

COUNTRY PROFILE

1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION¹

RECEIVING STATE

COUNTRY NAME: Austria

PROFILE UPDATED ON: May 2015

PART I: CENTRAL AUTHORITY

1. Contact details²

Name of office:	Federal Ministry of Justice
Acronyms used:	bmj
Address:	Museumstraße 7, 1070 Vienna, Austria;
Telephone:	+43 1 52 1 52 - 0
Fax:	+ 43 1 52 1 52 - 2829
E-mail:	team.z@bmj.gv.at
Website:	www.bmj.gv.at
Contact person(s) and direct contact details (please indicate language(s) of communication):	Dr. Robert Fucik
<i>If your State has designated more than one Central Authority, please provide contact details for the further Central Authorities below and specify the territorial extent of their functions.</i>	
For the State of Vienna:	
Wiener Landesregierung	
Magistratsabteilung 11	
Referat für Adoptiv- und Pflegekinder	
Dezernat 2	
Schlagergasse 8	
A-1090 Wien	
Tel. No.: +43 (1) 400090770	

¹ Full title: the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (referred to as the "1993 Hague Intercountry Adoption Convention" or the "1993 Convention" in this Country Profile). Please note that any reference to "Articles" (or Art. / Arts for short) in this Country Profile refers to Articles of the 1993 Hague Intercountry Adoption Convention.

² Please verify whether the contact details on the Hague Conference website < www.hcch.net > under "Intercountry Adoption Section" then "Central Authorities" are up to date. If not, please e-mail the updated contact information to < secretariat@hcch.net >.



Telefax: +43 (1) 4000 99 90770
e-mai: kanzlei-rap@ma11.wien.gv.at

For the State of Burgenland:

Amt der burgenländischen Landesregierung
Abteilung 6 – Hauptreferat Soziales
Europaplatz 1
A-7000 Eisenstadt
Tel. No. +43 (0)57/600
e-mail: post.soziales@bgld.gv.at

For the State of Carinthia:

Kärntner Landesregierung
Abteilung 4 (Kompetenzzentrum Soziales)
Unterabteilung Bedarfs- und Entwicklungsplanung, Jugend, Familie und Frau
Mießtalerstraße 1
A-9020 Klagenfurt
Tel. No.: +43 (463) 536 14502
Telefax: *43 (463) 536 14500
e-mail: abt4.post@ktn.gv.at

For the State of Lower Austria:

Amt der Niederösterreichischen Landesregierung
Abteilung Kinder- und Jugendhilfe
Landhausplatz 1
A-3109 St. Pölten
Tel.No.: +43 (0)2742 9005-16371
Telefax: *43 (0) 2742 9005 16120
e-mail: post.gs6@noel.gv.at

For the State of Upper Austria:

Amt der Oberösterreichischen Landesregierung
Abteilung Kinder und Jugendhilfe
Bahnhofplatz 1
A-4021 Linz
Tel. No.: +43 (732) 7720 – 15201 or 15792
Telefax: +43 (732) 7720 215328



e-mail: kjh.post@ooe.gv.at

For the State of Salzburg:

Amt der Salzburger Landesregierung

Abteilung 3 – Soziales

Fanny-von-Lehnert-Straße 1

Postfach 527

A-5010 Salzburg

Tel. No.: +43 662 8042 3578

Telefax: +43 662 8042 3883

e-mail: soziales@salzburg.gv.at

For the State of Styria:

Amt der Steiermärkischen Landesregierung

Abteilung 11 – Soziales

Bereich Kinder- und Jugendhilfe/Recht und Gewaltschutzeinrichtungen

Hofgasse 12

A-8010 Graz

Tel. No.: +43 (316) 877-3090

Telefax: +43 (316) 877-803090

e-mail: bettina.strasser@stmk.gv.at

For the State of Tyrol:

Amt der Tiroler Landesregierung

Abteilung Kinder- und Jugendhilfe

Eduard-Wallnöfer-Platz 3

A-6020 Innsbruck

Tel. No.: +43 (512) 508 2642

Telefax: + 43 (512) 508 742645

e-mail: kiju@tirol.gv.at

For the State of Vorarlberg:

Amt der Vorarlberger Landesregierung

Abteilung Gesellschaft, Soziales und Integration – IVa

Landhaus

A-6901 Bregenz

Tel. No.: +43 (0) 5574/511-24105

July 2014 version



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INSTITUTE ON
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AT THE UNIVERSITY OF VIENNA
LA HAYE

DE DROIT INTERNATIONAL PRIVÉ

PART II: RELEVANT LEGISLATION

2. The 1993 Hague Intercountry Adoption Convention and domestic legislation	
<p>a) When did the 1993 Hague Intercountry Adoption Convention enter into force in your State?</p> <p><i>This information is available on the Status Table for the 1993 Hague Intercountry Adoption Convention (accessible via the Intercountry Adoption Section of the Hague Conference website < www.hcch.net >).</i></p>	<p>1.1.1999</p>
<p>b) Please identify the legislation / regulations / procedural rules which implement or assist with the effective operation of the 1993 Convention in your State. Please also provide the date of their entry into force.</p> <p><i>Please remember to indicate how the legislation / regulations / rules may be accessed: e.g., provide a link to a website or attach a copy. Where</i></p>	<p>As child protection falls under the competence of the 9 Regional entities ("Länder") of our Federal State, Austria has 9 Central Authorities and 9 Children and Youth Welfare Acts;</p> <p>Details can be found in the following Acts:</p> <p>1. Federal State: BGBl. I Nr. 69/2013 Bundesgesetz über die Grundsätze für Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche (Bundes-Kinder- und Jugendhilfegesetz 2013 – B-KJHG 2013) http://www.ris.bka.gv.at/Dokumente/Bundesnormen/NOR40149683/NOR40149683.html Art 31 - 34</p> <p>2. For the state of Vienna: LGBl. Nr. 41/2014 Wiener Kinder- und Jugendhilfegesetz 2013– WKJHG 2013 [CELEX-Nrn.: 32003L0086, 32005L0036, 32009L0050, 32011L0036, 32011L0098 und 32013L0033] http://www.wien.gv.at/recht/landesrecht-wien/landesgesetzblatt/jahrgang/2013/html/lg2013051.html Art 49 – 51</p> <p>3. For the State of Vorarlberg: LGBl. Nr. 29/2013 16. Stück Gesetz über die Kinder- und Jugendhilfe (Kinder- und Jugendhilfegesetz – KJH-G)*) https://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_VO_20130716_29/LGBl_VO_20130716_29.html Art 29</p>

