

QUESTIONNAIRE ON THE PRACTICAL OPERATION OF THE 1993 ADOPTION CONVENTION
Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021

Name of State:	Malta
Information for follow-up purposes	
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1. POST-ADOPTION MATTERS

1.1. Preservation of, and access to, information

Both States of origin and receiving States

1.1.1. Preservation of information and use of data

1.	<p>Has your State centralised, in a public facility, information concerning the child's origins and the adoption of the child?</p> <p><input checked="" type="checkbox"/> Yes. Please specify where the information is centralised: Information can be found at the Public Registry Office within Identity Malta Agency</p> <p><input type="checkbox"/> No. Please specify where the information is stored: The information is stored</p>
2.	<p>Has your State encountered situations where personal data obtained during the intercountry adoption process has been misused (see Art. 31 of the Convention)?</p> <p><input type="checkbox"/> Yes. Please provide details of the types of situations your State encountered and the action(s) taken in response: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>

1.1.2. Search for origins

3.	<p>Is there a specialised programme or section in the Central Authority which deals with the search for the origins of an adoptee?</p> <p><input checked="" type="checkbox"/> Yes. Please provide its name and explain the services provided: The services are provided by the Central Authority - Adoption within the Social Care Standards Authority (SCSA). Services provided are the following: 1) A meeting is scheduled with adoptee or possible relative making claim; 2) Follow internal procedures to ensure that request is in line with local legislation and 3) If it is an inter-country adoption, contact is made with the respective country</p> <p><input type="checkbox"/> No. Please specify how the search for the origins is handled: Please insert text here</p>
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4.	<p>Has your State developed any good practices to ensure that Recommendation No 21¹ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>SCSA has developed Social Regulatory Standards on the Adoption of Children. Such practices are highlighted in Standard 1 'Children's Rights and Involvement' - Quality Indicator 4. These Standards and Quality Indicators are also transposed into local legislation in virtue of a Legal Notice.</p> <p>Click here to access link to these Standards: https://scsa.gov.mt/en/Documents/Publications/Adoptions/Adoption%20for%20Children%20-%20EN.pdf</p> <p>Click here to access link the Legal Notice: http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12952&l=1</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</p>
5.	<p>If your State allows for the use of DNA testing to search for origins, please specify:</p> <p>(a) which body is in charge of the DNA testing (<i>e.g.</i>, government, private companies, NGOs); Yes, Malta allows the use of DNA testing either by the government or private clinics</p> <p>(b) where the data is stored, and whether it is stored by a public or private entity; Data is stored at the Medical Records of the State Hospital (Mater Dei Hospital) and Medical Records of the Private Clinics.</p> <p>(c) the average cost of a DNA test in your State and whether any subsidy is available; If the DNA test is done through the State hospital, this is a free service offered by the State whilst if it is done privately it costs around three hundred euros (300euros)</p> <p>(d) details of any challenges and / or good practices your State may have developed with respect to the issues identified in this question and DNA testing in general. N/A</p>
6.	<p>What is your State's practice when the background information of an adoption is incomplete or non-existent? How does your State support adoptees in such situations?</p> <p>In this case and in cases of inter-country adoption, the Malta Central Authority contacts and liaise with the respective Central Authority of country of origin for information. It is the obligation of the Accredited Adoption Agencies to provide support and this also includes State run services such as social support provided by the National State Agency.</p>
7.	<p>What is the procedure in your State when illicit practices are discovered during a search for origins? Please provide details of any challenges and / or good practices.</p> <p>To date, Malta has no procedure in place since Malta has never encountered such illicit practices.</p>

¹ [“Conclusions and Recommendations adopted by the Fourth Meeting of the Special Commission on the practical operation of the 1993 Hague Intercountry Adoption Convention \(8-12 June 2015\)”](#), C&R No 21 (hereinafter, “C&R of the 2015 SC”):

“The SC recommended that the possibility of a child searching for his or her origins be **included** in the **counselling and preparation** of the prospective adoptive parents. When an adopted child or an adult adoptee undertakes such a search, **professional support** at all stages is recommended” [emphasis added].

8.	<p>If statistics are available in your State regarding the number of adoptees who are searching / have searched for their origins, please specify:</p> <p>(a) how many of these searches were successful (<i>e.g.</i>, the adoptee found his birth family); <i>As from 2018 to date, 6 were successful out of 13 searches. By successful it is meant that the adoptee found his birth family's identity but not necessarily made contact with.</i></p> <p>(b) how many were not successful and what were the reasons. <i>As from 2018 to date and as per letter (a), 7 were unsuccessful for the following reasons:</i></p> <ol style="list-style-type: none"> <i>1. Birth mother not wanting to meet her biological child;</i> <i>2. Birth mother was found to be deceased;</i> <i>3. An adoptee traced by her elder sisters but the adoptee did not want to have any contact with them;</i> <i>4. Whereabouts of birth mother were not known by the sending country of the adoptee;</i> <i>5. An adoptee being traced by someone claiming to be the biological brother but it transpired that he was not the adoptee's real sibling;</i> <i>6. An adoptee contacted by a foreigner claiming to be her sister but no evidence was found;</i> <i>7. A birth mother wanted to meet and find her biological child but since the law is silent in this matter, the request could not be fulfilled.</i>
9.	<p>Has your State encountered any challenges with regard to access to information due to the confidentiality of the identity of the birth parents?</p> <p><input type="checkbox"/> Yes. Please specify the challenges and how your State addressed them: <i>Please insert text here</i></p> <p><input checked="" type="checkbox"/> No.</p>
10.	<p>Does your State make a distinction between the disclosure of identifying versus non-identifying information?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response: <i>Please insert text here</i></p> <p><input type="checkbox"/> No. Please explain your response: <i>Please insert text here</i></p>
11.	<p>What is the procedure in your State for processing requests from the birth family to receive information concerning the adoption of their child? Does your State have a specific programme / database to handle such requests?</p> <p><i>Our law is silent on this matter and such requests cannot be fulfilled.</i></p>

