

ADOPTION

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**QUESTIONNAIRE SUR LES ORGANISMES AGRÉÉS DANS LE CADRE DE LA
CONVENTION DE LA HAYE DU 29 MAI 1993 SUR LA PROTECTION
DES ENFANTS ET LA COOPÉRATION EN MATIÈRE
D'ADOPTION INTERNATIONALE**

établi par le Bureau Permanent

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**QUESTIONNAIRE ON ACCREDITED BODIES IN THE FRAMEWORK OF THE
HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION
OF CHILDREN AND CO-OPERATION IN RESPECT
OF INTERCOUNTRY ADOPTION**

drawn up by the Permanent Bureau

*Document préliminaire No 1 d'août 2009 à l'intention de la
Commission spéciale de juin 2010 sur le fonctionnement pratique de la
Convention de La Haye du 29 mai 1993 sur la protection des enfants et
la co-opération en matière d'adoption internationale*

*Preliminary Document No 1 of August 2009 for the attention of the
Special Commission of June 2010 on the practical operation of the
Hague Convention of 29 May 1993 on Protection of Children and
Co-operation in Respect of Intercountry Adoption*

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Introduction

The Permanent Bureau is undertaking preparations for the Third Special Commission Meeting to review the practical operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption* (1993 Hague Convention), which is to be held in The Hague in June 2010. It is intended that the Special Commission will provide the opportunity for State Parties to the Convention (as well as States which are considering or preparing for ratification or accession) to exchange information and experiences on the operation of the Convention, to compare practices, and to discuss any difficulties in respect of the implementation and practical operation of the Convention.

Following the recommendations of the 2005 Special Commission, and based on the Discussion Paper on Accreditation Issues,¹ the Permanent Bureau is gathering information for a new Guide to Good Practice on Accreditation. The following Questionnaire has been developed for this purpose. Your responses to this Questionnaire will be an invaluable source of information for us in developing the new Guide.

As you know, in many countries, accredited bodies perform the functions of Central Authorities in relation to particular adoptions under the 1993 Hague Convention. The process of accreditation of bodies is one of the Convention's safeguards to protect children during the adoption process. The Convention requires that accredited bodies be not for profit, staffed by qualified and experienced personnel and be subject to supervision by competent authorities (Art. 11). Basic standards are imposed by the Convention to guide the accreditation process. It is implicit in the Convention that States will develop their own accreditation criteria, based on Convention objects and standards and expanded as necessary to meet the requirements of the individual State. The new Guide will include a set of model accreditation criteria.

In addition, according to Article 12, bodies accredited in one State and wishing to operate in another State must be specifically authorised to do so by the competent authority of both States (the accrediting State and the State of operation). In order to clear up some misunderstandings, the new Guide will explain the differences between accreditation and authorisation.

This Questionnaire is addressed to Member States of the Hague Conference and Contracting States to the 1993 Hague Convention. Obviously, it is understood that some questions can only be readily answered by Contracting States. It is also understood that some questions are more relevant to States of origin than to receiving States and vice versa.

As regards all other States which are not yet Party to the Convention, as well as certain intergovernmental organisations and non-governmental international organisations which have also been invited to Special Commissions as Observers, we would welcome from them any comments in respect of any items in the Questionnaire which are considered relevant.

We intend, except where expressly asked not to do so, to place all replies to the Questionnaire on the Hague Conference website. We would therefore request that replies be sent to the Permanent Bureau, if possible by e-mail, to: **secretariat@hcch.net**.

*We would be very grateful for your co-operation in this exercise, and we hope that you will be able to send us your replies to this Questionnaire **by 30 September 2009**.*

¹ "A Discussion Paper on Accreditation Issues", drawn up by Jennifer Degeling, Principal Legal Officer, with the assistance of Carlotta Alloero, Intern.

NAME OF STATE OR ORGANISATION: Ministry of Labor, Health and Social Affairs of Georgia. Social Service Agency

EXPLANATIONS AND QUESTIONS

If a question does not apply to your State, please answer "Not applicable" or "N/A".

Some questions can be answered by marking a box.

Where your answer refers to specific provisions of your law / laws, please cite the law and provision number as it may be a helpful reference in the Guide to Good Practice.

Where your answers can be enhanced by providing a link to an electronic version of a document (*e.g.*, guidelines, criteria), please give that link.

