

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: From 2005. this ministry is recording adoptee and adopter's data within National register of adopted children.</p> <p><input type="checkbox"/> No. Please specify where the information is stored: Local social services (center for social work) are permanently preserving adoption books of their own.</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 checked="" type="checkbox"/> Yes. Please provide details of the types of situations your State encountered and the action(s) taken in response: There are not many examples when data were misused. In few occasions adoptive family were revealing E/mail, or Skype addresses to foster families, which resulted in prolonged contact between a child and former foster family. Later, adoptive families were complaining to accredited bodies (agencies), that their privacy was "interrupted/misused". Usually accredited bodies were then addressing to Ministry, (as central authority), while Ministry was contacting social services, which were responsible to control the work of foster families.</p> <p><input 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: When searching for origin/roots, adoptees could address to Central Authority, or to local social services directly, if they know which one was involved in the process of adoption. If</p>
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	<p>addressed to Central Authority, without knowing which local social service was completing adoption, then CA is forwarding request to local social service which Central Authority assumes, or knows (if adoption was completed after year 2005), was completing adoption. Local social service is responsible not only for disclosing the biological parent's data, but before that to offer psycho/social support to adoptee. In Belgrade, where the largest social institution for children is suited, there is a practice of receiving messages from biological parents or relatives. If former, now adopted resident of this institution address to it directly, a professional from this institution could give him an information if biological parents, or relatives left a message for a child, or if they left even personal data (address for example). Again, in such circumstances, professional from institution is obliged to inform social service which was responsible for a child protection and adoption to get involved in the process of matching.</p>
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>Partly, it was described in a passage above. In most cases adoptees just wants to know who biological parents are, if they are alive, or if they have other children, without any direct contact. Some adoptees are not going any further than that. But, if adoptees want to go "all the way" to meet with parents, then social service professional is obliged to examine both sides motivation for contact, and to assess if contact could create a damage to any of the sides.</p> <p><input type="checkbox"/> No. Please specify any reasons:</p> <p>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 (e.g., government, private companies, NGOs);</p> <p>There are several labs both state and private which are competent for DNA testing. It is a matter of their internal policy for how long they are keeping data samples. Her is a link to one, where all relevant details could be seen. http://www.dnk.rs/O-nama</p> <p>In this lab average price for testing is 13 000 dinars, which is equivalent to 100 Euros (and a bit more).</p> <p>(b) where the data is stored, and whether it is stored by a public or private entity;</p> <p>Please insert text here</p> <p>(c) the average cost of a DNA test in your State and whether any subsidy is available;</p> <p>Please insert text here</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.</p> <p>Please insert text here</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>

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].

	Please insert text here
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>We have no information about cases of illicit practice during a search for origins.</p>
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 (e.g., the adoptee found his birth family); Unfortunately, such kind of statistics is not established yet.</p> <p>(b) how many were not successful and what were the reasons. Please insert text here</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 type="checkbox"/> Yes. Please specify the challenges and how your State addressed them: Since statistics about search cases does not exist (not established), we have no information on that.</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 type="checkbox"/> Yes. Please explain your response: For the same reason of non-existing statistics, we could only offer “theoretical” answer and not from experience.</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>Initiative to search for origin belongs only to a child, and it derives from its fundamental right to know its origin and is defined in Article 59 of Serbian Family Law:</p> <p>(1) A child, independent of his/her age, has the right to know who his/her parents are.</p> <p>(2) A child's right to know who his/her parents are may only be limited by this Act.</p> <p>(3) A child who has reached the age of fifteen and who is able to reason has the right to inspect the register of births and other documentation related to his/her origin.</p> <p>Relations between child/adoptee and biological parents are defined in Article 105 of Serbian Family Law:</p> <p>(1) Adoption terminates the parental rights of parents, unless the child is adopted by the spouse or the cohabitee of the child's parent.</p> <p>(2) Adoption terminates the rights and duties of the child towards his/her relatives and the rights and duties of the relatives towards the child.</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 type="checkbox"/> Yes. Please provide a link or attach a copy with your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
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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 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: From the moment adoption is completed, in the case of domestic adoption, social services are not involved in post adoption activities. Only if the family relations are turning into wrong direction (divorces, or family violence, or similar), social services are becoming active again. Unofficially, there is a Belgrade suited NGO who is offering some sort of post adoptive support to adoptive families, upon their request. In case of intercountry adoptions, situation varies from country to country. As we are informed, this is very much dependent on particular accredited body (adoption agency), which was mediating in the process of intercountry adoption and if they are covering/organizing post adoption activities. We also heard that many countries have adoptive parent's gatherings, blogs and different types of experience exchange. Yet, this is not the case in Serbia.</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); Partly it is mentioned in answer above, but generally it is not applicable (n/a) for the Serbia.</p> <p>(b) who provides the services (e.g., social welfare administration, school, health personnel); n/a</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); n/a</p> <p>(d) how, if there are different services, these various services are coordinated; n/a</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); n/a</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. n/a
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: Please insert text here <input checked="" type="checkbox"/> No.
17.	Has research been carried out in your State in the past five years assessing post-adoption services? <input type="checkbox"/> Yes. Please provide a link or attach a copy with your response: Please insert text here <input checked="" 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 Please insert text here
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1.3. Post-adoption reports