1.1.3. Guidelines and good practices

12.	<p>Has your State developed any guidelines (<i>e.g.</i>, procedures, manuals) and / or good practices regarding preservation of information and search for origins?</p> <p><input checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response: <i>The State has launched the "National Adoption Strategy for Children and their Families 2019-2022" .</i></p> <p><i>Click here to access link to the document:</i> https://scsa.gov.mt/en/Documents/Publications/Adoptions/SCSA%20Adoption%20ENG.pdf</p>
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	<input type="checkbox"/> No.
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1.2. Post-adoption services²

Both States of origin and receiving States

13.	<p>Has your State developed any good practices to ensure that Recommendation No 18³ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p style="color: blue;">The State through the Social Care Standards Authority has launched the "National Adoption Strategy for Children and their Families 2019-2022". Post-Adoption Services are mentioned in Priority Area 1 in this strategy.</p> <p style="color: blue;">Click here to access link to the document: https://scsa.gov.mt/en/Documents/Publications/Adoptions/SCSA%20Adoption%20ENG.pdf</p> <p><input type="checkbox"/> No. Please specify any reasons:</p> <p style="color: blue;">Please insert text here</p>
14.	<p>If your State provides specialised post-adoption services, please specify:</p> <p>(a) the type of services provided and to whom they are provided (e.g., child and adult adoptees, birth families, adoptive families);</p> <p style="color: blue;">Psycho-social support services, information or events and other welfare services are provided to the child and adult adoptees and their adoptive families in accordance with Standard 2 of the Social Regulatory Standards of Adoption of Children.</p> <p>(b) who provides the services (e.g., social welfare administration, school, health personnel);</p> <p style="color: blue;">Agencija Appogg, which is the National Adoption Agency, offers these services and Private Accredited Agencies refer these families to the National Adoption Agency or else to private professionals who offer these services.</p> <p>(c) whether the professionals involved in the post-adoption services are the same as those involved in the preparation of the prospective adoptive parents (PAPs);</p> <p style="color: blue;">No, the professionals are not the same.</p> <p>(d) how, if there are different services, these various services are coordinated;</p> <p style="color: blue;">Agencija Appogg or the private professionals co-ordinate these various services together.</p> <p>(e) how the post-adoption services are financed (e.g., the government funds its own services, the government funds Adoption Accredited Bodies (AAB) services, adoptees and their families pay for the services themselves, other);</p> <p style="color: blue;">Agencija Appogg as the National/State Agency offers these services for free of charge whilst the private agencies offer these services against payment.</p> <p>(f) the length of time this support is available.</p> <p style="color: blue;">This support is available as long as it is required.</p>

² Post-adoption services may be provided to adoptees, birth families and adoptive families.

³ C&R No 18 of the 2015 SC:

“The SC recognised that post-adoption services are essential and should take into account the **lifelong nature** of adoption. States are encouraged to develop **specialised post-adoption services**, in addition to the general services already in place” [emphasis added].

15.	<p>Please provide details of any good practices in your State which ensure that adoptees, adoptive families and birth families are adequately informed about, and can easily access, post-adoption services.</p> <p>Kindly make reference to Standard 2: Preparation and Support for Adoptive Parents of the Social Regulatory Standards: Adoption of Children</p>
16.	<p>In setting up post-adoption services in your State, were the voices of adoptees considered?</p> <p><input type="checkbox"/> Yes. Please specify in what way their voices were considered:</p> <p>The Social Care Standards Authority as the designated Malta Central Authority applies the concept of service-user involvement in its strategic objectives as the regulating authority for social welfare services in Malta.</p> <p>Through research projects and quality assurance of service provision, the Authority also envisages the setting up of a Service-user Advisory Group , that would include the voice of adoptees, whereby service users would advise and assist in the work of the Social Care Standards Authority.</p> <p><input checked="" type="checkbox"/> No.</p>
17.	<p>Has research been carried out in your State in the past five years assessing post-adoption services?</p> <p><input checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p> <p>The State has launched the "National Adoption Strategy for Children and their Families 2019-2022" .</p> <p>Click here to access link to the document: https://scsa.gov.mt/en/Documents/Publications/Adoptions/SCSA%20Adoption%20ENG.pdf</p> <p><input type="checkbox"/> No.</p>

Receiving States only

18.	<p>Please specify any challenges your State encounters in ensuring that adequate support is in place for adoptees and the adoptive family following an intercountry adoption, including where parents have adopted a child with special needs. Please also share any good practices your State has developed to overcome such challenges.⁴</p> <p>Our State has not encountered any specific challenges, however, adoptive families who adopted a child with special needs have support services and benefits provided by the Maltese government which they can avail themselves of.</p>
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1.3. Post-adoption reports

Receiving States only

19.	<p>Does the preparation of PAPs in your State include the provision of information on post-adoption report requirements of the State where the PAPs (would like to) adopt?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response:</p>
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⁴ If applicable, you may wish to refer to your State's response to Question 17 of "[Prel. Doc. No 2 of October 2014 - Questionnaire No 2 on the practical operation of the 1993 Hague Intercountry Adoption Convention](#)" (hereinafter "[2014 Questionnaire](#)").

