

From: Laura Martinez-Mora <Imm@hcch.nl>
Subject: Questions on the HCCH and the 1993 HC
Date: 30 March 2018 at 19:53:34 AEDT
To: 'Lynelle Long' <lynellelong@me.com>
Cc: Rutuja Pol <rp@hcch.nl>

Dear Lynelle,

Very nice to hear from you and I hope you are doing well.

We have tried our best to answer your queries, as follows. Please let us know if you need further information and/or if you have further questions:

- **The Hague Conference (HCCH), 1993 Hague Adoption Convention (1993 HC) and international law**

The Hague Conference on Private International Law ("**HCCH**") is an intergovernmental organization. 82 States and the European Union are members of the HCCH. It has a Permanent Secretariat (known as the Permanent Bureau - PB) located in The Hague, The Netherlands. Approximately 30 people work at the PB, half of them being lawyers. At the moment, only the equivalent of one person is employed at the PB to work full time on adoption matters.

The objective of the HCCH is to draft international treaties (conventions) dealing with cross-border (transnational) issues including in the area of family law, e.g., the protection of children ([1996 Child Protection Convention](#)), intercountry adoption ([1993 Intercountry Adoption Convention](#)), parental abduction of children ([1890 Child Abduction Convention](#)), child support ([2007 Child Maintenance Convention](#)), protection of adults ([2000 Adult Protection Convention](#)), etc.

The HCCH family law conventions are designed to find solutions to problems that arise when individuals have associations with more than one country. This is done by applying **private international law**. In practice this means that the convention will help the relevant authorities in a given State to:

1. Identify which country has jurisdiction (competence) to deal with a matter;
2. Identify which law a country will apply to a specific case; and
3. Recognise and enforce a decision that has been made in another country.

There are 38 Hague Conventions, one of them is the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* ("[1993 HC](#)"). The 1993 HC ensures that an adoption made according to the standards and procedures of the Convention can then be automatically recognized in all other States Parties to the 1993 HC.

The overall purposes of the 1993 HC are:

- To **establish minimum standards** for the protection of children who are the subject of intercountry adoption (ICA)
- To **establish a system of co-operation** amongst Contracting States to ensure the protection of those children – competent authorities and bodies
- To **prevent the abduction, the sale of, or traffic in children**, and to eliminate profiteering and other abuses associated with ICA
- To **secure the automatic recognition** of adoptions made in accordance with the Convention in all Contracting States
- To give effect to Art. 21 of the **UN Convention on the Rights of the Child**.

The 1993 HC operates via a system of "[Central Authorities](#)" established by each State Party to the Convention. They are governmental bodies who have different tasks (e.g., co-operation with other competent authorities in their States to achieve the objects or take measures to prevent practices contrary to the objects of the 1993 HC). The Central Authorities may delegate functions to "[accredited bodies](#)" who essentially work as intermediaries in the adoption process linking the prospective adoptive parents, the Central Authorities and other authorities in receiving States and States of origin during the intercountry adoption process and in the post-adoption stage.

For further information on good practices, please refer to the [Guide to Good Practice No 1](#) on the implementation and operation of the 1993 HC and [Guide to Good Practice No 2](#) on adoption accredited bodies.

For an overview about the 1993 HC, please refer to the [Outline](#) and [Information Brochure](#) on the 1993 HC available on our [website](#).

- **Special Commission meetings and post-adoption support**

A [Special Commission](#) meeting is a meeting of all States Parties to a specific Hague Convention. In the case of the 1993 HC, all States Parties to the Convention (98 countries at this moment), are invited to The Hague every few years to discuss and review the practical operation of the 1993 HC. Each country is invited to send representatives of its Central Authorities and some competent authorities (e.g. judges). Some international NGOs have attended the past sessions of the Special Commission, due to their long experience in intercountry adoption and the international scope of their work.

The last meeting of the Special Commission on the 1993 HC took place in 2015. There were previously Special Commission meetings on this Convention in 1994, 2000, 2005 and 2010. At the conclusion of each Special Commission meeting, the delegates agree to a number of Conclusions and Recommendations to improve the implementation of the 1993 HC (The Conclusions and Recommendations of the Special Commission held in [1994](#), [2000](#), [2005](#), [2010](#), and [2015](#) are available on our website).

Regarding post-adoption support, the 1993 HC (Art. 9 (c)) provides that the authorities in each State should promote the development of post-adoption services. Although the HCCH itself does not provide post-adoption support directly to adoptees as it is not in its mandate, the HCCH can offer technical assistance to countries. When doing so, the HCCH always put emphasis on the importance of post-adoption support. Technical assistance is provided through the Intercountry Adoption Technical Assistance Programme (ICATAP) (for further information on ICATAP, please refer to the [Outline](#) of the 1993 HC and the [Adoption Section](#) on our website).

- **Recourse to remedies on issues pertaining to intercountry adoption**

As this is a key and very sensitive topic, the HCCH members decided to establish a Working Group on Preventing and Addressing Illicit Practices. This Group, which is composed of experts from different States Parties and international organisations that have long worked with the HCCH, is developing different tools to better identify illicit practices, how to prevent them, and how to remedy them if they occur. You can find more information about the work to date of this Group [on our website](#).

We hope this has been helpful and please do not hesitate to contact us in case of further questions.

Thank you.

Best regards,

Laura



Laura Martínez-Mora

Principal Legal Officer

Collaboratrice juridique principale



+31-(0)70-363 3303