Estonia 1 900 euros
China	10 600-11 100	
Colombia /ICBF	9 800-10 400	China and Colombia
Colombia/private	15 300-16 000	4 500 euros
Thailand	5 400-6 900	
Ethiopia	9 000	Other countries
Russia	8 800-9 800	3 000 euros
Philippines	8 250	
South-Africa	9 800-11 100	
India	6 700-6 800	

This statistics includes all costs, expenses and fees (also the travel costs and the costs in country of origin) paid by the prospective adoptive parents in Finland year 2005.

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

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(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?

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(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)?

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(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).)

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

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(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?

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(8) Do you have any other comments about reasonable or unreasonable costs and expenses or fees?

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(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?

Whichever the country where the prospective adoptive parents have to pay fees, for example nursing fees, contributions etc., it would be desirable practice that these countries would regularly report how the contributions etc. are used. It is also desirable practice that money would always go through the officials and not straight to for example to the staff of the children's home

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)).

We refer to our reply to the Questionnaire in 2000 (answer to question 8).

(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?

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(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).

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(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?

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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?

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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?

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

Yes.

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?

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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.

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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.

The Finnish accredited bodies only have contacts with the following Contracting States: Colombia, Estonia, India, Philippines, South Africa and Thailand.

B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION

18. Do you regularly hold seminars, training sessions or workshops on the Adoption Convention in your State? 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?

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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?

We do not see the need for the establishment of a working group, at least at this stage.

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

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

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