

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

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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: Database at the Federal Office of Justice for adoptions mediated by AABs and CAs</p> <p><input type="checkbox"/> No. Please specify where the information is stored: Please insert text here</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 type="checkbox"/> Yes. Please provide its name and explain the services provided: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify how the search for the origins is handled: There is no specialized program but adoptees have the legal right to get the information regarding their personal history and adoption proceedings from the files of the AAB or CA. Files of AABs that have terminated their work or had been closed down have to be kept in the archive of the CA that had licensed and supervised the particular AAB (for a period of 100 years starting from birth of the adoptee).</p> <p>CAs and AABs offer counselling and support in case an adoptee wishes to look at the file. They also provide additional information - if available - in order to pursue further investigations by the adoptee in the country of origin. In some cases "letters of introducing" to the CA of the country of origin are sent by the German CA to support the request of the adoptee.</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 type="checkbox"/> Yes. Please specify the good practices developed in that regard: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify any reasons: Counselling and preparation of prospective adopters cover information on the importance of knowledge and transparency of origins and support of search for origins. There is no institutionalized or standardized program for professional support during adoptees' individual searches. Each AAB and each CA decides how to counsel and prepare PAPs on this matter.</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 (e.g., government, private companies, NGOs); In the field of adoption there is no legislation or regulation on DNA testing. Adoptees can use private companies. There is no information about whether, and if so, to which extent this happens.</p> <p>(b) where the data is stored, and whether it is stored by a public or private entity; N/A</p> <p>(c) the average cost of a DNA test in your State and whether any subsidy is available; There are no subsidies. Persons conceived by anonymous sperm donations use private DNA testing, e.g. Family Finder- https://www.familytreedna.com/products/family-finder . Costs range between US \$ 49 and US \$ 79.</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>a) During the placement decision additional information is asked for - with varying results. In many cases the information provided is very limited. Requests for more information are mostly not answered satisfactorily.</p> <p>b) In cases of a lack of information in archived files of former AABs CAs provide information on contact persons in the country of origin who might be able to help. Some adoptees use private offers for assistance in search for origins.</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>For example in cases of "private adoptions" without any authorized professional involvement when there are hints or evidence of illicit practices in the majority of the cases the adoption order obtained in the country of origin has possibly already been recognized and legitimized</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].

	by German courts - with reference to the best interest of the child - many years ago before search of origin started. Hence, in most cases the civil status of the adoptee has already been established. However, if there was a breach of German criminal law (e.g. human trafficking), criminal proceedings might be initiated.
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; No data available.</p> <p>(b) how many were not successful and what were the reasons. No data available.</p>
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 checked="" type="checkbox"/> Yes. Please specify the challenges and how your State addressed them: Yes, for example in India where information on the identity of biological parents is held confidential even though it might be known to the Indian AAB.</p> <p><input 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: In national adoptions, for example, the names of biological parents - in the majority of cases - are disclosed to the adoptees. Further information such as addresses is not revealed and would have to be found through private activities of adoptees. Generally adoption authorities assist in making contact by writing letters to inform the biological family/or adoptee about the wish for contact with or information about the other party. The decision as to whether and to which extent information or contact will be possible can be made by the person addressed.</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</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>See no. 10. Adoption authorities support such requests by contacting the adoptee/the adoptivefamily to pass on information - and vice versa.</p>

1.1.3. Guidelines and good practices

12.	<p>Has your State developed any guidelines (e.g., 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: By law, adoption files have to be kept 100 years starting from the day the adoptee was born. Upon application, in accordance with Section 9b Subsection 2 of the German Adoption Placement Act (Adoptionsvermittlungsgesetz), the child's legal representative and – if aged</p>
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16 or over – the child him/herself are to be guaranteed the opportunity to view the placement file under the guidance of a specialist, to the extent that the placement files deal with the child’s origins and life story, or other justified interests exist. The opportunity to view the file is to be refused if the considerations of an involved party outweigh and preclude the interests of the parties seeking to view the file.

No.