USE OF TERMINOLOGY

There are three situations in which accreditation and authorization (as used in the Convention) may occur. A distinction is to be made between "accreditation" and "authorisation":

- (1) adoption bodies are accredited in the receiving State to work in States of origin (Arts 10, 11) (1993 Hague Convention terminology: **accreditation**);
- (2) those adoption accredited bodies of receiving States are granted authorisation in the State of origin with a view to arranging the adoption (Art. 12) (1993 Hague Convention terminology: **authorisation**);
- (3) bodies in the State of origin are accredited by it to work with foreign bodies of the receiving State with a view to adoption (Arts 10, 11) (1993 Hague Convention terminology: **accreditation**).

NB: FOR STATES OF ORIGIN, PLEASE MAKE IT CLEAR IN YOUR ANSWERS IF YOU ARE REFERRING TO YOUR OWN ACCREDITED BODIES OR TO FOREIGN ACCREDITED BODIES WORKING IN YOUR STATE.

A. General policy issues concerning accreditation

1. In your State what terminology do you use for the situations described in (1), (2) and (3) above? Is it the same or different? If different, please specify, define and indicate if you intend to use your own terminology to answer the following questions.
[The same terminology.](#)
2. Is your State a receiving State or a State of origin or both?
[Both](#)
3. Have you informed the Permanent Bureau all of the details of bodies accredited by your State, as required by Article 13? Is the information which is currently on the Hague Conference website up to date?

If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision. Please answer any questions that are relevant to your State's situation.

[According to the Adoption Law of Georgia, the competent adoption authorities are the Ministry of Labour, Health and Social Affairs of Georgia or/and the competent agency \(organization\) falling within its system \(i.e. Social Service Agency\). Any physical person or legal entity other than the above mentioned authorities shall be](#)

prohibited from taking any action towards granting the status of an adoptable child and adoption of such child. (Adoption Law of Georgia article 9, *sub-paragraph 3*)

Accordingly Georgia does not use accredited bodies. Foreign accredited bodies are allowed to act in Georgia only as an intermediary between the central authority of Georgia and foreign adoptive parents. They are responsible for provision of post adoption reports to the central authority (Social Service Agency) till the child is 18 years old.

Social Service Agency gives permission to foreign accredited bodies to work in Georgia within the framework of the above mentioned conditions, only after checking the information about them on the Hague website.

4. How do you define "accreditation" and "accredited body" in your State?
5. **N/A** Do the following categories of actors come within the definition of accredited body (are they included as accredited body staff, employees or personnel)?
- facilitators (if they exist in your State, please specify their role)
 - national representatives of foreign accredited body
 - translators
 - lawyers (*e.g.*, with a power of attorney from prospective adopters)
 - guide, drivers, etc.

If these actors are not employees of the accredited body, what is their legal relationship, if any, to the accredited body?

6. **N/A** As at 30 September 2009, what is the current number of accredited bodies in your State, state or province? If possible, please indicate how many bodies have been refused accreditation, have lost their accreditation or discontinued their activities since 1 January 2006, and for what reason.
7. **N/A** Do you think the number of accredited bodies accredited by, or operating in your State is proportional to the number of intercountry adoptions taking place? If not, do you intend to take any appropriate measures?
8. **N/A** Do you impose any limits on the number of accredited bodies which are granted accreditation in your State? If yes, on what grounds are limits imposed?
9. **N/A** Does the Central Authority or the accredited body make the choice of the foreign States with which the accredited body could work (if authorisation were to be given)?

N/A Receiving State questions

10. (i) Receiving States: does the grant of accreditation automatically include an authorisation to act in:
- a) any State of origin;
 - b) a specified State / States of origin?
- (ii) Do you limit the number of accredited bodies for every State of origin?