	<p>PAPS are given an information package by the Accredited Agencies when they start their training. Kindly refer to Annex 5 of the Social Regulatory Standards Guidelines.</p> <p><input type="checkbox"/> No. Please specify when and how PAPS are otherwise informed: Please insert text here</p>
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Both States of origin and receiving States

20.	<p>Has your State encountered situations where the adopted child refused or objected to the obligation to comply with the post-adoption report requirements?</p> <p><input type="checkbox"/> Yes. Please specify the types of situations and what action your State has taken to address this type of situation: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
21.	<p>What has been your State's recent experience regarding post-adoption reports? Please provide details of any challenges and / or good practices in this regard.</p> <p>Malta's recent experience regarding post-adoption report is the following:</p> <ul style="list-style-type: none"> - In some cases, parents are hesitant and do not understand the importance of the post-adoption reports even though this would have been explained to them before and during the adoption process; & Before an adoption is completed, parents are very collaborative but once the adoption is concluded, in some cases, it is very difficult to make contact with these parents and obviously more difficult to do the post-adoption reports. - In a particular country, post-adoption reports are written by the adoptive parents themselves and the adoption agency must rely solely on them. Moreover, the agency usually has to remind consistently some adoptive parents to provide such report. - Some sending countries do not reply to email which the Adoptive Agencies send and neither acknowledge the receipt of such post-adoption reports. - Some sending countries change their contact details without informing the receiving country and therefore post-adoption reports are returned back to the Adoption Agencies of the receiving country. <p>Good practices in this regards may be the following:</p> <ul style="list-style-type: none"> - There are no specific requirements which should be included in post-adoption reports listed by the Hague Convention so every country makes its own requirements. As a good practice, there should be a specific format of post-adoption reports that each country should follow as the basics and then the specific country can add more requirements; - Some good practices by sending countries including replying to emails and follow up on cases, and organising online meetings to support Adoptive parents. - Another good practice includes a common and secure IT platform which is used by different countries through the Hague.

1.4. Adoption breakdowns

Both States of origin and receiving States

22. If your State has had any experience regarding **intercountry adoptions which have broken down**, please specify:⁵
- (a) what have been the main **causes** of the breakdowns;⁶
- Please insert text here
- (b) how your State **has addressed** these situations and whether your State has any good practices to share in this regard;⁷
- In case of such situations, these are addressed by making use of all the available local resources to support the children and the families.
- (c) what **support** is available for the adoptee and the adoptive family to prevent and / or respond to the breakdown of intercountry adoptions;
- The management of the Accredited Agencies offers that adoptive parents Psycho-social support services, support groups, parental skills programmes and family counselling services.
- (d) whether your State has developed any good practices to ensure that **Recommendation No 19⁸** of the 2015 Special Commission is implemented:
- Yes. Please specify any good practices developed in this regard:
- There has been an improvement in the preparatory courses which has been updated with new realities and experiences so the the prospective adoptive parents would be better prepared to face any challenges.
- No. Please specify any reasons:
- Please insert text here
- (e) whether your State has experienced breakdown cases in which it was determined that it was in the child's best interests to **return** to the State of origin, and if so, what the situations were and how they were handled;
- (f) **how many** cases of breakdown in intercountry adoptions have been reported in your State between 2015 and the present date;
- Please insert text here
- (g) how many of these cases included a **new placement** (e.g., foster care, new adoption) for the child;
- Please insert text here
- (h) how many cases of breakdowns were intercountry adoptions done (a) under the **1993 Adoption Convention** ; and (b) outside of the Convention (i.e., prior to the entry into force of the Convention in your State or with non-State Party);

⁵ If the Central Authority in your State is not informed about this information because it relates to a child protection measure which is a different department / institution than the Central Authority, we would be grateful if you could request this information from the relevant authorities in your State.

⁶ If applicable, you may wish to refer to your State's response to Question 18(a) of the [2014 Questionnaire](#).

⁷ If applicable, you may wish to refer to your State's response to Question 18(b) of the [2014 Questionnaire](#).

⁸ C&R No 19 of the 2015 SC:

"The SC recognised that appropriate evaluations, preparation, reports, matching and post-adoption support, in relation to both the child and prospective adoptive parents, will reduce the risk of the breakdown of intercountry adoptions."

No such cases.

- (i) in line with **Recommendation No 20**⁹ of the 2015 Special Commission, whether your State has applied the **1996 Child Protection Convention** to enhance cooperation between States of origin and receiving States in cases of breakdown, and if so, please explain.

Malta did ratify the 1996 Child Protection Convention. however, it was not applied in cases of breakdown.

Receiving States only

23.	<p>Is your State's Central Authority informed and involved / consulted when an intercountry adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response: To date, Malta Central Authority has never had an intercountry adoption break down.</p> <p><input type="checkbox"/> No. Please specify whether the staff of the child protection services include workers specialised in adoption: Please insert text here</p>
24.	<p>Do your State's authorities consult with the Central Authority of the child's State of origin:</p> <p>(a) if an adoption breaks down?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: When there is a possibility of an adoption break down, the Malta Central Authority consults with the Central Authority of the child's State of Origin to consult and communicate with each other for the best way forward and in the best interest of the child concerned to try and avoid such breaks down.</p> <p><input type="checkbox"/> No.</p> <p>(b) before determining a new placement for the child?</p> <p><input checked="" type="checkbox"/> Yes. Please describe the type of cooperation: The Malta CA discusses with the Central Authority of the child's state of origin, however, the final decision of the new place is left in the hands of the CA of the Child's State of Origin.</p> <p><input type="checkbox"/> No.</p>

States of origin only

25.	<p>Is your State's Central Authority (or other competent authority) informed or involved / consulted by the competent authorities of the child's receiving State:</p> <p>(a) if an adoption breaks down?</p> <p><input type="checkbox"/> Yes. Please describe the type of cooperation: N/A for Malta</p> <p><input type="checkbox"/> No.</p>
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⁹ C&R No 20 of the 2015 SC:

"The SC encouraged States to consider ratification of, or accession to, the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children* (hereinafter, "the 1996 Hague Convention") in view of its relevance in enhancing cooperation to protect children in many different situations, including following the breakdown of intercountry adoptions."