<p><i>applicable, please also provide a translation into English or French if possible.</i></p>	<p>4. For the state of Tirol: LGBl. Nr. 150/2013 45.Stück Gesetz vom 6. November 2013 über die Kinder- und Jugendhilfe (Tiroler Kinder- und Jugendhilfegesetz – TKJHG) http://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_TI_20131219_150/LGBl_TI_20131219_150.html Art 35, 36</p> <p>5. For the state of Steiermark: LGBl. Nr. 138/2013 Stück 34 Gesetz vom 15. Oktober 2013 über die Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche (Steiermärkisches Kinder- und Jugendhilfegesetz – StKJHG) http://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_ST_20131202_138/LGBl_ST_20131202_138.html Art 36 – 38</p> <p>6. For the state of Salzburg: LGBl Nr. 32/2015 Gesetz vom 18. März 2015 zur Erlassung eines Salzburger Kinder- und Jugendhilfegesetzes sowie zur Änderung des Salzburger Jugendgesetzes, des Salzburger Pflegegesetzes sowie des Salzburger Landwirtschaftlichen Schulgesetzes http://www.ris.bka.gv.at/Dokumente/LgblAuth/LGBLA_SA_20150403_32/LGBLA_SA_20150403_32.html Art 35 – 37</p> <p>7. For the state of Oberösterreich: LGBl. Nr. 30/2014 Landesgesetz über die Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche (Oö. Kinder- und Jugendhilfegesetz 2014 - Oö. KJHG 2014) http://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_OB_20140430_30/LGBl_OB_20140430_30.html Art 36 – 39</p> <p>8. For the state of Niederösterreich: LGBl 9270-0 NÖ Kinder- und Jugendhilfegesetz http://www.ris.bka.gv.at/Dokumente/LgblINO/LRNI_2013144/LRNI_2013144.html Art 67 - 74</p> <p>9. For the state of Kärnten: LGBl. Nr. 83/2013 38. Stück Gesetz vom 21. November 2013, über die Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche (Kärntner Kinder- und Jugendhilfegesetz – K-KJHG) http://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_KA_20131213_83/LGBl_KA_20131213_83.html Art 50 - 53</p> <p>10. For the state of Burgenland: LGBl. Nr. 62/2013 40. Stück Gesetz vom 14. November 2013 über die Hilfen für Familien und Erziehungshilfen für Kinder und Jugendliche (Burgenländisches Kinder- und Jugendhilfegesetz - Bgld. KJHG) http://www.ris.bka.gv.at/Dokumente/Lgbl/LGBl_BU_20131127_62/LGBl_BU_20131127_62.html Art 36 - 38</p>
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3. Other international agreements on intercountry adoption³

Is your State party to any other international (cross-border) agreements concerning intercountry adoption?

See Art. 39.

Yes:

Regional agreements (please specify): European Convention on the adoption of children of 1967

<http://conventions.coe.int/Treaty/en/Treaties/Html/058.htm>

Bilateral agreements (please specify):

Non-binding memoranda of understanding (please specify):

Other (please specify):

No

PART III: THE ROLE OF AUTHORITIES AND BODIES

4. Central Authority(ies)

Please briefly describe the functions of the Central Authority(ies) designated under the 1993 Convention in your State.

See Arts 6-9 and Arts 14-21 if accredited bodies are not used.

As child protection falls under the competence of the 9 Regional entities ("Länder") of our Federal State, Austria has 9 Central Authorities for particular cases, depending on the habitual residence of the willing adoptors. Each Regional Government is Central Authority in Adoption Cases.

These nine regional Central Authorities administrate all responsibilities in individual cases according to the Convention. Their duties range from information of PAPs, preparation and transmission of reports, contact with CAs and accredited bodies in the state of the origin, ensuring the PAPs' agreement, decision that the adoption may proceed, etc.

The Federal Ministry of Justice is only responsible for general questions, coordination and communication between the Regional Central Authorities and the Federal Ministry for Europe, Intergration and Foreign Affairs.

³ See Art. 39(2) which states: "Any Contracting State may enter into agreements with one or more other Contracting States, with a view to improving the application of the Convention in their mutual relations. These agreements may derogate only from the provisions of Articles 14 to 16 and 18 to 21. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention" (emphasis added).

5. Public and competent authorities	
<p>Please briefly describe the role of any public and / or competent authorities, including courts, in the intercountry adoption procedure in your State.</p> <p><i>See Arts 4, 5, 8, 9, 12, 22, 23 and 30.</i></p>	<p>The local Youth Welfare Authorities generally verify the suitability of the PAPs and prepare the Home Studies. Sometimes they are involved in providing post placement reports.</p> <p>If an adoption is concluded in Austria, it has to be granted authorisation of the competent district court, which verifies inter alia that the adoption is in the child's best interest and issues the certification according to Art 23 of the Convention.</p> <p>The authorisation to enter Austria (Visa) is granted by the competent consulates or embassies in the state of the origin.</p> <p>The authorisation to reside in Austria permanently is granted by the competent Austrian authority for foreigners.</p>

6. National accredited bodies⁴	
<p>a) Has your State accredited its own adoption bodies?</p> <p><i>See Arts 10-11.</i></p> <p>N.B. the name(s) and address(es) of any national accredited bodies should be communicated by your State to the Permanent Bureau of the Hague Conference (see Art. 13).⁵</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No – go to Question 8</p>
<p>b) Please indicate the number of national accredited bodies in your State, including whether this number is limited and, if so, on what basis.⁶</p>	<p>1, number is not limited;</p>
<p>c) Please briefly describe the role of national accredited bodies in your State.</p>	<p>The national accredited adoption bodies offer a service in intercountry adoption procedures from the preparation of prospective adoptive parents, the home study until the immigration of a child and post-adoption services. They cooperate with the Central Authorities.</p> <p>In adoption procedures with South Africa the accredited body may perform the functions of a Central Authority according to Art 22 of the Convention;</p>
6.1 The accreditation procedure (Arts 10-11)	
<p>a) Which authority / body is responsible for the accreditation of national adoption</p>	<p>the regional Central Authorities</p>

⁴ "National accredited bodies" in this Country Profile means adoption bodies based within your State (receiving State) which have been accredited under the 1993 Convention by the competent authorities in your State. See further *Guide to Good Practice No 2 on Accreditation and Adoption Accredited Bodies* (hereinafter "GGP No 2"), available on the [Intercountry Adoption Section](#) of the Hague Conference website < www.hcch.net > at Chapters 3.1 *et seq.*

⁵ See GGP No 2, *ibid.*, Chapter 3.2.1 (para. 111).

⁶ See GGP No 2, *supra*, note 4, Chapter 3.4.

bodies in your State?	
b) Please briefly describe the <i>procedure</i> for granting accreditation and the most important accreditation <i>criteria</i> .	The adoption body applies for an accreditation at the competent regional central Authority. The respective regional law states in detail which requirements must be met and which documents must be provided. The most important criteria for an accreditation in Vienna are: the staff (professional education as a social worker, professional experiences in the field of adoption), non-profit character and that its functional and financial situation makes proper work possible;
c) For how long is accreditation granted in your State?	Accreditations are not limited;
d) Please briefly describe the criteria and the procedure used to determine whether the accreditation of a national adoption body will be <i>renewed</i> .	As accreditations are for an unlimited period of time, they do not need to get renewed.
6.2 Monitoring of national accredited bodies⁷	
a) Which authority is competent to monitor / supervise national accredited bodies in your State? <i>See Art. 11 c).</i>	The regional central Authorities;

b) Please briefly describe how national accredited bodies are monitored / supervised in your State (<i>e.g.</i> , if inspections are undertaken, how frequently).	Each regional central Authority monitors its accredited body. The RCA has access to the premises and all documents of the accredited body anytime; the accredited body is obliged to inform the regional central Authority about significant changes, <i>e.g.</i> changes in the staff; once a year the accredited body must provide a detailed report about its work including the number of adoptions, breakdown of incurred expenses for an adoption procedure and an annual financial statement;
c) Please briefly describe the circumstances in which the accreditation of bodies can be revoked (<i>i.e.</i> , withdrawn).	According to the law, an accreditation can be revoked/withdrawn in cases where the requirements for obtaining an accreditation were not met;
d) If national accredited bodies do not comply with the 1993 Convention, is it possible for sanctions to be applied?	<input checked="" type="checkbox"/> Yes, please specify possible sanctions (<i>e.g.</i> , fine, withdrawal of accreditation): withdrawal of accreditation; <input type="checkbox"/> No

7. Authorisation of national accredited bodies to work in other Contracting States (Art. 12)⁸

7.1 The authorisation procedure

⁷ See GGP No 2, *supra*, note 4, Chapter 7.4.