Receiving 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 type="checkbox"/> Yes. Please explain your response: Please insert text here <input type="checkbox"/> No. Please specify when and how PAPs are otherwise informed: Please insert text here
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Both States of origin and receiving States

20.	Has your State encountered situations where the adopted child refused or objected to the obligation to comply with the post-adoption report requirements? <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
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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](#)").

	<input checked="" type="checkbox"/> No.
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>Most of the recipient countries excepts post adoption reports as obligatory. Yet, rare countries are reluctant when giving them, most probably due to the believe (among families), that is a matter of "intruding privacy".</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 Serbia is not informed about any case of broken intercountry adoption.</p> <p>(b) how your State has addressed these situations and whether your State has any good practices to share in this regard;⁷ n/a</p> <p>(c) what support is available for the adoptee and the adoptive family to prevent and / or respond to the breakdown of intercountry adoptions; n/a</p> <p>(d) whether your State has developed any good practices to ensure that Recommendation No 19⁸ of the 2015 Special Commission is implemented:</p> <p><input type="checkbox"/> Yes. Please specify any good practices developed in this regard: Except from post adoption support (in intercountry adoptions, Serbia is only country of origin), all other forms of preparation of children and adoptive parents are practiced in order to prevent break of adoption. Adoptive parents are in advance fully informed about all child characteristics and development risks, so they could make a proper judgment and final decision. Once, PAP' s declares for particular child, the process of child preparation starts. It is intensive and has to reach its peak a day or two before PAP's are actually coming.</p> <p><input type="checkbox"/> No. Please specify any reasons: n/a</p> <p>(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.</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](#).

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."

	<p>(f) how many cases of breakdown in intercountry adoptions have been reported in your State between 2015 and the present date; None.</p> <p>(g) how many of these cases included a new placement (e.g., foster care, new adoption) for the child; n/a</p> <p>(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 records about the cases before ratifying the Convention.</p> <p>(i) in line with Recommendation No 20⁹ 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. Serbia has also ratifying 1996 Convention, but, has no cases of broken adoption recorded in line with this Convention.</p>
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Receiving States only

23.	<p>Is your State's Central Authority informed and involved / consulted when an intercountry adoption breaks down?</p> <p><input type="checkbox"/> Yes. Please explain your response: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please specify whether the staff of the child protection services include workers specialised in adoption: No such case recorded.</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 type="checkbox"/> Yes. Please describe the type of cooperation: n/a Serbia is state of origin, with no case of inter country adoption brake down recorded.</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: n/a</p> <p><input type="checkbox"/> No.</p>

States of origin only

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."

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</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: n/a</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 checked="" type="checkbox"/> Yes. Please specify the conditions to regain nationality: Application in accordance with Serbian Citizenship Law. Conditions are: that applicant is 18 years old; that applicant is not deprived of working capacity; and that applicant declares that he/she considers Serbia as his/her native country.</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: We have no information on such cases.</p> <p><input 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>There is no fact, or obstacle to be base for declaring against the Guide to Good Practice.</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>
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	<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>
30.	<p>Please specify any good practices of your State to prevent and address illicit practices. Please insert text here</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 court delivers the judgment on the annulment of adoption to the guardianship authority through which the adoption took place. (Serbian Family Law, Article 276. para 1.)</p> <p>(b) who can request the annulment (<i>e.g.</i>, adoptee, adoptive parents, birth parents); Action for annulment of an adoption for causes listed in Articles 89 through 103 of this Act can be initiated by the adopters, the adoptee, the parents or guardian of the adoptee, persons having legal interest in the annulment of the adoption and the public prosecutor. (Serbian Family Law, Article 275. para 1).</p> <p>(c) the grounds upon which this may be done; The person who has given a statement of consent to adoption under duress or in error has the right to initiate action for annulment of the adoption within one year from the day the duress ceased or the error was noticed. (Serbian Family Law, Article 275. para 2).</p> <p>(d) whether there is an age limit for the annulment of an adoption; Not specified within the Serbian Family Law.</p> <p>(e) the procedure involved; In a dispute over the annulment of an adoption, the court on the territory of which the guardianship authority through which the adoption took place is located, has territorial jurisdiction. (Serbian Family Law, Article 274).</p> <p>(f) the number of intercountry adoptions which are on average annulled per year. No records about the cases.</p> <p><input type="checkbox"/> No.</p>
32.	<p>Is it possible in your State to revoke an intercountry adoption?</p> <p><input type="checkbox"/> Yes. Please specify:</p> <p>(a) the authority which has the jurisdiction to do so; The court delivers the judgement.</p> <p>(b) who can request the revocation (<i>e.g.</i>, adoptee, adoptive parents, birth parents); The same as for annulment.</p>