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: A draft on Amendments in Adoption Laws is currently going through the legislative procedures. It will establish a right to post adoption services for adoptees, and both adoptive and birth families.</p> <p><input type="checkbox"/> No. Please specify any reasons: 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 (<i>e.g.</i>, child and adult adoptees, birth families, adoptive families); Type of services: Counselling, meetings of adoptive families, some AABs offer journeys to country of origin. To whom: All parties involved - see no. 13.</p> <p>(b) who provides the services (<i>e.g.</i>, social welfare administration, school, health personnel); Local adoption/education authorities, free-lance professionals and AABs</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); In general, yes. In future, local adoption authorities that have conducted the home study will have to offer post-adoption services.</p> <p>(d) how, if there are different services, these various services are coordinated; In case placement was conducted by AAB and counselling is sought at social welfare administration there should be an agreement or it is up to the adoptive family whom they would like to address.</p> <p>(e) how the post-adoption services are financed (<i>e.g.</i>, the government funds its own services, the government funds Adoption Accredited Bodies (AAB) services, adoptees and their families pay for the services themselves, other); Government authorities provide services for free. AABs are not funded and charge for additional services.</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].

	(f) the length of time this support is available. There is no time limit.
15.	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. N/A
16.	In setting up post-adoption services in your State, were the voices of adoptees considered? <input type="checkbox"/> Yes. Please specify in what way their voices were considered: Not specifically, although the demands of adoptees have led to a better understanding of their needs. <input type="checkbox"/> No.
17.	Has research been carried out in your State in the past five years assessing post-adoption services? <input checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response: A comprehensive study on adoption practices was conducted between 2015 and 2019 by the "Expertise - und Forschungszentrum Adoption (EFZA – Adoption Expertise and Research Centre)". This study is available under www.dji.de/EFZA. Among other findings, a need for more post adoption services was identified. <input type="checkbox"/> No.

Receiving States only

18.	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 Challenges resulted from a lack of information about the health status of children before the adoption order. There were some cases with difficulties and replacement of children where later severe health issues (e.g. Fetal Alcohol Syndrome) came to light. The importance of comprehensive and reliable child reports must be emphasised.
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1.3. Post-adoption reportsReceiving States only

19.	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? <input checked="" type="checkbox"/> Yes. Please explain your response:
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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 informed about Post Adoption Requirements – generally, countries of origin demand confirmation from the adoption authority that reports will be sent.</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 checked="" type="checkbox"/> Yes. Please specify the types of situations and what action your State has taken to address this type of situation:</p> <p>No detailed cases known – just information that some adoptees feel intruded upon by continuing interviews on developments.</p> <p>In one case an older child, a girl (16 years old) no longer wanted photos of her to be sent with the post-adoption report to the authority of the State of Origin.</p> <p><input 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>Some adoptive families doubt that the reports will be read and evaluated in the countries of origin.</p> <p>If there were questions on the form and content of the post-adoption reports, which were sent to the competent authorities of different countries, until now there have never been any responses given.</p>

1.4. Adoption breakdowns

Both States of origin and receiving States

22.	<p>If your State has had any experience regarding intercountry adoptions which have broken down, please specify:⁵</p> <p>(a) what have been the main causes of the breakdowns;⁶</p> <ul style="list-style-type: none"> • Lack of reliable information on the personality and health situation of the child, • Acceptance of child referral after disregarding alarm bells felt when meeting the child in person. • Incorrect decision on the suitability of adoption applicants (e.g. regarding age and resilience). • Incorrect matching decision or incorrect decision regarding the approval of the child's proposal. <p>(b) how your State has addressed these situations and whether your State has any good practices to share in this regard;⁷</p>
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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](#).

In some cases adoption orders were revoked and new families were found for the children within Germany, in some cases children had to be placed in group homes because of their individual needs.

- (c) what **support** is available for the adoptee and the adoptive family to prevent and / or respond to the breakdown of intercountry adoptions;

Counselling, psychological support.

- (d) whether your State has developed any good practices to ensure that **Recommendation No 19**⁸ of the 2015 Special Commission is implemented:

Yes. Please specify any good practices developed in this regard:

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;

No reliable data. There were very few intra-family adoptions in which juvenile adoptees decided to return to the country of origin and biological parents/or former living situation.

- (f) **how many** cases of breakdown in intercountry adoptions have been reported in your State between 2015 and the present date;

No data available.

- (g) how many of these cases included a **new placement** (e.g., foster care, new adoption) for the child;

No data available. Generally after a breakdown a new placement is looked for, mostly new adoption - depending on the age of the adoptee and circumstances.

- (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);

No exact numbers available - though more breakdowns were noticed before the Hague Convention. Breakdowns before 2015 happened regarding placements from a) India, b) Haiti (before entering the Hague Convention), Ethiopia, Russia.