	<p>(b) before determining a new placement for the child?</p> <p><input type="checkbox"/> Yes. Please describe the type of cooperation: N/A for Malta</p> <p><input type="checkbox"/> No.</p>
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1.5. Other post-adoption matters

States of origin only

26.	<p>Are adoptees, who did not retain the nationality of their State of origin, permitted to regain it at a later stage?</p> <p><input type="checkbox"/> Yes. Please specify the conditions to regain nationality: N/A for Malta</p> <p><input type="checkbox"/> No. Please explain your response: N/A</p>
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Both States of origin and receiving States

27.	<p>Has your State encountered situations where adoptees have sought to regain the nationality of their State of origin?</p> <p><input type="checkbox"/> Yes. Please specify the situations and how they were handled: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
28.	<p>Please give the reasons, if any, why your State would or would not support the development of a Guide to Good Practice on post-adoption.</p> <p>Malta and the Malta CA would fully support the deveoplemnt of a Guide to Good Practice on post-adoption.</p>

2. PREVENTING AND ADDRESSING ILLICIT PRACTICES

Both States of origin and receiving States

29.	<p>Have illicit practices in intercountry adoption been discovered since 2015 in your State?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) the type of illicit practices which were discovered; Please insert text here</p> <p>(b) when the illicit practices were discovered (<i>i.e.</i>, during or after the adoption procedure); Please insert text here</p> <p>(c) whether the illicit practices were done under or outside the scope of the 1993 Adoption Convention; Please insert text here</p> <p>(d) how your State handled these situations; Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
	<p>Please specify any good practices of your State to prevent and address illicit practices.</p>

30.	<p>The Maltese Civil Code (Articles 128, 128A-128F) provides for the prohibition of certain payments, publication, false statements, impersonation/false representation, false documents, use of force and removal of child. Any person who contravenes the provisions of these articles shall, on conviction, be guilty of an offence and be liable for imprisonment or to a fine. Thus, these provisions of law are addressing illicit practices.</p> <p>A good practice which Malta is promoting is an IT system through blockchain which will be common to all Hague countries.</p>
31.	<p>Is it possible in your State to annul an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has jurisdiction to do so; The Civil Court (Voluntary Jurisdiction Section) since it is the same Court that issues the adoption decree under Article 130(3)(a) of the Civil Code, Chapter 16 of the Laws of Malta.</p> <p>(b) who can request the annulment (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Maltese Law does not specify and is silent on the matter.</p> <p>(c) the grounds upon which this may be done; On the ground that the adoption order has been annulled by the competent court or other authority which issued it. Kindly refer to Article 130(3)(c) of the Civil Code.</p> <p>(d) whether there is an age limit for the annulment of an adoption; Maltese Law does not specify an age limit.</p> <p>(e) the procedure involved; According to Article 130(3), the court would exercise its power to annul an intercountry adoption on an application for that purpose, or else in the exercise of its powers.</p> <p>(f) the number of intercountry adoptions which are on average annulled per year. N/A</p> <p><input type="checkbox"/> No.</p>
32.	<p>Is it possible in your State to revoke an intercountry adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has the jurisdiction to do so; The authority which has jurisdiction to do so is the Civil Court (Voluntary Jurisdiction Section), since it is this same court that issues the decree under Art. 130(3)(a).</p> <p>(b) who can request the revocation (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Maltese Law does not specify and is silent on the matter.</p> <p>(c) the grounds upon which this is done; The intercountry adoption may be revoked where the said adoption was revoked by the competent court or other authority of the order whereby the intercountry adoption was effected (Article 130(3)(c) Civil Code). Given that in respect of intercountry adoptions, the court has all such powers as it has in respect of an adoption under the civil code Article 130(3). It may also be revoked, where this would be in the best interests of the child, where a person has been found guilty of the offence under Article 128 Civil Code.</p> <p>(d) whether there is an age limit for the revocation of the adoption;</p>

	<p>Maltese law does not specify any age limit.</p> <p>(e) the procedure involved;</p> <p>According to Article 130(3), the court would exercise its power to annul an intercountry adoption on an application for that purpose, or else in the exercise of its powers.</p> <p>(f) the number of intercountry adoptions which are on average revoked per year.</p> <p>N/A</p> <p><input type="checkbox"/> No.</p>
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3. INTRAFAMILY ADOPTIONS

In this Questionnaire, an “intrafamily adoption” is one in which the adoptive parent(s) are either **relatives** of the child (e.g., an aunt, a grandparent, a cousin) or a **stepparent** of the child. These adoptions are respectively referred to as “relative adoptions” and “stepparent adoptions.” The Convention applies to all intrafamily adoptions.¹⁰