(c) the **grounds** upon which this is done;

Serbian Family Law makes difference between adoption annulling, and adoption revoking, and difference lays in legal conditions for one or another. Legal conditions for annulling were described in previous answer. Legal conditions for adoption revoking are when legal requirements for who may get adopted, as described in Article 91. Of Serbian Family Law were not met.

Article 91

The following may be adopted:

1. a child who has no living parents;
2. a child whose parents are unknown, or their dwelling place is unknown;
3. a child whose parents are fully deprived of parental rights;
4. a child whose parents are fully deprived of legal capacity;
5. a child whose parents gave their consent to adoption.

(d) whether there is an **age limit** for the revocation of the adoption;

No age limit.

(e) the **procedure** involved;

As for annulment.

(f) the **number of** intercountry adoptions which are on average revoked per year.

Have no information on that.

No.

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 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:</p> <p>Social service, or as we call it: center for social work is responsible for adoptions of all kinds.</p>
34.	<p>Has your State developed any good practices to ensure that Recommendation No 32¹¹ of the 2015 Special Commission is implemented?</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:

	<p><input checked="" type="checkbox"/> Yes. Please specify the good practices developed in that regard:</p> <p>The cases of intrafamily adoptions are few, comparing with the number of “other domestic” and “intercountry adoptions”. There is no difference in key principles applied, and all three kinds of adoptions are falling into the scope of Convention, meaning there is: regular adoption eligibility assessment (for both child and adoptive parents); child must consent with adoption, when child is over certain age (10 years old and plus); temporary (collusion) guardian has to be appoint to a child for the cases of intrafamily adoption; preparation (of both child and adoptive parents); preparation is not mandatory in cases of intrafamily adoptions; adaptation period is mandatory, but in practice it is shorter in the case of intrafamily adoptions (and intercountry adoptions), for obvious reasons of already existing joint life (intrafamily adoptions), and limited time availability (in the case of 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> <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 type="checkbox"/> Yes. Please specify the situations and how they were handled:¹²</p> <p>Please insert text here</p> <p><input checked="" 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>

“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].

¹² If applicable, you may wish to refer to your State's response to Question 3(b) of the [2014 Questionnaire](#).

	<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 type="checkbox"/> Yes. Please specify any challenges your State encounters and share any good practices your State may have developed in this regard: Please insert text here</p> <p><input checked="" 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 checked="" type="checkbox"/> Yes.</p> <p><input type="checkbox"/> No. Please describe any different procedures used and explain the reasons for these different procedures:¹³ Please insert text here</p>
41.	<p>Is intrafamily adoption used frequently to protect children within the extended family and / or are there other child protection measures (e.g., 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 checked="" 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: Kinship care and foster care.</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: Yes. There are few cases where children were returned to other contracting states to be protected in foster care (or even institutions), under decision of these (other) contracting states.</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 type="checkbox"/> Yes.</p> <p><input checked="" type="checkbox"/> No. Please specify any reasons: So far we had no such cases recorded.</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>

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

	n/a
44.	<p>(a) Please specify any challenges your State encounters with stepparent intercountry adoptions: n/a</p> <p>(b) Please specify any good practices of your State for stepparent intercountry adoptions, including those for overcoming any challenges: n/a</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? State A: habitual residence of mother.</p> <p>(b) how was the child's habitual residence determined? Which factors were considered? Habitual resident of a child is determined on following criteria: mother's citizenship and previous whereabouts of parent.</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? Domestic adoption is always a priority.</p> <p>(d) what challenges did your State face in dealing with such situation(s)? Main challenges could be assessing the eligibility for adoption, where position of father, (if he is known) or relatives is difficult to determine.</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 in our example.</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:</p>