- (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.

Germany ratified the 1996 Hague Convention on 17.09.2010, EIF 01.01.2011.

Receiving States only

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."

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."

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: Competent CA of the Federal State of Germany where placement occurred and supervising CA of AAB.</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: Consultation and decision about further proceedings.</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: Consultation and information - see a)</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: Please insert text here</p> <p><input type="checkbox"/> No.</p> <p>(b) before determining a new placement for the child?</p> <p><input type="checkbox"/> Yes. Please describe the type of cooperation: Please insert text here</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: Please insert text here</p> <p><input type="checkbox"/> No. Please explain your response: Please insert text here</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: No data.</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>In favour of Guide to Good Practice in order to achieve general standards.</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 checked="" type="checkbox"/> Yes. Please specify:</p> <p>(a) the type of illicit practices which were discovered; - Circumvention of the 1993 Adoption Convention - Falsified papers - Legal rights of biological parents ignored</p> <p>(b) when the illicit practices were discovered (<i>i.e.</i>, during or after the adoption procedure); After the adoption procedure</p> <p>(c) whether the illicit practices were done under or outside the scope of the 1993 Adoption Convention; Illicite practices can be observed especially often in cases where the procedures of the 1993 Adoption Convention are not followed.</p> <p>(d) how your State handled these situations; Recognition of the foreign adoption may be denied; immigration of the child might not be possible.</p> <p><input type="checkbox"/> No.</p>
30.	<p>Please specify any good practices of your State to prevent and address illicit practices. PAPs are advised to turn to an AAB or a regional CA if they intend to adopt internationally. Non-governmental adoption agencies are under official supervision.</p>
31.	<p>Is it possible in your State to annul an intercountry adoption?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has jurisdiction to do so; Please insert text here</p> <p>(b) who can request the annulment (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Please insert text here</p> <p>(c) the grounds upon which this may be done; Please insert text here</p> <p>(d) whether there is an age limit for the annulment of an adoption;</p>

	<p>Please insert text here</p> <p>(e) the procedure involved; Please insert text here</p> <p>(f) the number of intercountry adoptions which are on average annulled per year. Please insert text here</p> <p><input checked="" 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; Family court</p> <p>(b) who can request the revocation (<i>e.g.</i>, adoptee, adoptive parents, birth parents); - Section 1760 German Civil Code (BGB): Cancellation for lack of declarations (1) The adoption relationship may, on application, be cancelled by the family court if it was created without an application of the adoptive parent, without the consent of the child or without the necessary consent of a parent.</p> <p>Section 1762 Entitlement to apply: (1) The only person who is entitled to apply is a person without whose application or consent the child was adopted. For a child that is incapable of contracting or not yet fourteen years old, and for the adoptive parent who is incapable of contracting, the application may be filed by the legal representatives. In addition, the application cannot be made through an agent. If the person entitled to file has restricted capacity to contract, the approval of his legal representative is not required.</p> <p>- Section 1763 German Civil Code (BGB): Cancellation by the court of its own motion (1) During the minority of the child, the family court may cancel the adoption relationship of its own motion if this is necessary for serious reasons for the best interests of the child. (2) If the child has been adopted by a married couple, the adoption relationship existing between the child and one spouse may also be cancelled. (3) The adoption relationship may only be cancelled a) if, in the case of subsection (2), the other spouse or if a natural parent is prepared to take on the care and upbringing of the child, and if the exercise of parental custody by that spouse would not be inconsistent with the best interests of the child or b) if the cancellation is intended to make it possible for the child to be adopted again.</p> <p>(c) the grounds upon which this is done; See above (b).</p> <p>(d) whether there is an age limit for the revocation of the adoption;</p>

	<p>In case of cancellation for lack of declarations the application may only be made within one year if less than three years have passed since the adoption. The court can cancel the adoption of its own motion until the child turns 18.</p> <p>(e) the procedure involved; The cancellation of an adoption follows proceedings in adoption matters under part 5 of the Act on Proceedings in Family Matters.</p> <p>(f) the number of intercountry adoptions which are on average revoked per year. N.N.</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 checked="" type="checkbox"/> Another competent authority. Please specify which authority and the reasons for designating a different authority: AABs</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: Intra-family adoptions are handled in a similar way to other placement under the Convention.</p> <p><input type="checkbox"/> No. Please specify any reasons: Please insert text here</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 infamily 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 infamily placement is in a child’s best interests” [emphasis added].