3.1. General questions for intrafamily adoptions (i.e., relative and stepparent adoptions)

Both States of origin and receiving States

33.	<p>In your State, which authority is in charge of intrafamily adoptions?</p> <p><input checked="" type="checkbox"/> The Central Authority.</p> <p><input type="checkbox"/> Another competent authority. Please specify which authority and the reasons for designating a different authority:</p> <p>Please insert text here</p>
34.	<p>Has your State developed any good practices to ensure that Recommendation No 32¹¹ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>In order to ensure that Recommendation No. 32 is implemented, PAs for intrafamily adoptions must follow all and the same procedures which are undertaken and followed by PAs for intercountry adoptions. In this respect, no distinction is made with respect to PAs for intrafamily adoption and PAs for intercountry adoptions.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p> <p>Please insert text here</p>
35.	<p>Are there specific guidelines or procedures for intrafamily adoptions in your State?</p> <p><input type="checkbox"/> Yes. Please provide a link or attach a copy with your response:</p>

¹⁰ See Permanent Bureau of the Hague Conference on Private International Law, [Guide to Good Practice No 1: The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention](#), Bristol, Family Law (Jordan Publishing Limited), 2008 (hereinafter, “[Guide to Good Practice No 1](#)”), sections 8.6.4 and 8.6.5.

¹¹ C&R No 32 of the 2015 SC:

“In relation to in-family adoption, the SC:

- a. recalled that in-family adoptions **fall within the scope** of the Convention;
- b. recalled the need to respect the **safeguards** of the Convention, in particular to **counsel** and **prepare** the prospective adoptive parents;
- c. recognised that the **matching** process might be **adapted** to the specific features of in-family adoptions;
- d. recommended that the **motivations** of all parties should be **examined** to determine whether the child is genuinely **in need of adoption**;
- e. recognised that it is necessary to undertake an **individualised assessment of each child’s situation** and it should **not** be **automatically assumed** that either an in-country or in-family placement is in a child’s best interests” [emphasis added].

	<p>Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
36.	<p>Has your State encountered any particular difficulties with adoptability decisions in the context of intrafamily adoptions?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the situations and how they were handled:¹²</p> <p>The difficulties with adoptability decisions were in relation to civil union partners PAPs whose civil union is legally recognised in Malta but unfortunately their union is not recognised from the State of Origin from where they wanted to make the intrafamily adoption. Hence they were not allowed to adopt.</p> <p><input type="checkbox"/> No.</p>
37.	<p>In your State, does the termination of the pre-existing legal relationship affect only the child and his or her mother and father, or does it also affect the other members of the family (see Art. 26(1)(c) of the Convention)?</p> <p><input type="checkbox"/> It only affects the child and his or her mother and father.</p> <p><input checked="" type="checkbox"/> It affects the child and his or her mother and father, but also the other members of the family.</p> <p><input type="checkbox"/> Other. Please explain your response:</p> <p>Please insert text here</p>
38.	<p>Has your State encountered cases of breakdown in intrafamily intercountry adoptions?</p> <p><input type="checkbox"/> Yes. Please provide information on (a) the number of breakdowns; (b) the causes of the breakdowns; and (c) the ways your State addresses(ed) them:</p> <p>Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
39.	<p>In the context of intrafamily intercountry adoptions, does your State cooperate with States with which it normally does not cooperate?</p> <p><input checked="" type="checkbox"/> Yes. Please specify any challenges your State encounters and share any good practices your State may have developed in this regard:</p> <p>The challenge which Malta encounters is with respect to conflicting laws between the two States. For example some states do not recognise civil unions between same sex couples whilst such civil unions are recognised by Maltese law.</p> <p><input type="checkbox"/> No.</p>

States of origin only

40.	<p>In your State, is the subsidiarity principle applied in the same manner to intrafamily intercountry adoptions?</p> <p><input type="checkbox"/> Yes.</p> <p><input type="checkbox"/> No. Please describe any different procedures used and explain the reasons for these different procedures:¹³</p> <p>N/A</p>
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¹² If applicable, you may wish to refer to your State's response to Question 3(b) of the [2014 Questionnaire](#).

¹³ If applicable, you may wish to refer to your State's response to Question 33(i) of the [2014 Questionnaire](#).

41.	<p>Is intrafamily adoption used frequently to protect children within the extended family and / or are there other child protection measures (<i>e.g.</i>, kinship care, foster care) that your State applies to protect children within the extended family?</p> <p><input type="checkbox"/> Intrafamily adoption is used frequently. Please explain your response: N/A</p> <p><input type="checkbox"/> Other child protection measures are applied. Please specify:</p> <p>(a) which other child protection measures are applied to protect children within the extended family: N/A</p> <p>(b) if your State is a Party to the 1996 Child Protection Convention, whether your State applies that Convention to give effect to these other child protection measures in other Contracting States: N/A</p>
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3.2. Stepparent adoptions

Both States of origin and receiving States

42.	<p>Does your State apply the 1993 Adoption Convention to stepparent intercountry adoptions?</p> <p><input checked="" type="checkbox"/> Yes.</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</p>
43.	<p>What is the profile of children who are adopted intercountry by a stepparent, either in your State or in the State with which your State cooperates?</p> <p>Any child or children under eighteen (18) years of age.</p>
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions: Malta has encountered no challenges in this regard.</p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges: Malta adopts the same good practices as those of inter-country adoptions.</p>

3.3. Intrafamily adoptions and circumvention of immigration laws

Both States of origin and receiving States

45.	<p>Has your State encountered situations where intrafamily adoptions were sought / used to circumvent immigration laws?</p> <p><input type="checkbox"/> Yes. Please specify what the situations were and how your State addressed these situations: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
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4. DETERMINING THE CHILD'S HABITUAL RESIDENCE WHEN THE MOTHER MOVES TO ANOTHER STATE SHORTLY BEFORE GIVING BIRTH

Scenario: A pregnant woman, habitually resident in one State (State A), travels to another State (State B) where she gives birth to her child and relinquishes her newborn child for adoption in that other State (i.e., State B).