	<p>Social service in country of habitual residence has to determine if assumption for trafficking is rightful, interviewing parents and relatives to determine what was the cause for traveling abroad just in front of the delivery term. If there is a reasonable ground it might be for purpose of child trafficking, social service will inform police about findings, in order that police could take measures.</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? In example A, we will accept that a child has a new habitual residence, and that this state will take further measures to protect a child.</p> <p>(b) would determine the child’s habitual residence not to be in their State? In example B, where state does not recognize that a child being born in that country has habitual residence there, in such case, state of mother’s previous habitual residence will ask child repatriation and will take further measures for its protection.</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>Mostly, children eligible for intercountry adoptions are ages between 4 to 9, with different developmental difficulties, ranging from: serious health conditions, to mild intellectual delay.</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: Serbia practices only full adoption.</p>

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

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: n/a</p> <p><input checked="" type="checkbox"/> No.</p>
53.	<p>(a) Please specify any challenges your State encounters with simple adoptions: n/a</p> <p>(b) Please specify any good practices of your State for simple adoptions, including those for overcoming any challenges: n/a</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: PAP's, from USA are prepared and advocating for “open adoptions”. This concept is not obligatory in Serbia but frequently could be found in practice mostly among USA and Swedish adoptive families.</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: Please insert text here</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 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:</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].

	<p>Since Article 105. para 2. of Serbian Family Law defines that: “adoption terminates the rights and duties of the child towards his/her relatives and the rights and duties of the relatives towards the child” practice of “open adoption” is not common.</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>We know that some USA adoptive families established close ties with biological parents of children with Down syndrome.</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 type="checkbox"/> Yes. Please specify the support / services provided and any challenges and / or good practices in this regard: Please insert text here</p> <p><input checked="" type="checkbox"/> No. Please explain your response: Support is not organized as mandatory, but it could be organized upon request of biological parents (if they need it, or if they could not decide about offer to meet with adopted children).</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 type="checkbox"/> Yes. Please specify what action was taken in response: Please insert text here</p> <p><input checked="" type="checkbox"/> No.</p>
60.	<p>(a) Please specify any other challenges your State encounters regarding open adoptions: n/a</p> <p>(b) Please specify any good practices of your State with regard to open adoptions, including those for overcoming any challenges: n/a</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>It is defined in Article 81 of Serbian Family Law:</p>
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	<p>(1) A parent who abuses his/her rights or grossly neglects duties that comprise a part of his/her parental rights may be fully deprived of parental rights.</p> <p>(2) A parent abuses rights that comprise a part of parental rights:</p> <ol style="list-style-type: none"> 1. if he/she physically, sexually or emotionally abuses the child; 2. if he/she exploits the child by forcing him/her to excessive labor, or to labor that endangers the moral, health or education of the child, or to labor that is prohibited by law; 3. if he/she instigates the child to commit criminal acts; 4. if he/she accustoms the child to indulge in bad habits; 5. if he/she in any other way abuses rights that comprise a part of parental rights. <p>(3) A parent grossly neglects duties that comprise a part of parental rights:</p> <ol style="list-style-type: none"> 1. if he/she abandons the child; 2. if he/she does not at all take care of the child he/she lives with; 3. if he/she avoids to support the child or to maintain personal relations with the child he/she does not live with, or impedes the maintaining of personal relations of the child with the parent the child does not live with; 4. if he/she intentionally and unduly avoids to create conditions for cohabitation with the child who is living in a social service institution for user accommodation; 5. if he/she in any other way grossly neglects duties that comprise a part of parental rights. <p>(4) A court decision on full deprivation of parental rights deprives the parent of all rights and duties that comprise parental rights, except the duty of supporting the child.</p> <p>(5) A court decision on full deprivation of parental rights may prescribe one or more measures for protecting the child from domestic violence.</p>
62.	<p>Does your State permit the adoption of children whose birth parents have been deprived of parental responsibility?</p> <p><input checked="" 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 checked="" type="checkbox"/> No. Please explain your response: Court decision about parent's deprivation of parental rights is one, while parent/parent's consent for child adoption is other legal condition which are equally valid to establish child eligibility for adoption. Not both were required.</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>Before establishing child eligibility for adoption, social service will take different realistic measures to empower parents and to increase their parental competences. Among them is foster care and kinship care protection.</p>

(c) what is the **procedure** applicable to such non-consensual adoptions (*e.g.*: how the child is declared adoptable; if the birth parents are given notice of the procedure; if the birth parents can contest).