B. Organisation and structures

11. **N/A** On which subjects does the accredited body have to provide evidence to, or inform, the Central Authority or other competent authority to obtain or maintain accreditation? Please tick relevant box:

- Composition of the accredited body's personnel and any changes
- Qualifications and experience of personnel
- Resolution of the board of governors attesting that the body is bound by ethical principles and rules of professional conduct
- Internal statute, regulations and guidelines of accredited body, including
 - documents which demonstrate the legal constitution of the accredited body
 - financial management and accounting practices
- Costs and expenses charged by accredited body
- Copy of the terms of collaboration between the accredited body and the body or person to whom the body entrusts responsibilities in performance of the adoption procedure
- Budget forecasts for 12-24-36 months
- Copy of the standard-form contract between the body and adoptive candidate
- Insurance for legal liability
- Other – please provide details

Receiving State questions

- Certified true copy of an official version of the legislation of the State of origin with which the accredited body will co-operate
 - Contracts with foreign collaborators or intermediaries, their qualifications and mode of payment (monthly salary / flat rate for every adoption)
 - Agreements with orphanages in the countries of origin or internal regulations relating to the handling of cases, and confidentiality rules
 - Copy of the statement of authorisation or approval to work in the State of origin if applicable
 - Evidence of knowledge of the situation (cultural, social and legal) in the State of origin
 - Evidence of knowledge of the adoption law and practice in the State of origin, and understanding of the role of counterparts in the State of origin
12. **N/A** Is it compulsory for staff of an accredited body to be professionally qualified? If yes, which professions? (e.g., lawyers, psychologists, psychiatrists, social workers, etc).
13. **N/A** If volunteers are used, what is the ratio of volunteers to professional staff?
14. **N/A** Are your accredited bodies required to sign a contract or agreement with the prospective adoptive parents? In general, what are the obligations of accredited bodies to adoptive candidates?
15. **N/A** What are the role and responsibility of the Central Authority or competent authorities with respect to the training of accredited bodies?
16. **N/A** Are your accredited bodies required to have internal guidelines for carrying out tasks related to adoptions including guidelines on confidentiality of information?
17. **N/A** Are your accredited bodies required to keep the adoption records for a certain number of years? How many years?

C. N/A Accreditation procedure

18. Please provide details (including powers and resources) of the authority or authorities which grant accreditation. Briefly describe the procedure to obtain accreditation.

19. Please give a brief outline of your accreditation criteria, guidelines or legislation. If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.
20. Is there a central registry of all accredited bodies?
21. For how long is the accreditation granted?
22. What are the conditions for renewal of accreditation?

D. N/A Authorisation of foreign accredited bodies

23. In your State how do you define "authorisation" in the context of Article 12? Do you have criteria for authorisation?
24. Who makes the decision to authorise accredited bodies in accordance with Article 12? Is your process of authorisation formal or informal? Please describe the process.
25. Is the Permanent Bureau informed of the authorisations?²

Receiving State questions

26. As a receiving State, can you provide the current numbers of accredited bodies authorised for individual countries of origin?
27. On what basis does the accredited body seek authorisation to work in a State of origin?
28. What factors or criteria are relevant for the Central Authority (or competent authority) to consider when giving or denying authorisation to work in a State of origin?

State of origin questions

29. As a State of origin, have you authorised foreign accredited bodies to undertake intercountry adoptions in your State (see Art. 12)? How many accredited bodies are currently authorised and from which receiving countries? How many were authorised as at 31 December 2005?
30. As a State of origin, is the foreign accredited body required to be fully accredited by your State and by your procedures, rather than simply "authorised"?
31. As a State of origin, how do you decide how many foreign accredited bodies are needed in your State?
32. Countries of origin: If you authorise a foreign accredited body to "act" in your State, does this mean:
 - a) the foreign accredited body must establish an office with professional staff (nationals of the State of origin or of the receiving State)?

² "Where a body accredited in one Contracting State is, in accordance with Article 12, authorised to act in another Contracting State, such authorisation should be communicated to the Permanent Bureau by the competent authorities of both States without delay", Recommendation No 3 of the 2005 Special Commission (reaffirming Recommendation No 2 of the 2000 Special Commission).

- b) the foreign accredited body can “act” in your State through an individual facilitator or intermediary
 - c) the foreign accredited body does not have an office or intermediary in the State of origin and it liaises directly with the Central Authority?
33. Countries of origin: have you experienced any difficulties with foreign accredited bodies working with or in your State?