⁸ In relation to authorisation of accredited bodies, see further GGP No 2, *supra*, note 4, Chapter 4.2.

a) Which authority / body in your State is responsible for the authorisation of national accredited bodies to work with, or in, other Contracting States?	the regional Central Authorities;
b) Is authorisation granted as part of the accreditation procedure or is a separate authorisation procedure undertaken?	<input type="checkbox"/> Authorisation is granted as part of the accreditation procedure. <input checked="" type="checkbox"/> A separate procedure is undertaken for authorisation.
c) Is authorisation granted to national accredited bodies to work in <i>all</i> States of origin or must national accredited bodies apply for authorisation to work in specific, pre-identified State(s) of origin?	<input type="checkbox"/> Authorisation is granted generally: once authorised, national accredited bodies are able to work in <i>all</i> States of origin. <input checked="" type="checkbox"/> Authorisation is granted specifically: national accredited bodies must apply for authorisation to work in one or more pre-identified State(s) of origin.
<p>d) Please briefly describe the <i>procedure</i> for granting authorisation and the most important authorisation <i>criteria</i>.⁹</p> <p>If your State does not have authorisation criteria, please explain on what basis decisions concerning authorisation are made.</p> <p>Please also explain whether your State has any criteria concerning how the national accredited body must establish itself in the State(s) of origin or whether this is left entirely to the requirements of the State of origin (<i>e.g.</i>, requirements that the body must have a local representative in the State of origin, or must establish a local office).</p>	<p>An adoption body that wants to mediate intercountry adoptions must apply, apart from general accreditation, for a special authorisation to mediate intercountry adoptions. The application has to contain more specific evidences than for the accreditation, <i>e.g.</i> an evidence for authorisation to work in a state of origin, a proof for a cooperation partner in the state of origin, a description of the adoption procedure and an estimation of costs;</p> <p>it is up to the state of origina how the adoption body establishes itself in the state;</p>

e) For how long is authorisation granted?	authorisation is unlimited;
f) Please briefly describe the criteria and procedure used to determine whether authorisation will be <i>renewed</i> .	

7.2 Monitoring the work of your authorised national accredited bodies in other Contracting States

a) Please briefly describe how your State ensures that authorised national accredited bodies (including their representatives, co-workers and any other staff ¹⁰ in the State of origin) are monitored / supervised by your State in relation to their work / activities <i>in the State of origin</i> .	the legal rules are the same as for the monitoring of accredited adoption bodies;
b) Please briefly describe the circumstances in which the authorisation of national accredited bodies can be revoked (<i>i.e.</i> ,	the legal rules are the same as for the revocation/withdrawn of accreditations;

⁹ In relation to authorisation criteria, please see GGP No 2, *supra*, note 4, Chapters 2.3.4.2 and 4.2.4.

¹⁰ For an explanation of the terminology used concerning the staff of the national accredited body working in the State of origin, see the GGP No 2, *supra*, note 4, Chapters 6.3 and 6.4.

withdrawn).	
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8. Approved (non-accredited) persons (Art. 22(2))¹¹

<p>Is the involvement of approved (non-accredited) persons permitted in intercountry adoption procedures in your State?</p> <p>N.B. see Art. 22(2) and check whether your State has made a declaration according to this provision. You can verify this on the Status Table for the 1993 Convention, available on the Intercountry Adoption Section of the Hague Conference website.</p> <p>If your State has made a declaration according to Art. 22(2), the Permanent Bureau of the Hague Conference should be informed of the names and addresses of these bodies and persons (Art. 22(3)).¹²</p>	<p><input type="checkbox"/> Yes, our State has made a declaration under Article 22(2) and the involvement of approved (non-accredited) persons is possible. Please specify their role:</p> <p><input checked="" type="checkbox"/> No</p>
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PART IV: THE CHILDREN PROPOSED FOR INTERCOUNTRY ADOPTION

9. The adoptability of a child (Art. 4 a))

<p>Does your State have its own criteria concerning the adoptability of a child (e.g., maximum age) which must be applied <i>in addition to</i> the requirements of the State of origin?</p>	<p><input type="checkbox"/> Yes – please specify:</p> <p><input checked="" type="checkbox"/> No, there are no additional criteria concerning adoptability – the requirements of the State of origin are determinative.</p>
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10. The best interests of the child and subsidiarity (Art. 4 b))

<p>Does your State request information / evidence from the State of origin to satisfy itself that the State of origin has respected the principle of subsidiarity (i.e., proof that family reunification was attempted, or that the possibility of in-country permanent family placements has been explored)?</p>	<p><input checked="" type="checkbox"/> Yes – please specify: The Central Authority of the state of origin must confirm that the placement of the child within the state is not possible and that they have given due consideration that an intercountry adoption is in the child's best interests;</p> <p><input type="checkbox"/> No</p>
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11. Children with special needs

<p>Does your State have its own definition of the term "special needs children" which is applied in intercountry adoption cases?</p>	<p><input type="checkbox"/> Yes – please provide the definition used in your State:</p> <p><input checked="" type="checkbox"/> No – the definition used in the State(s) of origin is determinative.</p>
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12. The nationality of children who are adopted intercountry¹³

¹¹ See GGP No 2, *supra*, note 4, Chapter 13.

¹² See GGP No 2, *supra*, note 4, Chapter 13.2.2.5.

¹³ Regarding nationality, see further the *Guide to Good Practice No 1 on the implementation and operation of the 1993 Hague Intercountry Adoption Convention* (hereinafter, "GGP No 1"), available on the [Intercountry Adoption Section](#) of the Hague Conference website < www.hcch.net >, at Chapter 8.4.5.