As answer to this question, we drove your attention to several Articles of Serbian Family Law: Article 95; Article 96 and Article 98.

Article 95

(1)A child may be adopted only with the consent of his/her parents.

Consent of the parent of adoptee is not needed as described in

Article 96.

The consent of a parent to adoption is not necessary:

1. if the parent is fully deprived of parental rights;
2. if the parent is deprived of the right to decide on issues that significantly influence the child's life;
3. if the parent is fully deprived of legal capacity.

Article 98

A child who has reached ten years of age and who is capable of reasoning has to give his/her consent to adoption.

No. Please explain your response:

n/a

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>We cannot describe a "typical" profile.</p>
65.	<p>(a) Please specify any challenges your State encounters with non-consensual adoptions: Negative remark could be addressed to length of the court decisions.</p> <p>(b) Please specify any good practices of your State regarding non-consensual adoptions, including those for overcoming any challenges: Nonconsensual adoptions are "safer" in terms that are completed by court decision and not consent who can be later "manipulated" by parent's attempts to revoke consensus.</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: Please insert text here</p> <p><input type="checkbox"/> No. Please specify:</p> <p>(a) in which circumstances such contact is permitted; The contact is always guided and supervised by social workers and other professionals and starts with the first day of adoption process, which is agreed in advance.</p> <p>(b) the experience of your State with regard to such contact. Such organization reduces not only illicit practice in contacting, but also disappointment and (“positive”) stress for both a child and PAP’s.</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)?</p> <p>n/a</p> <p><input type="checkbox"/> No.</p>
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¹⁷ Regarding respite care, if applicable, you may wish to refer to your State's response to Question 54 of the [2014 Questionnaire](#).

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> <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:</p>

Please insert text here

No. Please explain your response:

It was not necessary to plan or undertake any particular measure/action for it is a “conflict of interest”.

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;</p> <p style="padding-left: 20px;">In some (rare) cases child was declared eligible for adoption prior the formal request from foster parents was submitted. Faced with the fact that child is living (and in most cases a child was in the family since the moment she/he was born), foster parents were deciding to enter the process of assessing eligibility for adoption. In such cases the best interest of the child to stay in that particular family was evaluated first. Again, in some rare cases request was refused due to the huge age difference between a child and PAP’s, or when a process was “centered” to be “in a favor” of the PAP’s rather than in the best interest of a child.</p> <p>(b) at what stage in the process the PAPs were declared eligible and suitable to adopt;</p> <p style="padding-left: 20px;">Some foster parents who are announced that a child is going to adoption (in the future), are taking action to establish their own eligibility so they can become competitive to adopt particular child.</p> <p>(c) what the profile of these children was;</p> <p style="padding-left: 20px;">Two profiles are mostly represented: young Roma children, (frequently), that are anyhow difficult to find adequate adoptive family, or children with mild (frequently), or even moderate (rarely), developmental difficulties.</p> <p>(d) what was done to ensure that the safeguards and procedures of the 1993 Adoption Convention had been respected;</p> <p style="padding-left: 20px;">As mentioned before, 1993 Convention respect is priority in all forms of adoption in Serbia.</p> <p>(e) your State's experience with such adoptions.</p> <p style="padding-left: 20px;">Approximately, they are one third of all adoptions completed during one year.</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>
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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](#).

	<input type="checkbox"/> Yes. Please specify (a) what the experiences of your State are in this regard (<i>i.e.</i> , benefits and challenges) and (b) how your State take into account data protection in this context: Please insert text here
	<input checked="" type="checkbox"/> No.

9. STATISTICS

Both States of origin and receiving States

73.	Please specify the number of intercountry adoptions per year (between 2015 and the present date) involving your State that are: <p>(a) relative adoptions (<i>i.e.</i>, excluding stepparent adoptions);²⁰ n/a</p> <p>(b) stepparent adoptions; n/a</p> <p>(c) simple adoptions; Between 2015, until nowadays, 122 intercountry adoptions were completed. Unfortunately, we could not divide this number into categories you asked, since we do not have such kind of statistics.</p> <p>(d) open adoptions or adoptions that involve a certain degree of openness; and n/a</p> <p>(e) non-consensual adoptions. n/a</p>
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10. OTHER MATTERS

74.	Please specify any other comments your State wishes to make concerning the implementation and / or operation of the 1993 Adoption Convention. Comment will offer in Country profile table.
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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](#).