E. N/A Supervision and review of accredited bodies

34. How do you supervise bodies accredited in your State (Art. 11 c))? Are regular reports required such as annual reports (including financial reports) from the accredited body to the supervising authority?
35. What supervision occurs in the State of origin of authorised foreign accredited bodies?
36. How is the performance of the accredited body assessed or evaluated?
37. Does the supervising authority have the power to make regular inspections of and reports on the accredited bodies? Have secrecy or privacy laws hindered inspections?
38. Do you require accredited bodies to report on any problems with intercountry adoptions, such as problems with particular countries, procedural problems or problems with implementation of the 1993 Hague Convention (see Convention Art. 33)?
39. Does your law have provisions to deal with breach of duties or breach of the conditions of accreditation by accredited bodies? *E.g.*, Suspension or revocation of accreditation or authorisation? Other penalties / measures? Please give details.
40. If accreditation has been suspended or withdrawn and is later re-instated, what conditions, if any, apply after re-instatement?
41. Is it possible to suspend or withdraw accreditation if the general situation in the State no longer offers the necessary guarantees for intercountry adoptions?
42. Are there restrictions upon activities of accredited bodies (*e.g.*, advertising their services; advertising, including on the internet, of adoptable children; limits on amounts that can be charged for fees and other expenses)?
43. Are you aware of any acts or behaviour by accredited bodies that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?
44. What are the means used by the authorities supervising accredited bodies in order to improve good practices or remedy breaches in relation to requirements for accreditation or as regards to behaviour?
45. Is there collaboration among the accredited bodies working in the same State of origin, or in different countries? If so, what kind of collaboration?
46. Is the information on each accredited body's website regularly checked by the supervising authority? By an authority in the State of origin with which it co-operates?

F. **N/A Financial issues**

47. How are your accredited bodies financed?
48. How are fees and charges set? *E.g.*, by accredited bodies themselves, by a public authority. Is there bilateral co-operation between your State and other countries to establish appropriate fees for the 2 countries concerned?
49. Is detailed information about all the fees, charges and costs associated with an intercountry adoption available easily to adoptive candidates and other authorities?
50. How and when is that information provided to adoptive candidates?
51. How is financial transparency and accountability of accredited bodies achieved? *E.g.*, by standard bookkeeping? Receipts and proof of purchases? Reports submitted with financial statement?
52. Do you allow donations to be paid to children's homes by the accredited bodies or prospective adoptive parents? Under what conditions?
53. The costs relating to adoption are extremely difficult to evaluate. Can you state the average amount or range (smallest to highest amount payable) for the following items.

Costs in the receiving State

- a) registration with an accredited body,
- b) administrative costs, establishment and sending of the adoptive candidate's documents, etc.
- c) costs for adoption training and preparation courses for prospective adoptive parents
- d) cost of procurement of statutory documents (birth or marriage certificates, psychosocial report, etc.)
- e) cost of human resources (salaried staff) of the body in the receiving State and in the State of origin
- f) cost of professional services in the receiving State (*e.g.*, lawyers, notaries, doctors)
- g) other – please specify.

Costs in the State of origin

- a) the body's administrative costs,
- b) cost of procurement of statutory documents (birth or marriage certificates, psychosocial report, etc.),
- c) co-ordination of the case through (in-country staff of) the accredited body,
- d) cost of professional services (lawyers, interpreters, guides, drivers, etc) in the State of origin,
- e) cost of filing of the documents with the appropriate authorities,
- f) translation and assistance,
- g) legal or administrative costs in the State of origin,
- h) transport and hotel costs for the adoptive parents,
- i) humanitarian contribution and donation to the orphanage, etc.,
- j) other – please specify.

54. What is the relation between adoption fees (and contributions) and actual costs? Is it calculated for the whole budget of the accredited body, or per State, or does each adoption carry its own costs? How is the relation between fees and actual costs supervised?
55. What general comments can you give about costs of intercountry adoption (from the perspective of your own State and in other countries?)

State of origin questions

56. In the State of origin, who is responsible for the co-ordination of the costs: an accredited body's employee? A third-party? In case of a third-party, how is he selected? How is he financed? How is he evaluated? What mechanisms are in place to ensure that these costs are reasonable and transparent? What are the factors that make these costs vary from one adoptive file to another?

G. N/A Operational issues

57. Which are the tasks carried out by accredited bodies in your State? Tick boxes if applicable. For countries of origin, please specify if your own national accredited bodies or foreign accredited bodies perform the tasks.