35.	<p>Are there specific guidelines or procedures for intrafamily adoptions in your State?</p> <p><input checked="" type="checkbox"/> Yes. Please provide a link or attach a copy with your response: Recommendations in Guidelines of CAs.</p> <p><input 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 See no. 34.- Different views in country of origin and receiving country. From the perspective of receiving countries better living conditions alone do not justify intercountry adoption.</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: Please insert text here</p>
38.	<p>Has your State encountered cases of breakdown in intrafamily intercountry adoptions?</p> <p><input checked="" 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: No exact data available - see no. 22 e).</p> <p><input 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: Adoptions from Non-Convention countries. Challenges: Establishing cooperation, coming to similar mutual standards (ethically, legally and in terms of defining purpose of adoption)</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>
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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](#).

	Please insert text here
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: Please insert text here</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: Please insert text here</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: Please insert text here</p>

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>Stepparent adoptions in the scope of the convention are rare because it is recommended to first establish a family in the “receiving country” before applying for adoption. In many cases applications for intercountry stepparent adoptions aim to circumvent obstacles to immigration.</p> <p>Profile of children varies.</p>
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions: Determination whether relationship is stable and reliable enough to ensure life-long commitment in the best interests of the child.</p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges: Please insert text here</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 checked="" type="checkbox"/> Yes. Please specify what the situations were and how your State addressed these situations:</p>
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	<p>If the adoption cannot be recognised in Germany, immigration is denied.</p> <p><input 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? State B - before the Hague Adoption Convention we saw quite a number of such cases.</p> <p>(b) how was the child's habitual residence determined? Which factors were considered? In case of circumvention of the Convention consultation with CA of the mother's country of residence, and the biological family.</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? In many cases it was considered a circumvention of the Hague Convention 1993 - after consultation with the CA of country of origin, in most cases the child stayed in Germany and adoption was completed by a German Family Court as a domestic adoption.</p> <p>(d) what challenges did your State face in dealing with such situation(s)? In most cases lack of assertiveness of local adoption authorities. Children were left with PAPs by the biological mother and youth authorities were resistant to removing the child from this situation.</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? Yes. Consultation and agreement on how to proceed.</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: If there is reliable evidence that it is a case of human trafficking - youth authorities will take action. Challenges: Obtaining proof.</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? Depends on options for the child. If there is an option of adequate placement in the country of origin, this should be considered. In practice: Usually children stay in country of birth = receiving country.</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>Depends on the law of the country where the adoption is granted. In Germany adoption laws only allow full adoption of minors.</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: Simple adoption only applies to adoption of adults, not of minors.</p>
52.	<p>Has your State faced any problems regarding seeking the birth mother / family's consent to a conversion in the State of origin (Art. 27 of the Convention)?</p> <p><input checked="" type="checkbox"/> Yes. Please specify the situations which have arisen and how your State has dealt with these situations: It is sometimes difficult to give proof before court that the birth mother/family consented to a conversion as there is no documentation available from the state of origin.</p> <p><input type="checkbox"/> No.</p>
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions: Full adoption has the effect of acquisition of German nationality by law. Simple adoption does not. Therefore, a conversion of the adoption into a full adoption according to German Law is pursued by nearly all adoptive families. This brings about challenges in verifying whether the consent of biological parents covers a full adoption, whether they have been counselled, informed and agree to irreversible termination of legal and personal relationship.</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges:</p>

¹⁴ See [Guide to Good Practice No 1](#), Glossary.

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: Yes – in practice but up to now not in legal terms. Openness depends on the willingness of adopters; no legal right for biological family.</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 checked="" type="checkbox"/> Yes. Please specify the changes made and the reasons for these changes: Draft of Amendments is going through the legislative procedure, though the changes only emphasize openness but do not pave the way for legal arrangements that would guarantee a right to information and/or contact. Parental rights of adopters determine the level of openness – if any.</p> <p><input 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 type="checkbox"/> Yes. Please specify the good practices developed in that regard: Please insert text here</p> <p><input checked="" 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? N/A</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>

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

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].