<p>Do children who are adopted intercountry to your State acquire the nationality of your State?</p>	<p><input type="checkbox"/> Yes, always. Please specify:</p> <p>(i) At what stage nationality is acquired by the child: ; and</p> <p>(ii) The procedure which must be undertaken (or whether acquisition of nationality is <i>automatic</i> upon the occurrence of a particular event, <i>e.g.</i>, the making of the final adoption decision):</p> <p><input checked="" type="checkbox"/> It depends – please specify which factors are taken into consideration (<i>e.g.</i>, the nationality of the prospective adoptive parents (“PAPs”), whether the child loses his / her nationality of the State of origin):</p> <p>Sect. 11b of the Austrian Nationality Act states that adoptees who have not reached the age of 14 will acquire the Austrian citizenship provided that at least one adoptive parent is Austrian.</p> <p><input type="checkbox"/> No, the child will never acquire this nationality.</p>
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PART V: PROSPECTIVE ADOPTIVE PARENTS (“PAPs”)

13. Limits on the acceptance of files	
<p>a) Does your State place any limit on the total number of applications for intercountry adoption which are accepted at any one time?</p>	<p><input type="checkbox"/> Yes, please specify the limit applied and the basis on which it is determined:</p> <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State allow PAPs to apply to adopt from more than one State of origin at the same time?</p>	<p><input type="checkbox"/> Yes, please specify whether any limits are applied:</p> <p><input checked="" type="checkbox"/> No – PAPs may only apply to adopt from one State of origin at any one time.</p>

14. Determination of the eligibility and suitability of PAPs wishing to undertake an intercountry adoption ¹⁴ (Art. 5 a))	
14.1 Eligibility criteria	
<p>a) Do PAPs wishing to undertake an intercountry adoption have to fulfil any criteria in your State concerning their relationship status(es)?</p> <p><i>Please tick any / all boxes which apply and indicate in the space provided whether any further conditions are imposed (e.g., duration of marriage / partnership / relationship, cohabitation).</i></p>	<p><input checked="" type="checkbox"/> Yes, the following person(s) may apply in our State for an intercountry adoption:</p> <p><input checked="" type="checkbox"/> Married, heterosexual couples:</p> <p><input type="checkbox"/> Married, same-sex couples:</p> <p><input type="checkbox"/> Heterosexual couples in a legally registered partnership:</p> <p><input checked="" type="checkbox"/> Same-sex couples in a legally registered partnership: as of January 2016</p> <p><input type="checkbox"/> Heterosexual couples that have not legally formalised their relationship:</p> <p><input type="checkbox"/> Same-sex couples that have not legally</p>

¹⁴ *I.e.*, this section refers to the eligibility criteria applied, and suitability assessment undertaken, in relation to PAPs who are habitually resident in your State and who wish to adopt a child who is habitually resident in another Contracting State to the 1993 Convention: see further Art. 2 of the 1993 Convention.

	<p>formalised their relationship:</p> <p><input checked="" type="checkbox"/> Single men:</p> <p><input checked="" type="checkbox"/> Single women:</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No, there are no relationship status criteria for PAPs.</p>
b) Are there any age requirements in your State for PAPs wishing to undertake an intercountry adoption?	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p><input checked="" type="checkbox"/> Minimum age requirements: 25</p> <p><input checked="" type="checkbox"/> Maximum age requirements: no legal requirements by civil law but to acquire a parent-child-relationship it will not allow to great age difference;</p> <p><input checked="" type="checkbox"/> Difference in years required between the PAPs and the child: 16, may be lower provided that it's in the child's best interests;</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No</p>
c) Are there any <i>other</i> eligibility criteria which your State requires PAPs to fulfil?	<p><input checked="" type="checkbox"/> Yes, please specify:</p> <p><input type="checkbox"/> Additional / differing criteria must be met for PAPs wishing to adopt a child with special needs (please specify):</p> <p><input type="checkbox"/> Couples must supply evidence of infertility:</p> <p><input checked="" type="checkbox"/> For persons with children already (biological or adopted), there are additional criteria (please specify): no legal requirements but it is recommended that the adoptee is the youngest in the family and that there is an age difference of 1-2 years to siblings;</p> <p><input type="checkbox"/> Other (please specify):</p> <p><input type="checkbox"/> No</p>
14.2 Suitability assessment¹⁵	
a) Which body(ies) / expert(s) perform the assessment of whether the PAPs are suitable persons to undertake an intercountry adoption?	the competent youth welfare authorities in the federal states;
b) Please briefly describe the procedure which is used to assess the PAPs and determine their suitability to undertake an intercountry adoption.	During the procedure the suitability of PAPs is verified with respect to their financial, psychological, medical and social eligibility. The criminal record, the motivation, habitation and family situation of the PAPs are checked.
14.3 Final approval	
Which body / person gives the final approval that the PAPs are eligible and suited to undertake an intercountry adoption?	regional Central Authority;

¹⁵ This suitability assessment will usually form one part of the report on the PAPs (Art. 15): as to which, see GGP No 1, *supra*, note 13, Chapter 7.4.3 and Question 17 below.

15. Preparation and counselling of PAPs (Art. 5 b))	
<p>a) In your State, are courses provided to prepare PAPs for intercountry adoption?</p>	<p><input checked="" type="checkbox"/> Yes, please specify the following:</p> <ul style="list-style-type: none"> - Whether the courses are mandatory: at least some basic courses are mandatory; - At what stage of the adoption procedure they are offered: after the first counselling interview; either at the beginning of the adoption proceedings or together with the verification of the suitability of the PAPs; - Who provides the courses: either the competent Youth Welfare Authority or specialised associations; - Whether they are provided to PAPs individually or collectively (<i>i.e.</i>, in a group): collectively; - Whether they are provided "in person" or electronically: in person; - How many hours the courses last: the minimum of 30 hours; - The content of the courses: self-reflection and motivation for the adoption, psychological development of children, questions of education, conflict management, legal matters, information about authorities and the adoption process; - Whether there are specific courses for PAPs wishing to adopt a child with special needs: no; but e.g. handling children with traumatizations is part of the general course; - Whether the courses are (or can be) targeted at preparing PAPs for the adoption of a child from specific States of origin: no; <p><input type="checkbox"/> No</p>
<p>b) Aside from any courses provided, what, if any, (other) counselling or preparation is provided to individual PAPs (<i>e.g.</i>, meeting with adoptive parents, language and culture courses)?</p> <p>Please specify, in each case:</p> <p>(i) If it is mandatory for PAPs to use the service;</p> <p>(ii) Who provides the service; and</p> <p>(iii) At what stage in the adoption procedure the service is provided.</p>	<p>The regional Central Authorities organise meetings for PAPs in Austria in order to exchange experiences. These meetings are not mandatory but very well participated.</p>

PART VI: THE INTERCOUNTRY ADOPTION PROCEDURE

16. Applications	
<p>a) To which authority / body should PAPs apply for an intercountry adoption?</p>	<p>at the regional Central Authority or the local Youth Welfare Authority;</p>

<p>b) Please indicate which documents your State requires to be included within the PAPs' file for transmission to the State of origin:¹⁶</p> <p><i>Please tick all which apply.</i></p>	<p><input checked="" type="checkbox"/> An application form for adoption completed by the PAPs</p> <p><input checked="" type="checkbox"/> A statement of "approval to adopt" issued by a competent authority</p> <p><input checked="" type="checkbox"/> A report on the PAPs including the "home study" and other personal assessments (see Art. 15)</p> <p><input type="checkbox"/> Copies of the PAPs' passports or other personal identification documents</p> <p><input checked="" type="checkbox"/> Copies of the PAPs' birth certificates</p> <p><input checked="" type="checkbox"/> Copies of the birth certificates of any children living with the PAPs</p> <p><input checked="" type="checkbox"/> Copies of marriage, divorce or death certificates, as applicable (please specify in which circumstances):</p> <p><input checked="" type="checkbox"/> Information concerning the health of the PAPs (please specify in which circumstances and what type of information is required):</p> <p><input checked="" type="checkbox"/> Evidence of the financial circumstances of the family (please specify in which circumstances and what type of information is required):</p> <p><input type="checkbox"/> Information concerning the employment status of the PAPs (please specify in which circumstances and what type of information is required):</p> <p><input checked="" type="checkbox"/> Proof of no criminal record</p> <p><input checked="" type="checkbox"/> Other(s): please explain further documents if required by the state of origin;</p>
<p>c) Is it compulsory in your State for an accredited body to be involved in an intercountry adoption procedure?¹⁷</p>	<p><input type="checkbox"/> Yes, please specify at which stage(s) of the procedure an accredited body must be involved (<i>e.g.</i>, for the preparation of the home study, for the submission of the adoption file to the State of origin, for all stages of the procedure):</p> <p><input checked="" type="checkbox"/> No. Please specify who assists PAPs if no accredited body is involved in the adoption procedure: the regional Central Authority;</p>
<p>d) Are any <i>additional</i> documents required if PAPs apply through an accredited body?</p> <p><i>Please tick all which apply.</i></p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> A power of attorney issued by the PAPs to the accredited body (<i>i.e.</i>, a written document provided by the PAPs to the accredited body in which the PAPs formally appoint the accredited body to act on their behalf in relation to the intercountry adoption):</p> <p><input type="checkbox"/> A contract signed by the accredited body and the PAPs:</p> <p><input type="checkbox"/> A document issued by a competent authority of the receiving State certifying that the accredited body may undertake intercountry adoptions:</p>

