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**Assessment of Domestic  
and Intercountry Adoption  
in the Republic of Moldova**

# Acknowledgements

This assessment was carried out by Hervé Boéchat and Marlène Hofstetter of International Social Service with the valuable assistance of Moldovan consultant Mariana Ianachevici.

The assessment was commissioned by UNICEF and the Ministry of Labour, Social Protection and Family (MLSPF) of Moldova.

The data and findings in this report reflect the opinions of interviewees and do not necessarily represent the views of UNICEF.

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# Assessment of Domestic and Intercountry Adoption in the Republic of Moldova

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# Preface

This assessment was carried out by Hervé Boéchat and Marlène Hofstetter of International Social Service (ISS)<sup>1</sup> with the valuable assistance of Moldovan consultant Mariana Ianachevici.

It was commissioned by UNICEF Moldova and the Ministry of Labour, Social Protection and Family (MLSPF) of Moldova. According to the terms of reference (ToR), the purpose of this examination was to assess the laws, policies and procedures regarding domestic and intercountry adoption, as well as their implementation and existing practices, in order to bring these instruments into line with international law and standards, in particular the *United Nations Guidelines for the Alternative Care of Children* (2010), the *United Nations Convention on the Rights of the Child* (CRC 1989) and the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention) 1993. In particular, the assessment aimed to:

- Analyse the legal and policy framework related to domestic and intercountry adoption in view of international standards and good practices;
- Document, map and assess the existing practices related to domestic and intercountry adoption, with particular attention to best interests of the child, matching procedures, training of parents, pre-adoptive placement, efficiency of administrative and legal proceedings, monitoring domestic and intercountry adoptions, and implementation of existing laws, policies and procedures;
- Provide concrete recommendations to improve the practice around domestic and intercountry adoption, in particular regarding – but not limited to – matching procedures, pre-adoption services (including training of prospective parents) and post-adoption monitoring.

To this end, in addition to reviewing a wide range of relevant documentation, the authors of the assessment undertook a visit

to Moldova from 16 to 21 February 2015, during which they had discussions with relevant actors, notably Moldovan governmental officials at central and district (raion) levels, including representatives of the judiciary and directors of institutions for children. It should be noted that due to the limited number of adoption cases carried out in the different raions visited, we faced difficulties getting an accurate and comprehensive picture of the situation regarding national and intercountry adoption practices in Moldova. With the exception of Chisinau, child right specialists in the regions only deal with a few adoptions per year, which limits their capacity to acquire relevant experience or engage in a critical analysis of the impact and efficiency of the current law.

Any review of adoption systems takes into account the overall provision of alternative care for children and in previous assessments we have devoted substantial content to this issue. In this report, we do not go in depth about alternative care in general since this is the subject of a separate consultancy on the legal framework and practice of guardianship in Moldova. We see our findings and recommendations, moreover, as being mutually supportive of the key findings and recommendations proposed in that consultancy as it stood at the time of our writing.<sup>2</sup>

Implementation of the recommendations of this report will undoubtedly contribute to facilitating good practices not only in alternative care but also in the determination of adoptability and any subsequent adoption procedure.

This assessment process employed a forward-looking perspective: its aim was not to investigate allegations of past problems, but to consider any concerns about current or recent practices in order to effectively resolving them. It is in this spirit that issues of concern are noted and analysed in this report.

<sup>1</sup> ISS is an international NGO, based in Geneva, which has consultative status with the United Nations Economic and Social Council (ECOSOC), UNICEF and other intergovernmental bodies. Hervé Boéchat is Director of the International Reference Centre (IRC) for the rights of children deprived of their family, hosted by ISS. Marlène Hofstetter is an international consultant on child protection policies.

<sup>2</sup> Draft report prepared by Beth Bradford, consulted in February 2015.

# Methodology



*In summary, the interviews were about understanding how provisions in the law were translated in practice — or not — by putting the first-hand experiences of the professionals and their beneficiaries against national legislation and international standards.*

The assessment started with a desk review of available and relevant Moldovan documents and a comparison with international standards and good practices. From the review, an initial report was drafted, broadly outlining the current situation, with general comments.

This first approach guided the study team to develop the specific topics listed in the ToR, especially the legal and policy framework, and to draft a general view related to the contents of the initial assessment report.