Both States of origin and receiving States

46.	<p>If your State has been involved in situation(s) similar to the above-described scenario:</p> <p>(a) was your State the State of habitual residence of the mother (State A), the State of birth of the child (State B), or another State? N/A</p> <p>(b) how was the child's habitual residence determined? Which factors were considered? N/A</p> <p>(c) if adoption was considered the best option for the child, did your State determine it as being a domestic adoption or an intercountry adoption? N/A</p> <p>(d) what challenges did your State face in dealing with such situation(s)? N/A</p> <p>(e) if your State was the State where the child was born, was contact sought with the State of habitual residence of the mother? Was there any cooperation between the concerned States? N/A</p>
47.	<p>If there is a risk that the situation described above involves a case of human trafficking, would this be considered by your State when determining the child's habitual residence?</p> <p><input checked="" type="checkbox"/> Yes. Please explain your response: As to date, Malta has not had these types of situations. If such situation is encountered, the Malta Central Authority alerts the respective authorities responsible for such situations such as the Maltese Child Protection Services and the Malta Police Force amongst others. The 1996 Child Protection Convention would be applied where possible.</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</p>
48.	<p>Which actions would your State take to address the case where both your State and the other State:</p> <p>(a) would determine the child's habitual residence to be in their State? A child habitual residence is determined according to the habitual residence and citizenship of his parents</p> <p>(b) would determine the child's habitual residence not to be in their State? Please insert text here</p>

5. SIMPLE AND OPEN ADOPTIONS

Both States of origin and receiving States

5.1. Simple adoptions

A simple adoption is one in which the parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his or her adoptive parents is established, and these adoptive parents have parental responsibility for the child.¹⁴

49.	<p>Has your State changed its legislation, rules or practices in recent years regarding simple intercountry adoption?</p> <p><input type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
50.	<p>What is the profile of children for whom a simple intercountry adoption is made, either in your State or in the State(s) with which your State cooperates?</p> <p>There is no profile of children for whom a simple intercountry adoption is made</p>
51.	<p>If your State permits both full and simple adoption, are simple adoptions encouraged / promoted?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please explain your response: Malta encourages the birth mother to keep the responsibility of the child, however, in cases when this is not possible, adoption of the child is encouraged.</p>
52.	<p>Has your State faced any problems regarding seeking the birth mother / family's consent to convert a simple adoption into a full adoption in the State of origin (Art. 27 of the Convention)?</p> <p><input type="checkbox"/> Yes. Please specify the situations which have arisen and how your State has dealt with these situations: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions: Malta encounters no particular challenges.</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges: .</p>

5.2. Open adoptions / openness in adoption

54.	<p>Does the terms "open adoption", "openness in adoption" or similar concepts exist in your State?¹⁵</p> <p><input checked="" type="checkbox"/> Yes. Please specify: (a) how it is defined; (b) whether it is provided by law, regulation or only in practice; and (c) whether it is promoted in your State: a) Article 2 of the Adoption Administration Act, Chapter 495 of the Laws of Malta defines "Open Adoption" as an adoption made in accordance with Article 22 of this Act and Article</p>
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¹⁴ See [Guide to Good Practice No 1](#), Glossary.

¹⁵ If applicable, you may wish to refer to your State's response to Questions 19 and 20 of the [2014 Questionnaire](#).

	<p>119 of the Civil Code whereby a child maintains contact with his parents and, or natural family.</p> <p>b) Yes see paragraph a above</p> <p>c) No it is not promoted</p> <p><input type="checkbox"/> No. Please explain what is understood in your State by the terms “open adoption”, “openness in adoption” or similar concepts: Please insert text here</p>
55.	<p>Has your State changed its legislation, rules or practices in recent years regarding open or openness in intercountry adoption?</p> <p><input type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes:</p> <p><input checked="" type="checkbox"/> No.</p>
56.	<p>Has your State developed any good practices to ensure that Recommendation No 31¹⁶ of the 2015 Special Commission is implemented?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>For local open adoptions, the Accredited Agency shall draw up an agreement of open adoption, either directly or through a family mediator, after hearing the child and obtaining the consent of the parents and the prospective adoptive parents.</p> <p>When children are involved in local open adoptions, open adoption agreements should include the type of contact to be established after the adoption between the children and the birth family.</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</p>
57.	<p>(a) What is the profile of children for whom an open intercountry adoption is made, either in your State or in the State(s) with which your State cooperates?</p> <p>(b) Does your State have a specific approach depending on the profile of these children?</p> <p><input type="checkbox"/> Yes. Please specify these different approaches: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
58.	<p>Does your State provide professional support or services to birth families (in the case of States of origin) or adoptive families (in the case of receiving States) and adoptees in open adoptions (e.g., support for contact agreements, supervising contact after adoption)?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the support / services provided and any challenges and / or good practices in this regard:</p>

¹⁶ C&R No 31 of the 2015 SC:

“The SC noted that, where not prohibited by domestic legislation, and after professional matching, **contact between the adoptee and biological family** in intercountry adoption may be **beneficial** in some cases. In order to maximise the benefits and minimise the risks of such contact, professional support should be offered to prepare the parties, as well as to assist them during and after contact. The adopted child’s best interests should guide the nature of this contact, considering his or her wishes” [emphasis added].