¹⁶ Please remember that a specific State of origin may have other / additional requirements concerning the documentation that must be submitted to it. A list of documents required by the specific State of origin can be found in the State of origin's Country Profile.

¹⁷ See GGP No 1, *supra*, note 13, paras 4.2.6 and 8.6.6: "independent" and "private" adoptions are not consistent with the system of safeguards established under the 1993 Convention.

	<input type="checkbox"/> Other (please specify): <input checked="" type="checkbox"/> No
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17. The report on the PAPs (Arts 5 a) and 15(1))

a) Which body(ies) / expert(s) prepare the report on the PAPs? Please include all those involved with the preparation of any of the documents which are included within such a report.	the local Youth Welfare Authority; when more details are required, the home study can be prepared by a registered voluntary Youth welfare agency;
b) Is a "standard form" used for the report on the PAPs in your State?	<input type="checkbox"/> Yes, please provide a link to the form or attach a copy: <input checked="" type="checkbox"/> No. Please indicate whether your State has any requirements concerning the information which must be included in the report on the PAPs and / or the documentation which must be attached to it:
c) For how long is the report on the PAPs valid in your State?	the provisions of the respective Children and Youth Welfare Act vary; there is a Home Study before the dossier is sent; in some federal states the report is valid for three years;
d) Who is responsible in your State for renewing the report on the PAPs if the period of validity expires before the intercountry adoption is completed and what is the procedure for renewal?	the local Youth Welfare Authority;

18. Transmission of the PAPs' file to the State of origin

a) Who sends the finalised application file of the PAPs to the State of origin?	the regional Central Authority
b) If no accredited body is involved with the intercountry adoption application (see Question 16 c) above), who assists the PAPs with compiling and transmitting their application file?	the regional Central Authority <input type="checkbox"/> Not applicable – an accredited body will always be involved (see response to Question 16 c) above).

19. Receipt of the report on the child (Art. 16(2)) and acceptance of the match (Art. 17 a) and b))

19.1 Receipt of the report on the child (Art. 16(2))

Which authority / body in your State receives the report on the child from the State of origin?	the regional Central Authority
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19.2 Acceptance of the match

a) Does your State require that the matching be accepted by a competent authority in your State?	<input checked="" type="checkbox"/> Yes, please provide the following details: - Which authority determines whether to accept the match (e.g., the Central Authority or another competent authority): regional Central Authority
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	<p>and</p> <ul style="list-style-type: none"> - The procedure which is followed (<i>e.g.</i>, the report on the child is transmitted <u>first</u> to the competent authority to determine whether the match is accepted and only if this authority accepts the match is the report sent to the PAPs): the Central Authority receives the report and accepts the match; then, the PAPs get informed by the Central Authority; <p><u>Go to Question 19.2 b)</u></p> <p><input type="checkbox"/> No. Please explain the procedure which is followed once the authority / body referred to in Question 19.1 has received the report on the child from the State of origin:</p> <p><u>Go to Question 19.2 c)</u></p>
b) Which criteria must be fulfilled for the relevant authority in your State to accept the match?	the match must be in the best interests of the child;
c) Does your State impose any requirements on PAPs concerning the length of time they are given to decide whether to accept a match?	<p><input type="checkbox"/> Yes, in addition to any requirements of the State of origin, our State has a time-limit – please specify:</p> <p><input checked="" type="checkbox"/> No, the requirements of the State of origin are determinative in this regard.</p>
d) Do PAPs receive any kind of assistance from your State when deciding whether to accept a match?	<p><input checked="" type="checkbox"/> Yes – please specify what type of assistance is provided (<i>e.g.</i>, counselling): counselling by the Central Authority;</p> <p><input type="checkbox"/> No</p>

20. Agreement under Article 17 c)

a) Which competent authority / body agrees that the adoption may proceed in accordance with Article 17 c)?	the regional Central Authority;
b) At what point in the adoption procedure is the Article 17 c) agreement given in your State?	<p><input type="checkbox"/> Our State waits for the State of origin to provide its agreement first OR</p> <p><input type="checkbox"/> Our State sends its agreement to the State of origin with a notice that the match has been accepted OR</p> <p><input checked="" type="checkbox"/> Other (please specify): the regional Central Authority sends its agreement if the match is accepted, regardless at what time the state of origin sends its agreement;</p>

21. Travel of the PAPs to the State of origin¹⁸

a) Does your State impose any travel requirements / restrictions on PAPs in addition to those imposed by the State of origin?	<p><input type="checkbox"/> Yes, please specify the additional requirements / restrictions:</p> <p><input checked="" type="checkbox"/> No</p>
b) Does your State permit an escort to be used to bring the child to the adoptive parents in your State in any	<input type="checkbox"/> Yes, please specify in which circumstances:

¹⁸ See GGP No 1, *supra*, note 13, Chapter 7.4.10.

circumstances?	<input checked="" type="checkbox"/> No
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22. Authorisation for the child to enter and reside permanently (Arts 5 c) and 18)	
a) Please specify the procedure to obtain authorisation for the child to enter and reside permanently in your State.	For children from non EU (EEA/Swiss)-countries, the authorisation to enter Austria (visa) is granted by the competent consulate or embassy. The request to reside permanently in Austria has to be submitted directly to the competent consulate or embassy which forwards it to the competent authority for foreigners in Austria. Once a court order exists, the child can permanently reside in Austria.
b) Which documents are necessary for a child to be able to enter and reside permanently in your State (e.g., passport, visa)?	birth certificate, passport, registration, court order regarding the adoption;
c) Which of the documents listed in response to Question 0 b) above must be issued by your State? Please indicate which public / competent authority is responsible for issuing each document.	birth certificate, passport, registration;
d) Once the child has arrived in your State, what is the procedure, if any, to notify the Central Authority or accredited body of his / her arrival?	the adoptive parents have to inform the Central Authority; in some Federal States the PAPs already have to commit themselves in the request to inform the Central Authority; in many cases the Central Authority of the state of origin forwards informations to the Austrian Central Authority;

