



Fact Sheet N° 41

Intercountry Adoption

THE INTERCOUNTRY ADOPTABILITY OF THE CHILD AND THE ELIGIBILITY OF PROSPECTIVE ADOPTIVE PARENTS

For the success of every adoption – whether international or not – the evaluation of the children’s adoptability and the selection of prospective adoptive parents are fundamental steps. In the framework of an intercountry adoption, some elements must, however, be carefully assessed, in addition to all the elements described in our previous fact sheets on the child’s adoptability (Fact Sheets N° 20, 21, 22) and those addressing the selection of the prospective adoptive parents (Fact Sheets N° 23, 24, 25),

Adoptability of the child

In addition to all the elements determining a child’s adoptability – which have been previously described in our fact sheets – the following considerations should be taken into account before deciding in favour of an intercountry adoption.

1. To have considered domestic adoption as the primary response, or any other domestic response, which might be better adapted to the child’s characteristics, and have provided all possible efforts to achieve these during a reasonable period of time in the child’s best interests, but without success.
2. To determine whether intercountry adoption would be in the child’s best interests or not. In particular:
 - Assess whether the child, given his characteristics and his/her personal and family history, seems able to adapt positively to a very different cultural, linguistic, etc environment.
 - Discuss it with him/her, if his/her age or level of maturity makes it possible.
 - Define the desirable conditions to facilitate his/her integration within a very

different environment, and highlight them in the child’s report.

3. The adoptability may also be linked to the socio-political situation of the country of origin. An adoption should not be considered in a context, in which there are allegations of corruption and trafficking, where armed conflict prevails or among victims of natural disasters. In these cases, an adoption may only be contemplated after a period (generally: two years) sufficient to allow the competent bodies to ensure that no member of the child’s family or community is still alive, is able and wishes to care for the child.

The eligibility of prospective adoptive parents

The determination of the applicants’ eligibility is – in accordance with the 1993 Hague Convention – the responsibility of the receiving State. In most countries, it pertains to local, regional or national authorities. In some countries, this task may be included in the mission of private accredited bodies for intercountry adoption. In addition, in some receiving countries, the suitability of prospective adoptive parents is recognised

for domestic or intercountry adoption, without specifying a specific country of origin. Amongst these options, It is difficult to determine which one is the most valid one, since each of these has its advantages and limitations in terms of the child's best interests:

a) Evaluation of the applicants by public or private services:

Although public services may reflect a degree of neutrality and trust in the evaluation of candidates, they are often overwhelmed by applications, which may increase the length of the procedures. On the other hand, the delegation of the evaluation to private institution requires the implementation of monitoring mechanisms in relation to practices and costs, and is sometimes a source of confusion for States of origin, which are not always familiar with issues of "privatisation" (even though this has been foreseen by the Hague Convention).

b) Determination of the country of origin when submitting the authorisation:

The adoption of twins from Colombia or that of a five-year-old girl from Ethiopia are clearly very different projects. It is therefore important that the evaluation process may anticipate the arrival of the child and evaluate the adoptive parents' abilities accordingly. However, an adoption may also take a long time, and circumstances may change rapidly in the country of origin, thus imposing the on the candidates an obligation to adapt their wishes to the possibilities for adoption. The option not to specify the country of origin may be a way to take this into account.

Some practices require improvement

In order to improve the mechanisms for international cooperation, the professionals should reflect upon two elements, which may

For more information:

Report of the Working Group of April 1994 to study the application to refugee children of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption, Hague Conference, 1993, http://www.hcch.net/index_en.php?act=publications.details&pid=932&dtid=2

We are interested in your opinion! To tell us your experiences, ask us your questions about the themes addressed in this file, or to send us your suggestions for changes, don't hesitate to write to us at irc-cir@iss-ssi.org. We also invite you to share this file with other interested persons in your country. Thanks in advance!

The ISS/IRC would like to thank the Canton of Geneva, Switzerland, for its financial support for this Fact Sheet project and the Committee for Inter-country Adoption of the Presidency of the Council of Italy for its funding of the Handbook "The Best Interest of the Child and Adoption", which is the basis of several Fact Sheets.

be prejudicial to the interests of the child and should be the subject of joint reflection between both countries:

1. Although the quality of the evaluation of the applicants' eligibility may be good, the lack of adaptation of the certificates of suitability to the reality of the children who require intercountry adoption is worrying: very many applicants are considered suitable for adopting small children and children without major problems, while the majority of the children for whom families from other countries are sought do not meet this profile. This puts extreme pressure on the professionals and governments of both receiving States and States of origin, and may be a source of child abuse and trafficking.

2. In various receiving countries, qualitative problems arise in relation to the certificates of suitability obtained upon appeal, although the initial evaluation had concluded with a negative decision. In a certain number of cases, it may be that the professional level of the appeal may not be as adequate as that of the initial evaluation.

The final decision lies with States of origin

It is important for States of origin to be aware of these situations. As sovereign States, they always retain the possibility to request further details or additional information. In extreme cases, they may also reject some candidates, if they do not meet the needs of the adoptable children in the country. This decision may occur at the time of matching, which remains the most important step in process and which will be the focus of Fact Sheet N°43.

ISS/IRC, August 2007