	<input checked="" type="checkbox"/> Yes. Please specify the support / services provided and any challenges and / or good practices in this regard: Information flow and contact is mediated by adoption professionals. <input type="checkbox"/> No. Please explain your response: Please insert text here
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> <input checked="" type="checkbox"/> Yes. Please specify what action was taken in response: Mostly adoptive families disrupted the flow of information or contact, but also in some cases biological mothers stopped responding <input type="checkbox"/> No.
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions: Please insert text here</p> <p>(b) Please specify any good practices of your State with regard to open adoptions, including those for overcoming any challenges: Please insert text here</p>

6. NON-CONSENSUAL ADOPTIONS

In this Questionnaire, non-consensual adoption refers to the adoption of children whose birth parents have lost parental responsibility 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> Please insert text here
62.	<p>Does your State permit the adoption of children whose birth parents have been deprived of parental responsibility?</p> <input type="checkbox"/> Yes. Please specify: <ul style="list-style-type: none"> (a) whether the consent of the birth parents who have lost their parental responsibility is <u>still</u> required? <ul style="list-style-type: none"> <input type="checkbox"/> Yes. Please explain your response: Please insert text here <input type="checkbox"/> No. Please explain your response: Please insert text here (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. Please insert text here

	<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:</p> <p>Please insert text here</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:</p> <p>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:</p> <p>If the right to be heard has been disregarded in foreign adoption proceedings, the adoption is against German ordre public and cannot be recognised.</p> <p>(b) Please specify any good practices of your State regarding non-consensual adoptions, including those for overcoming any challenges:</p> <p>Please insert text here</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 checked="" type="checkbox"/> Yes. Please explain your response:</p> <p>See Article 29 of the Hague Adoption Convention.</p> <p><input type="checkbox"/> No. Please specify:</p> <p>(a) in which circumstances such contact is permitted;</p> <p>Please insert text here</p> <p>(b) the experience of your State with regard to such contact.</p> <p>Difficult situation if bonding has already occurred between child and PAPs.</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 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 medical 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 checked="" 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:</p> <p><input 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 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 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; Please insert text here</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; Please insert text here</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; Please insert text here</p> <p>(d) how the children are prepared for such programmes; Please insert text here</p> <p>(e) what are the effects on and the feedback from the children who participated in such programmes but were not adopted; Please insert text here</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>(f) whether there have been situations where the adoption broke down after the child was adopted following participation in such programmes; Please insert text here</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; Please insert text here</p> <p>(h) who finances such programmes; Please insert text here</p> <p>(i) what is the experience of your State with these practices (<i>i.e.</i>, challenges and any potential benefits). Please insert text here</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 checked="" type="checkbox"/> Yes. Please specify how your State handled these situations and any difficulties these situations may have caused:</p> <p>Refusal of adoption proceedings when child is still in country of origin. In isolated cases PAPs have succeeded in bringing the child into the receiving country and established a stable relationship. The latter usually ended in an adoption order by a German court or recognition of a foreign adoption order. More and more young people spend time working, for example, in social projects or children's homes in other countries. It is understandable that when they are there they build a good relationship with a child and experience a growing desire to care for this child or to adopt it. In isolated cases, depending on the age of the volunteers, the situation of this person, reasons/motives for the adoption etc., it could make sense to make contact with the competent authority in the foreign country and ask them about the adoptability and the situation of the child. The suggestion here is therefore, that an adoption process should not be strictly refused in all cases.</p> <p><input 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 (e.g., as part of a foster care placement, 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; In some cases yes, in others no.</p> <p>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt; After haven taken care of the child.</p> <p>(c) what the profile of these children was; Generally small children from children's homes or from families in difficult living conditions; those with "special needs".</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected; Trying to come to an agreement with CA of country of origin - Challenges: Guardian decisions were made by regional courts.</p> <p>(e) your State's experience with such adoptions. Difficult - PAPs who just go and take care of a child cannot oversee adoptability and effects on the child if adoption is not granted and immigration to receiving country will be denied.</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 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: Please insert text here</p> <p><input checked="" 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.e., excluding stepparent adoptions);²⁰ 2015: 28; 2016: 24; 2017: 12; 2018: 16</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](#).

²⁰ For receiving States, you may wish to refer to your State's response to the HCCH [Annual Adoption Statistics Form](#).

	<p>(b) stepparent adoptions; 2015: 1; 2016: 1; 2017: 0; 2018: 0</p> <p>(c) simple adoptions;</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and Please insert text here</p> <p>(e) non-consensual adoptions. Please insert text here</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. Please insert text here</p>
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