23. Final adoption decision and the Article 23 certificate	
a) If the final adoption decision is made in your State, which competent authority: (i) Makes the final adoption decision; and (ii) Issues the certificate under Article 23? <i>N.B. According to Art. 23(2), the authority responsible for issuing the Art. 23 certificate should be formally designated at the time of ratification of / accession to the 1993 Convention. The designation (or any modification to a designation) should be notified to the depositary of the Convention. The answer to (ii) above should therefore be available on the Status Table for the 1993 Convention (under "Authorities"), available on the Intercountry Adoption Section of the Hague Conference website.</i>	(i) the competent family court (ii) the competent family court
b) Does your State use the "Recommended model form – Certificate of conformity of intercountry adoption"? See GGP No 1 – Annex 7.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
c) Please briefly describe the procedure for	The court order of the competent district court

<p>issuing the Article 23 certificate. <i>E.g.</i>, how long does it take to issue the certificate? Is a copy of the certificate always given to the PAPs? Is a copy sent to the Central Authority in the State of origin?</p>	<p>includes the Art 23 certificate. The court states which authority confirmed the adoption proceedings. Therefore, the court has to receive the statement of the competent regional Central Authority;</p>
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d) In cases in which the Article 23 certificate is issued in the State of origin, which authority or body in your State should receive a copy of this certificate?	the regional Central Authority;
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PART VII: INTRA-FAMILY INTERCOUNTRY ADOPTIONS

24. Procedure for the intercountry adoption of a child who is a relative of the PAPs ("intra-family intercountry adoption")	
a) Please explain the circumstances in which an intercountry adoption will be classified as an " <i>intra-family intercountry adoption</i> " in your State. Please include an explanation of the degree of relationship which a child must have with PAPs to be considered a "relative" of those PAPs.	An adoption will be classified as an intra-family intercountry adoption when 1. the adoptee is related to the PAPs up to the third degree of relationship or 2. the adoptee is the child of the prospective adopter's spouse.
b) Does your State apply the procedures of the 1993 Convention to intra-family intercountry adoptions? <i>N.B. If the child and PAPs are habitually resident in different Contracting States to the 1993 Convention, the Convention is applicable, irrespective of the fact that the child and PAPs are related: see further GGP No 1 at para. 8.6.4.</i>	<input checked="" type="checkbox"/> Yes – go to Question 25 <input type="checkbox"/> Yes, in general, although there are some differences in the procedures for intra-family intercountry adoptions – please specify: Go to Question 25 <input type="checkbox"/> No – go to Question 24 c)
c) If your State does not apply the Convention procedures to intra-family intercountry adoptions, please explain the laws / rules / procedures which are used in relation to: (i) The counselling and preparations which PAPs must undergo in your State; (ii) The preparation of the child for the adoption; (iii) The report on the PAPs; and (iv) The report on the child.	(i) (ii) (iii) (iv)

PART VIII: SIMPLE AND FULL ADOPTION¹⁹

25. Simple and full adoption	
a) Is "full" adoption permitted in your State? <i>See GGP No 1 at Chapter 8.8.8 and note 19 below.</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In certain circumstances only – please specify: <input type="checkbox"/> Other (please explain):

¹⁹ According to the 1993 Convention, a **simple** adoption is one in which the legal parent-child relationship which existed before the adoption is not terminated but a new legal parent-child relationship between the child and his / her adoptive parents is established. A **full** adoption is one in which the pre-existing legal parent-child relationship is terminated. See further Arts 26 and 27 and GGP No 1, *supra*, note 13, Chapter 8.8.8.

<p>b) Is "simple" adoption permitted in your State?</p> <p><i>See GGP No 1 at Chapter 8.8.8 and note 19 below.</i></p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> In certain circumstances only (e.g., for intra-family adoptions only) – please specify:</p> <p><input type="checkbox"/> Other (please explain):</p>
<p>c) Does the law in your State permit "simple" adoptions to be converted into "full" adoptions in accordance with Article 27 of the 1993 Convention?</p> <p><i>See Art. 27(1) a).</i></p>	<p><input type="checkbox"/> Yes – please provide details of how this is undertaken and please specify whether this is done on a regular basis when a State of origin grants a "simple" adoption or only in specific cases:</p> <p><input checked="" type="checkbox"/> No – go to Question 26</p>
<p>d) If conversion of a "simple" adoption into a "full" adoption is sought in your State following an intercountry adoption, how does your State ensure that the consents referred to in Article 4 c) and d) of the 1993 Convention have been given in the State of origin to a "full" adoption (as required by Art. 27(1) b))?</p> <p><i>See Art. 27(1) b) and Art. 4 c) and d).</i></p>	
<p>e) Following a conversion in your State, please explain which authority is responsible for issuing the Article 23 certificate in relation to the conversion decision. Please also explain the procedure which is followed.</p>	<p><input type="checkbox"/> The competent authority and the procedure is the same as stated in response to Question 23 above.</p> <p><input type="checkbox"/> Other (please specify):</p>

PART IX: POST-ADOPTION MATTERS

26. Preservation of, and access to, information concerning the child's origins (Art. 30) and the adoption of the child	
<p>a) Which authority in your State is responsible for preserving information concerning the child's origins, as required by Article 30?</p>	<p>the regional Central Authority as well as the competent Youth Welfare Authority;</p>
<p>b) For how long is the information concerning the child's origins preserved?</p>	<p>at least 50 years from the date the adoption becomes effective; some regional central Authorities preserve the information even longer;</p>
<p>c) Does your State permit the following persons to have access to information concerning the child's origins and / or information concerning the adoption of the child:</p> <p>(i) the adoptee and / or his / her representative(s);</p> <p>(ii) the adoptive parent(s);</p> <p>(iii) the birth family; and / or</p> <p>(iv) any other person(s)?</p> <p>If so, are there any criteria which must be met for access to be granted (e.g., age of the adopted child, consent of the birth family to the release of information concerning the child's origins, consent of the adoptive parents to the release of</p>	<p>(i) <input checked="" type="checkbox"/> Yes – please explain any criteria: the adoptee from the age of 14;</p> <p><input type="checkbox"/> No</p> <p>(ii) <input checked="" type="checkbox"/> Yes – please explain any criteria: The adoptive parents have access if it's necessary for medical reasons;</p> <p><input type="checkbox"/> No</p> <p>(iii) <input type="checkbox"/> Yes – please explain any criteria:</p> <p><input checked="" type="checkbox"/> No</p> <p>(iv) <input type="checkbox"/> Yes – please explain any criteria:</p> <p><input checked="" type="checkbox"/> No</p>

information concerning the adoption)? <i>See Art. 9 a) and c) and Art. 30.</i>	
d) Where access to such information is provided, is any counselling or other guidance / support given in your State?	<input checked="" type="checkbox"/> Yes – please specify: assistance is provided by the regional Central Authorities and the competent Youth Welfare Authority; <input type="checkbox"/> No
e) Once access to such information has been provided, is any <i>further</i> assistance offered to the adoptee and / or others (e.g., regarding making contact with his / her biological family, tracing extended family)?	<input checked="" type="checkbox"/> Yes – please specify: assistance is provided by the regional Central Authorities and the competent Youth Welfare Authority; <input type="checkbox"/> No

