

### Short questionnaire

Therefore, States are respectfully requested to provide responses to the following questions which relate to the recognition in one State of a domestic adoption granted in another State:

<b>Name of State:</b>	Republic of Serbia
<b><u>Information for follow-up purposes</u></b>	
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### A. RECOGNITION IN YOUR STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN OTHER STATES

#### *The law and procedure in your State*

1. Please briefly outline the **law** (legislation or other rules) in your State concerning the recognition of a domestic adoption granted previously in another State.

In cases where adoption was granted in a State that is Hague Convention 1993 contracting party, such adoption does not subject to the confirmation in Serbia. If adoption is completed in non-Hague Convention State, (not Hague Convention 1993 contracting party), then such adoption has to be confirmed in front of the Serbian court, if foreign State that has granted adoption did it through court procedure. If adoption in that foreign State was granted through some other administrative authority, then it does not subject to confirmation in Serbia. If certain private law issues (where adoption is among them), are subject of bi/lateral (or international) Convention, then Convention has priority over domestic law regulating the same matter. Recognition of foreign court decisions is regulated with the Law Resolving the Conflict of Law.

In particular, please specify whether your State applies different rules to the recognition of domestic adoptions made in certain States or regions and, if so, why.

Procedure for adoption recognition in Serbia, which is granted in foreign court is the same, no matter in which foreign country is granted.

2. Please briefly outline the **procedure** which must be followed in your State by persons seeking the recognition of a domestic adoption granted previously in another State.

The adopter is submitting proposal for adoption recognition to the court. The procedure is regulated through the Law Resolving the Conflict of Law. The only condition for recognition is that foreign State adoption decision is legally binding ("with legal power/ on force"). If adoptee is a Serbian citizen, and foreign State was making decision according to its national law, such decision would be recognized in Serbia anyhow, if decision is made according the national law of foreign State, which is not significantly different from Serbian law regulating the same matter (adoption). For example, if adoption in foreign State is granted without Minister for family affairs approval, then such adoption could not be recognized in Serbia. If adoptee is citizen of that foreign State and national law of that foreign state is applied when granting adoption, then Serbian court is approving decision without questioning other State adoption decision. If adoption is granted to foreign citizen, which is not Serbian, nor is citizens of the State where adoption is granted, then adoption decision would be recognized in Serbia, only if it complies with the national law of adoptee's State of origin.

In particular, please specify what legal or administrative steps are required for recognition.

Along with the proposal for adoption recognition, adopter is to the Serbian court submitting other State legally binding court decision that adoption is granted. When Serbian court on the basis of foreign court decision verifies/recognizes adoption granted, and Serbian verification/recognition becomes legally binding, then adopter is submitting it to registrar to enter the adoption data fact in register of birth valid for the territory of Serbia.

3. What is the competent authority in your State for such matters?

Competent authority for recognition of foreign State court decisions are Serbian upper courts.

***Cases which have arisen in your State***

4. Has your State been asked to recognise domestic adoptions granted previously in other States? If so:

- (a) How many such cases have arisen in the past year?

According to Central Authority (indirect) knowledge, (there are no data base, or case records), such procedures for recognition of adoptions granted in foreign States were opened, but we could not offer exact information about the number of cases and final decisions: adoption recognized, or application refused, nor we could inform about facts why application is eventually refused.

Past three years?

Please insert text here

- (b) In such cases, why was recognition of the domestic adoption sought?

Please insert text here

- (c) What type of document was presented for recognition?

Please insert text here

- (d) Was recognition permitted?

Please insert text here

- (e) In cases where recognition was refused, what were the reasons?

Please insert text here

In particular, have there been any cases in which recognition was refused by your State on the basis that jurisdiction had been inappropriately assumed by the foreign authority?

Please insert text here

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Please insert text here

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) which granted the adoption(s) in these cases?

Please insert text here

5. In your State's experience, do (some or many) families with an adopted child move to your State without having the child's adoption formally recognised in your State?

Please insert text here

Does this create any problems for the family?

Please insert text here

## **B. RECOGNITION IN ANOTHER STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN YOUR STATE**

### ***The law and procedure in your State***

6. In relation to the granting of domestic adoptions in your State:
- (a) Are any special rules or procedures followed when a case involving a domestic adoption has an international element (*e.g.*, it involves a foreign national child and / or foreign national prospective adoptive parents, despite the fact that they are all habitually resident in your State)?
- Please insert text here
- (b) What type of document is issued for domestic adoptions granted in your State?
- Please insert text here
7. Are there any special rules or procedures which are followed when your State is made aware that another State has been requested to recognise a domestic adoption originating from your State?

Please insert text here

### ***Cases which have arisen involving your State***

8. Are you aware of situations in which recognition has been sought in other States of domestic adoptions granted in your State?

Central Authority does not have any information about the cases where foreign State was asking recognition of adoption granted in Serbia. In Serbia, center for social work is administrative body which is making adoption decisions/granting adoption. Adoption granted by administrative bodies (center for social work in Serbia), not court, are not under questioning in Serbia.

If so:

- (a) How many such cases have arisen in the past year of which you are aware?

Please insert text here

Past three years?

Please insert text here

- (b) Which competent authorities were addressed in your State? And in the other State(s)?

Please insert text here

- (c) In such cases, why was recognition of the domestic adoption sought?

Please insert text here

- (d) Was recognition permitted by the other State(s)?

Please insert text here

- (e) In cases where recognition was refused, what were the reasons?

Please insert text here

Have you ever had a case where the grounds upon which your State assumed jurisdiction to grant the domestic adoption were challenged by the foreign State?

Please insert text here

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Please insert text here

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) being asked to recognise the adoption in these cases?

Please insert text here

### **C. PRACTICAL PROBLEMS REQUIRING ACTION**

9. In light of the information you have provided in both sections above, overall, are there, in your State's experience, practical problems in this area that need resolving at the international level?

Please insert text here