	<p>The Accredited Agencies provide support to birth families and assist them about their rights and the adoption process</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</p>
59.	<p>Has your State encountered situations where adoptees, adoptive parents and / or birth parents wanted to change the frequency or the method of contact between them after the adoption?</p> <p><input checked="" type="checkbox"/> Yes. Please specify what action was taken in response: When such change is requested, co-ordination takes place between the person involved to establish method of contact in the best interest of the child.</p> <p><input type="checkbox"/> No.</p>
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions:</p> <p>(b) Please specify any good practices of your State with regard to open adoptions, including those for overcoming any challenges: Kindly refer to the below document in relation to good practices by Malta with regard to open adoptions: Click here to access the document: https://scsa.gov.mt/en/Documents/Publications/Adoptions/Adoption%20for%20Children%20-%20EN.pdf</p>

6. NON-CONSENSUAL ADOPTIONS

In this Questionnaire, non-consensual adoption refers to the adoption of children whose birth parents have been deprived of parental responsibility by a competent authority but nonetheless disagree with the adoption. It does not intend to cover adoption where consent of the birth parents is required but not sought (such adoptions would fall under the category of illegal adoption), or where consent of the birth parents cannot be sought (e.g., they are deceased or unknown).

States of origin only

61.	<p>What are the circumstances in your State in which a parent can lose his or her parental responsibility?</p> <p>N/A for Malta</p>
62.	<p>Does your State permit the adoption of children whose birth parents have been deprived of parental responsibility?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) whether the consent of the birth parents who have lost their parental responsibility is <u>still</u> required?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</p> <p>(b) how your State ensure that the principle of subsidiarity is respected. Please also specify whether measures to support the birth family's reunification and alternative care options (e.g., long-term foster care, kinship care) are considered prior to making the decision of non-consensual adoption.</p>

	<p>Please insert text here</p> <p>(c) what is the procedure applicable to such non-consensual adoptions (<i>e.g.</i>: how the child is declared adoptable; if the birth parents are given notice of the procedure; if the birth parents can contest).</p> <p>Please insert text here</p> <p><input type="checkbox"/> No. Please explain your response: N/A</p>
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Receiving States only

63.	<p>Has your State encountered situations in which the birth parents in the State of origin contested a non-consensual intercountry adoption when the child was already in the receiving State?</p> <p><input type="checkbox"/> Yes. Please specify what actions, if any, your State has taken to deal with these situations: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
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Both States of origin and receiving States

64.	<p>What is the profile of children for whom a non-consensual intercountry adoption is made, either in your State or in the State(s) with which your State cooperates?</p> <p>N/A</p>
65.	<p>(a) Please specify any challenges your State encounters with non-consensual adoptions: N/A</p> <p>(b) Please specify any good practices of your State regarding non-consensual adoptions, including those for overcoming any challenges: N/A</p>

7. CONTACT BETWEEN THE PAPs AND THE CHILD BEFORE MATCHING

Both States of origin and receiving States

7.1. General questions

66.	<p>Does your State prohibit any contact between the child and the PAPs before matching?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify:</p> <p>(a) in which circumstances such contact is permitted; PAPs do not have contact with the child before the adoption is finalised. Any contact with the child is done through the Accredited Agency. However, with respect to a particular country, PAPs have 6 months of pre-adoption period whereby the child is living with the PAPs and it is after the lapse of such periodm that the PAPs finalise the adoption.</p> <p>(b) the experience of your State with regard to such contact. Contact prior to adoption is solely limited to the sending of videos and dossiers through the Accredited Agencies and Central Authorities to the Receiving States,</p>
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7.2. Summer camps / hosting programmes

In this Questionnaire, the “summer camps” practice is when adoptable children and PAPs attend an event (usually a camp) in the PAPs’ State of residence (i.e., receiving State) or in the State of origin, usually for a period of several weeks. The hope is that the PAPs will want to apply to adopt one or more of the children they have spent time with during this event.

“Hosting programmes” (including “respite care” programmes for children who go abroad to improve their physical and psychological well-being) are when adoptable children are hosted by families living abroad, usually for a period of several weeks, sometimes with the hope that the families will wish to adopt them after the hosting.

67.	<p>Is your State involved in summer camps / hosting programmes for children?¹⁷</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) whether such programmes specifically aim to be a precursor to adoption for some children (e.g., for children with special needs):</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p> <p>(b) whether such programmes have, in fact, resulted in the adoption of children:</p> <p><input type="checkbox"/> Yes. Please specify the percentage of children involved in the programmes that are adopted: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p> <p>(c) where a child is adopted following such a programme, how is it ensured that the safeguards of the 1993 Adoption Convention have been respected (bearing in mind that it is likely that the child remains “habitually resident” in his or her State of origin and thus the adoption would fall within the scope of the Convention under Art. 2)? Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
68.	<p>If your State is involved in summer camps / hosting programmes specifically aimed at the adoption of some children, please specify:</p> <p>(a) whether the children benefiting from these programmes must have been declared adoptable before they can be part of such programmes; N/A</p> <p>(b) whether the PAPs participating in such programmes must have been declared eligible and suitable to adopt to be allowed to take part in such programmes; N/A</p> <p>(c) how the PAPs and children are selected to participate in such programmes, and whether a selection is made in cooperation with the other State; N/A</p> <p>(d) how the children are prepared for such programmes; N/A</p>

¹⁷ Regarding respite care, if applicable, you may wish to refer to your State's response to Question 54 of the [2014 Questionnaire](#).