27. Post-adoption reports

a) Absent specific requirements of the State of origin in this regard, who is responsible in your State for <i>writing</i> post-adoption reports and <i>sending</i> such reports to the State of origin?	The competent Youth Welfare Authority is responsible for writing, supported by experts from accredited or supervised child welfare institutions; The regional Central Authority is responsible for sending the reports to the state of origin;
b) Absent any specific requirements of the State of origin in this regard, is there a model form which is used by your State for post-adoption reports?	<input type="checkbox"/> Yes – please specify whether use of the form is mandatory and indicate where it may be accessed (e.g., provide a link or attach a copy): <input checked="" type="checkbox"/> No – in which case, please specify the content expected by <i>your</i> State in a post-adoption report (e.g., medical information, information about the child's development, schooling): The reports includes information about the medical situation and the development of the child;
c) How does your State ensure that the requirements of the State of origin in relation to post-adoption reporting are fulfilled?	if demanded, the regional Central Authority is giving advice to parents and experts;

28. Post-adoption services and support (Art. 9 c))

Apart from the matters raised in Question 26 above, what, if any, post-adoption services and support is / are provided by your State to the child and / or PAPs following completion of an intercountry adoption (e.g., counselling, support to preserve cultural links)? In particular, please state whether any specific post-adoption services or support are provided in your State in the case of special needs children.	Upon request or in jeopardy of the child's best interests networking, meetings and counselling are provided; but most of the adoptive parents don't want any interferences in their life after the adoption; according to the concept of full adoption, adopting parents and adopted child built a family as any natural family; thus, interference should only occur in cases where the best interest of the child is in danger.
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PART X: THE FINANCIAL ASPECTS OF INTERCOUNTRY ADOPTION²⁰

Receiving States are also kindly requested to complete the "Tables on the costs associated with intercountry adoption", available on the [Intercountry Adoption Section](#) of the Hague Conference website.

29. The costs²¹ of intercountry adoption	
a) Are the costs of intercountry adoption regulated by law in your State?	<input type="checkbox"/> Yes – please specify any relevant legislation / regulations / rules and indicate how they may be accessed (e.g., link to a website or attach a copy). Please also briefly explain the legal framework: as a consequence of adoption, some administrative proceedings may be linked with some fees (e.g.: translation of documents, travel costs, award of nationality, visa etc), but the adoption proceedings as such are free of costs. <input checked="" type="checkbox"/> No
b) Does your State monitor the payment of the costs of intercountry adoption?	<input type="checkbox"/> Yes – please briefly describe how this monitoring is undertaken: <input checked="" type="checkbox"/> No
c) Are the costs of intercountry adoption which must be paid in your State paid through the accredited body involved in the particular intercountry adoption (if applicable – see Question 16 c) above) or directly by the PAPs themselves? <i>See the "Note on the financial aspects of intercountry adoption" at para. 86.</i>	<input type="checkbox"/> Through the accredited body: <input type="checkbox"/> Directly by the PAPs: <input checked="" type="checkbox"/> Other (please explain): see 29.a)
d) Are the costs of intercountry adoption which must be paid in your State paid in cash or only by bank transfer? <i>See the "Note on the financial aspects of intercountry adoption" at para. 85.</i>	<input type="checkbox"/> Only by bank transfer: <input type="checkbox"/> In cash: <input checked="" type="checkbox"/> Other (please explain): see 29.a)
e) Which body / authority in your State receives the payments?	see 29.a)
f) Does your State provide PAPs (and other interested persons) with information about the costs of intercountry adoption (e.g., in a brochure or on a website)? N.B. Please also ensure that your State has completed the "Tables on the costs associated with intercountry adoption" (see above).	<input type="checkbox"/> Yes – please indicate how this information may be accessed: <input checked="" type="checkbox"/> No

²⁰ See the tools developed by the "Experts' Group on the Financial Aspects of Intercountry Adoption", available on the [Intercountry Adoption Section](#) of the Hague Conference website: i.e., the *Terminology adopted by the Experts' Group on the financial aspects of intercountry adoption* ("Terminology"), the *Note on the financial aspects of intercountry adoption* ("Note"), the *Summary list of good practices on the financial aspects of intercountry adoption* and the *Tables on the costs associated with intercountry adoption*.

²¹ See the definition of "costs" provided in the harmonised Terminology, *ibid.*

30. Contributions, co-operation projects and donations²²	
<p>a) Does your State permit contributions²³ to be paid (either through your State's Central Authority or a national accredited body) to a State of origin in order to engage in intercountry adoption with that State?</p> <p><i>For good practices relating to contributions, see the "Note on the financial aspects of intercountry adoption" at Chapter 6.</i></p>	<p><input type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> - What type of contribution is permitted by your State: - Who is permitted to pay it (<i>i.e.</i>, the Central Authority or a national accredited body): - How it is ensured that contributions do not influence or otherwise compromise the integrity of the intercountry adoption process: <p><input checked="" type="checkbox"/> No</p>
<p>b) Does your State undertake (either through the Central Authority or national accredited bodies) co-operation projects in any States of origin?</p>	<p><input type="checkbox"/> Yes - please explain:</p> <ul style="list-style-type: none"> - What type of co-operation projects are permitted by your State: - Who undertakes such projects (<i>i.e.</i>, the Central Authority and / or national accredited bodies): - Whether such projects are mandatory according to the law of your State: - Whether such projects are monitored by an authority / body in your State: - How it is ensured that co-operation projects do not influence or otherwise compromise the integrity of the intercountry adoption process: <p><input checked="" type="checkbox"/> No</p>
<p>c) If permitted in the State of origin, does your State permit PAPs or accredited bodies to make donations to orphanages, institutions or birth families in the State of origin?</p> <p><i>N.B. This is <u>not</u> recommended as a good practice: see further the "Note on the financial aspects of intercountry adoption" at Chapter 6 (in particular, Chapter 6.4).</i></p>	<p><input type="checkbox"/> Yes – please explain:</p> <ul style="list-style-type: none"> - To whom donations may be made (<i>e.g.</i>, to orphanages, other institutions and / or birth families): - What donations are intended to be used for: - Who is permitted to pay donations (<i>e.g.</i>, only accredited bodies or also PAPs): - At what stage of the intercountry adoption procedure donations are permitted to be paid: - How it is ensured that donations do not influence or otherwise compromise the integrity of the intercountry adoption procedure: <p><input checked="" type="checkbox"/> No</p>

²² See the definitions of these terms provided in the harmonised Terminology. In addition, on contributions and donations, see Chapter 6 of the Note, *supra*, note 20.

²³ See further the harmonised Terminology, *supra*, note 20, which states that there are two types of contributions: (1) contributions demanded by the State of origin, which are mandatory and meant to improve either the adoption system or the child protection system. The amount is set by the State of origin. These contributions are managed by the authorities or others appropriately authorised in the State of origin which decide how the funds will be used; (2) contributions demanded by the accredited body from PAPs. These contributions may be for particular children's institutions (*e.g.*, for maintenance costs for the child) or for the co-operation projects of the accredited body in the State of origin. The co-operation projects may be a condition of the authorisation of that body to work in the State of origin. The amount is set by the accredited body or its partners. The payment may not be a statutory obligation and accredited bodies may present the demand in terms of "highly recommended contribution", but in practice it is "mandatory" for the PAPs in the sense that their application will not proceed if the payment is not made.

31. Improper financial or other gain (Arts 8 and 32)	
a) Which authority is responsible for preventing improper financial or other gain in your State as required by the Convention?	
b) What measures have been taken in your State to prevent improper financial or other gain?	
c) Please explain the sanctions which may be applied if Articles 8 and / or 32 are breached.	