Receiving State questions

- Determination of eligibility of prospective adoptive parents (legal criteria)
- Evaluation of suitability of prospective adoptive parents (psychosocial criteria)
- Decision granting approval for the prospective adoptive parents to adopt
- Information and preparation of adoptive parents for intercountry adoption
- Make the matching decision
- Counselling of PAPs about child proposed to them (the proposed match)
- Agreements under article 17 of the 1993 Hague Convention
- Arrange to file documents with Court or authority of State of origin
- Report to supervising authority on status of the adoption
- Assist PAPs with Travel preparations
- Follow, know, understand, and supervise the procedure for the adoption
- Other tasks: please provide details

State of origin questions

- Assessment of the adoptability of a child
- Work with birth parents on family preservation to avoid adoption of the child
- Decision on the adoptability of a child
- Counselling and information for birth parents / consequences of consent
- Obtaining Consent
- Search for parents in cases of abandonment
- Assume responsibility for the child prior to the adoption
- Prepare the child for adoption
- Agreements under Article 17 of the 1993 Hague Convention

- File adoption documents with court or authority
- Search for socio-biological background information of child and birth family and reunion with birth family
- Make the matching decision
- Preparation of the adoptive child
- Assistance provided to the adoptive parents during their stay
- Other tasks: please provide details.

H. **N/A Post adoption services and reports**

58. What post adoption services do your accredited bodies offer (*e.g.*, counselling and family support)? Is provision of post adoption services one of the conditions of accreditation?
59. Are there any publicly funded post adoption services?

Receiving State questions

60. Do accredited bodies have to provide regular reports on the child? To whom are the reports sent *e.g.*, Central Authorities of State of origin and of receiving State? Other?
61. Do your accredited bodies prepare the post adoption report or do they ask the adoptive parents to prepare it and send it to the State of origin? If a public authority is responsible for post adoption reporting, please explain.
62. How do you monitor the obligation to the State of origin to send post adoption reports?

J. **N/A Approved (non accredited) bodies and persons**³

63. Does your State permit approved (non-accredited) bodies or persons (see Art. 22(2)) to arrange intercountry adoptions. If not, go to Question 68. If yes,
64. Have you informed the Permanent Bureau of the details of approved (non-accredited) bodies or persons in your State, as required by Article 22(3)? Is the information which is currently on the Hague Conference website up to date?
65. What are the guidelines by which approval is granted?
66. What is the process by which approval is granted and renewed?
67. How is the supervision of approved (non-accredited) bodies or persons carried out in your State (Art. 22(2))?

³ The term "non-accredited person" was used in the Explanatory Report of Professor Parra-Aranguren to refer to the person in Art. 22(2). Some countries now employ the term "approved person" when referring to person in Art. 22(2). However, the 2005 Questionnaire responses revealed enormous confusion when the term "approved persons" was used. Consequently, the Guide to Good Practice has followed the usage of the Explanatory Report to try to improve the public's understanding of the functions of these particular persons. The term "approved (non-accredited) person" is a compromise to retain the precision of the Explanatory Report, but recognises the usage by some countries of the term "approved person".

68. Has your State made a declaration under Article 22(4) to prohibit the involvement of approved (non-accredited) bodies or persons in intercountry adoptions?
69. Are you aware of any acts or behaviour by approved (non-accredited) bodies or persons that contravened their conditions of approval? Please also provide details of any sanctions or penalties applied.

State of origin questions

70. As a State of origin, do you allow approved (non-accredited) persons or bodies from abroad to “act” in your State (as a similar procedure to authorisation of accredited bodies under Art. 12)?

K. N/A Development aid activities

71. Are accredited bodies required to or permitted to engage in humanitarian projects or development co-operation activities in countries of origin?
72. What types of activities are undertaken?
73. How do you ensure that the humanitarian aid does not influence or jeopardize the integrity of the intercountry adoption process (*e.g.*, by the expectation of a regular “supply” of children in exchange for regular humanitarian or development aid)?

L. Co-operation between countries

74. Have you experienced any difficulties in obtaining assistance or co-operation from other Central Authorities in regard to accredited bodies?
75. Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?
76. Have you experienced any difficulties with other countries or Central Authorities because you do not use accredited bodies?

Never

77. Are there any particular aspects of your accreditation procedures *e.g.*, good practices that you would like to bring to the attention of other States?
78. Do you have any other comments about any of the topics covered by this Questionnaire?

State of origin questions

79. Have you experienced any pressure from foreign accredited bodies?
Never