	<p>(e) what are the effects on and the feedback from the children who participated in such programmes but were not adopted; N/A</p> <p>(f) whether there have been situations where the adoption broke down after the child was adopted following participation in such programmes; N/A</p> <p>(g) if the PAPs wish to adopt the child, whether it is possible for the child to remain in the receiving State or whether he or she must return to the State of origin before the adoption procedure can be initiated; N/A</p> <p>(h) who finances such programmes; N/A</p> <p>(i) what is the experience of your State with these practices (<i>i.e.</i>, challenges and any potential benefits). N/A</p>
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7.3. Voluntourism

In this Questionnaire, "voluntourism" refers to the practice of an individual travelling to another State to volunteer in that State. One common practice is to travel to volunteer in a children's institution. In these situations, some volunteers may subsequently wish to adopt one or more children from the child institution in which they were volunteering.

69.	<p>Has your State experienced situations where "voluntourists" commenced an adoption procedure to adopt a child from the children's institution in which they volunteered?</p> <p><input type="checkbox"/> Yes. Please specify how your State handled these situations and any difficulties these situations may have caused: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
70.	<p>Has your State taken any action to prohibit, regulate or to otherwise add safeguards to the practice of "voluntourism"?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please explain your response: Please insert text here</p>

7.4. Adoption of children already under the care of PAPs

71.	<p>If your State is aware of situations where PAPs have adopted or wished to adopt a child who was already under their care in the State of origin (<i>e.g.</i>, as part of a foster care placement,</p>
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	<p>kinship care, “<i>niño puesto</i>”,¹⁸ or a more informal arrangement such as temporary care by neighbours or within a community), please specify:¹⁹</p> <p>(a) whether the child had already been declared adoptable before the PAPs’ adoption application was submitted;</p> <p>Yes the child has to be already declared adoptable and freed for adoption before PAPs' adoption application was submitted. The Court may on application of the Accredited Agency decree that a child under a care order be freed for adoption.</p> <p>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt;</p> <p>PAPs were decalared eligible and suitable to adopt when they submit their adoption application to the Adoption Board. It is such Board which declared the eligibility and suitability of the PAPs.</p> <p>(c) what the profile of these children was;</p> <p>Child must be under the age of eighteen</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected;</p> <p>In accordance with Article 24(4) of Chapter 569 (Child Protection (Alternative Care) Act, Before making a decree freeing the child in care for adoption, the court shall: (a) hear and ascertain the views and wishes of the child, if considered as having sufficient understanding; (b) hear any person who has been entrusted with the care and custody of the child to be freed for adoption; (c) hear the parents of such child; (d) hear the Children’s Advocate, the key social worker and any such other person, whom it deems relevant; (e) take into account whether the freeing for adoption would be in the best interests of the child; (f) take into account whether there are any reasonable prospects for the parents to become able to care for the child; and (g) take into account the consent of the parents to the freeing for the adoption: Provided that the absence of consent of the parents shall not, of itself, be a bar to the freeing of the child for adoption.</p> <p>(e) your State's experience with such adoptions.</p> <p>Usual Adoption procedures.</p>
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8. USE OF NEW TECHNOLOGIES

Both States of origin and receiving States

72.	<p>Has your State changed its practices recently to integrate new technologies into work processes (e.g., blockchain to facilitate transmission and access to data)?</p> <p><input checked="" type="checkbox"/> Yes. Please specify (a) what the experiences of your State are in this regard (i.e., benefits and challenges) and (b) how your State take into account data protection in this context:</p> <p>The Social Care Standards Authority has completed a Concept Paper on the Implementation of Blockchain technology in the International and National adoption of Children.</p> <p>Its contents include:</p> <p>1) Persistent issued in the adoption sector</p>
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¹⁸ “*Niño puesto*” refers to a practice in some Latin American States where persons who already have care of a child request to adopt even if the child has not yet been declared adoptable nor have the persons been declared eligible and suitable to adopt.

¹⁹ Regarding foster care, if applicable, you may wish to refer to your State's response to Question 55 of the [2014 Questionnaire](#).

	<p>2) How blockchain technology can tackle the persistent challenges of the adoption field</p> <p>3) How does blockchain fit within SCSA strategic vision and Malta's national artificial intelligence strategy</p> <p>4) Budget and timeframe</p> <p>It is expected to start implementation as from June 2021.</p> <p>For more information contact the Malta Central Authority.</p> <p><input type="checkbox"/> No.</p>
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9. STATISTICS

Both States of origin and receiving States

73.	<p>Please specify the number of intercountry adoptions per year (between 2015 and the present date) involving your State that are:</p> <p>(a) relative adoptions (<i>i.e.</i>, excluding stepparent adoptions);²⁰</p> <p style="padding-left: 20px;">2018 - 1</p> <p style="padding-left: 20px;">2019 - 1</p> <p>(b) stepparent adoptions;</p> <p>(c) simple adoptions;</p> <p style="padding-left: 20px;">Please insert text here</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and</p> <p style="padding-left: 20px;">Not available</p> <p>(e) non-consensual adoptions.</p> <p style="padding-left: 20px;">N/A</p>
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10. OTHER MATTERS

74.	<p>Please specify any other comments your State wishes to make concerning the implementation and / or operation of the 1993 Adoption Convention.</p> <p>Specimen forms related to particular Articles</p> <p>Good practices on post adoption services</p> <p>Guidelines to good practice on the use of social media</p>
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²⁰ For receiving States, you may wish to refer to your State's response to the HCCH [Annual Adoption Statistics Form](#).