PART XI: ILLICIT PRACTICES²⁴

32. Response to illicit practices in general	
Please explain how your Central Authority and / or other competent authorities respond to intercountry adoption cases involving alleged or actual illicit practices. ²⁵	If a regional Central Authority notices that illicit practices are involved, the cooperation with these countries stops immediately and the immigration police will get informed. The application for recognition of adoptions where illicit practices were involved gets dismissed.

33. The abduction, sale of and traffic in children	
a) Please indicate which laws in your State seek to prevent the abduction, sale of and traffic in children in the context of your intercountry adoption programmes. Please also specify which bodies / persons the laws target (e.g., accredited bodies (national or foreign), PAPs, directors of children's institutions).	Sect. 104a (Trafficking in human beings), 194 (adoptions have been mediated by illicit practices) and 195 (abduction of children) of the Austrian Penal Code; Sect. 91c AußstrG (non contentious proceedings Act), as any child or parent may apply for denial of recognition;
b) Please explain how your State monitors respect for the above laws.	through the thorough work of all involved authorities;
c) If these laws are breached, what sanctions may be applied? (e.g., imprisonment, fine, withdrawal of accreditation.)	imprisonment and fine

²⁴ "Illicit practices" in this Country Profile refers to "situations where a child has been adopted without respect for the rights of the child or for the safeguards of the Hague Convention. Such situations may arise where an individual or body has, directly or indirectly, misrepresented information to the biological parents, falsified documents about the child's origins, engaged in the abduction, sale or trafficking of a child for the purpose of intercountry adoption, or otherwise used fraudulent methods to facilitate an adoption, regardless of the benefit obtained (financial gain or other)" (from p. 1 of the *Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases*, available on the [Intercountry Adoption Section](#) of the Hague Conference website < www.hcch.net >).

²⁵ *Ibid.*

34. Private and / or independent adoptions

Are private and / or independent adoptions permitted in your State?

N.B. "Independent" and "private" adoptions are not consistent with the system of safeguards established under the 1993 Convention: see further GGP No 1 at Chapters 4.2.6 and 8.6.6.

Please tick all which apply.

- Private adoptions are permitted – please explain how this term is defined in your State:
- Independent adoptions are permitted - please explain how this term is defined in your State: Private and independent adoptions are possible in Austria. Nevertheless, they are subject to judicial review. Is the state of origin a Member of the Hague Convention, the Central Authorities must be involved in the adoption procedure.
- Neither private nor independent adoptions are permitted.

PART XII: INTERNATIONAL MOBILITY

35. The scope of the 1993 Convention (Art. 2)

a) If foreign national PAPs, habitually resident in your State, wish to adopt a child habitually resident in another Contracting State to the 1993 Convention, are they permitted to do so under the law of your State?

Example: Indian PAPs are habitually resident in the USA and wish to adopt a child habitually resident in India.

Yes – please explain whether this would be treated as an *intercountry* or *domestic* adoption in your State²⁶ and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: In this case the adoption will be treated as an intercountry adoption and no specific criteria/conditions apply.

No

b) If foreign national PAPs, habitually resident in your State, wish to adopt a child also habitually resident in your State, are they permitted to do so under the law of your State?

Example: Indian PAPs are habitually resident in the USA and wish to adopt a child also habitually resident in the USA.

Yes – please explain whether this would be treated as an *intercountry* or *domestic* adoption in your State²⁷ and please briefly explain the procedure which would be followed, as well as any specific criteria / conditions which would apply: In this case the adoption will be treated as a domestic adoption and no specific criteria/conditions apply. However, the adoptions will be ruled by the Law of the state, whose nationals the PAPs are.

No

c) If a State of origin treats an adoption by PAPs habitually resident in your State as a *domestic* adoption when, in fact, it should be processed as an intercountry adoption under the 1993 Convention, how does your State deal with this situation?

Example: PAPs who are nationals of State X habitually reside in your State. They wish to adopt a child from State X. Due to their nationality, the PAPs are able to adopt a child in State X in a domestic adoption

The competent Family court will, by request, order if the adoption is recognised in Austria. In cases where the adoption is not recognised and the state of origin is not an EU-Member state (or EEA or CH), the child can't stay in Austria.

In this case, a solution must be found on a case-by-case-basis taking into consideration the child's best interest.

²⁶ According to the 1993 Convention (see Art. 2), this is an *intercountry* adoption due to the differing habitual residences of the PAPs and the child. The Convention procedures, standards and safeguards should therefore be applied to such adoptions: see further, GGP No 1, *supra*, note 13, Chapter 8.4.

²⁷ According to the 1993 Convention (see Art. 2), this is a *domestic* adoption due to the fact that the habitual residence of the PAPs and the child is in the same Contracting State: see further, GGP No 1, *supra*, note 13, Chapter 8.4.

<p><i>procedure (in breach of the 1993 Convention). They then seek to bring the child back to your State.</i></p>	
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PART XIII: SELECTION OF PARTNERS FOR INTERCOUNTRY ADOPTION²⁸

36. Selection of partners	
<p>a) With which States of origin does your State currently partner on intercountry adoption?</p>	<p>The regional Central Authorities can partner with any state. Currently there are partnerships with member states of the Hague Convention as well as with states that are not state parties of the Convention.</p>
<p>b) How does your State determine with which States of origin it will partner?</p> <p>In particular, please specify whether your State only partners with other <i>Contracting States</i> to the 1993 Convention.</p> <p><i>To see which States are Contracting States to the 1993 Convention, please refer to the Status Table for the 1993 Convention (accessible via the Intercountry Adoption Section of the Hague Conference website < www.hcch.net >).</i></p>	<p>The regional Central Authorities decide with which countries they cooperate provided that the law of the state allows intercountry adoptions according to the standards of the Hague Convention.</p> <p>Depending on the law, the legal certainty and the functioning of the authorities in the state of origin, the regional Central Authority choose the state to partner with.</p>
<p>c) If your State also partners with <i>non-Contracting States</i>, please explain how it is ensured that the safeguards of the 1993 Convention are complied with in these cases.²⁹</p>	<p>The adoption procedure must meet the requirements of the Hague Convention as far as possible. If they are not met or there are any doubts in the responsible processing of the adoption procedure, no adoption placement from this state will be accepted.</p> <p><input type="checkbox"/> Not applicable: our State only partners with other <i>Contracting States</i> to the 1993 Convention.</p>
<p>d) Are any formalities required in order to commence intercountry adoptions with a particular State of origin (e.g., the conclusion of a formal agreement³⁰ with that State of origin)?</p>	<p><input type="checkbox"/> Yes – please explain the content of any agreements or other formalities:³¹</p> <p><input checked="" type="checkbox"/> No</p>

²⁸ In relation to the choice of foreign States as partners in intercountry adoption arrangements, see further GGP No 2, *supra*, note 4, Chapter 3.5.

²⁹ See GGP No 1, *supra*, note 13, Chapter 10.3 regarding the fact that “[i]t is generally accepted that States Party to the Convention should extend the application of its principles to non-Convention adoptions”.

³⁰ See note 3 above concerning Art. 39(2) and the requirement to transmit a copy of any such agreements to the depositary for the 1993 Convention.

³¹ *Ibid.*