

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:

Name of State:	Malta
<u>Information for follow-up purposes</u>	
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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.

The relevant laws in adoption are:

1) Adoption Administration Act, Chapter 495 of the laws of Malta - An act which makes special provision for the administration of adoption proceedings in Malta, establishing and granting the necessary powers to the Central Authority under the 1980 Hague Convention, the Adoptions Board and makes provision for the accreditation and regulation of Adoption Agencies

2) Title III of Book First of the Civil Code on Adoptions - The section in the Civil Code which specifies the legal effect of an adoption in Malta, the role of the Court of Voluntary Jurisdiction (which is competent to decree upon adoptions) and other matters ancillary to adoptions.

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.

No

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 adoptive parent must file a court application before the Court of Voluntary Jurisdiction asking the court to recognise the adoption.

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

The applicants must file a court application to that effect before the Court of Voluntary Jurisdiction. In accordance with Article 113 et seq of the Civil Code.

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

The competent authority is the Court of Voluntary Jurisdiction which has the power to request additional documents as may be necessary in accordance with the law. The Court of Voluntary Jurisdiction is competent to recognise the foreign adoption decree and give local adoption decrees.

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?

0

Past three years?

1

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

the issue arose when the applicant found difficulty in recording the adoption in the acts of the Public Registry. The CA is not aware of the outcome of the case.

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

Unknown to CA

(d) Was recognition permitted?

Unknown to CA

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

Unknown to CA

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?

Unknown to CA

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

Unknown to CA

(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?

Unknown to CA

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?

The Malta CA is not aware of any problems in this regard

Does this create any problems for the family?

Not applicable

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)?
- No
- (b) What type of document is issued for domestic adoptions granted in your State?
- Adoption Decree
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?
- No

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?
- No
- If so:
- (a) How many such cases have arisen in the past year of which you are aware?
- None
- Past three years?
- None
- (b) Which competent authorities were addressed in your State? And in the other State(s)?
- Not applicable
- (c) In such cases, why was recognition of the domestic adoption sought?
- Not applicable
- (d) Was recognition permitted by the other State(s)?
- Not applicable
- (e) In cases where recognition was refused, what were the reasons?
- Not applicable
- 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?
- Not applicable
- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Not applicable

- (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?

Not applicable

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?

The procedure to recognize a domestic adoption in another state is legally complex and the public administration may not be equipped to deal with such a request. In view of this guidance to good practice in these matters are welcome.