Concerning the field research, several interviews were conducted in Moldova with relevant professionals including authorities (MLSPF, guardianship enforcers, judges, gatekeeping commissions); professionals (social workers, health specialists, directors of residential care institutions); (prospective) adoptive parents; representatives from civil society working in the field of child protection and alternative care; representatives of adoption agencies; and other relevant actors.

The selection of the four raions (Riscani, Calarasi, Causeni and Ciadir Lunga) and two municipalities (Chisinau and Balti) visited was done in consultancy with MLSPF and UNICEF.

Among the criteria, we first considered geographic distribution by including areas from the north, south and centre of Moldova, plus one raion from the autonomous region of Gagauzia in the south. MLSPF also suggested looking at raions where specialists were more knowledgeable and child protection reform was going on.

At the national level, the selection of professionals interviewed was done based on their competencies (or abilities) related to different steps in the adoption procedure: chief physicians at placement care centres from where children are adopted; representatives of foreign adoption agencies, NGOs, etc. The complete list of persons interviewed is found in Annex 1.

During the interviews, the experts asked about:

- 1) Activities related to adoption (domestic and intercountry) and any difficulties the professionals face doing those activities; and
- 2) daily practices in Moldova in relation to international standards such as the reasons behind child abandonment and child placement, the role and development of adoption, the understanding of adoption by prospective adoptive parents, the domestic adoption procedure, including preparation and follow up, and the matching process, both domestic and intercountry.

In summary, the interviews were about understanding how provisions in the law were translated in practice — or not — by putting the first-hand experiences of the professionals and their beneficiaries against national legislation and international standards.

At the beginning and end of the field mission, meetings took place with MLSPF representatives, so that both officials and experts agreed on the topics of importance and exchanged their views on the achievements expected.

After the drafting of this report, the Moldovan central authorities provided comments that have been considered or included directly in the text.

## Acronyms and short titles

Good Practice Guide No. 1	“The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice No.1” <sup>3</sup>
Good Practice Guide No. 2	“Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice Guide No. 2” <sup>4</sup>
IRC	International Reference Center for the rights of children deprived of their family, ISS.
ISS	International Social Service.
Law No. 99	Republic of Moldova, Law on Legal Status of Adoption, 28 May 2010.
Law No. 140	Republic of Moldova, Law on the Special Protection for Children at Risk and of Children Separated from their Parents, 14 June 2013.
MLSPPF	Ministry of Labour, Social Protection and Family, (Central Authority, Moldova)
Hague Convention	Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption, 29 May 1993.
UNCRC	United Nations Committee on the Rights of the Child.

<sup>3</sup>Hague Conference on Private International Law. *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice – Guide No. 1*. Family Law, Jordan Publishing Limited, U.K., 2008. Available at [https://assets.hcch.net/upload/adoguide\\_e.pdf](https://assets.hcch.net/upload/adoguide_e.pdf)

<sup>4</sup>Hague Conference on Private International Law. *Accreditation and adoption accredited bodies: General principles and guide to good practice – Guide No. 2*. Family Law, Jordan Publishing Limited, U.K., 2013. Available at <http://www.hcch.net/upload/adoguide2en.pdf>



# Summary of key observations

Important improvements are to be acknowledged with regards to adoption practices in the Republic of Moldova. However, overhauling an entire national system requires time and effort, and more efforts are still needed to have international standards implemented in every aspect of adoption in Moldova. Among the latter, the following are the most important:

- Adoption should not be seen as the last protection measure available for a child, but as one protection measure among others. The current system only makes children adoptable when no other option seems possible, instead of considering each child's needs and capacities to develop an individual life plan.
- The legal procedure leading to a declaration of adoptability is complex, especially in relation to the legal status "child without parental care".
- There is a need to clarify issues around the biological parents' consent to the child's adoption, particularly in situations where the biological mother is a minor.
- The definition of the child's "adoptability" is solely based on the legal status of the child and does not encompass the psychosocial component recommended by international good practices (to evaluate the child's capacity to benefit from adoption).
- The evaluation and preparation of candidates for adoption still require improvements in terms of content, legal requirements and professionalism.
- The matching process, both for domestic and intercountry adoptions, is not compliant with international standards and presents risks for the success of the adoption.
- Foreign adoption agencies could play a more proactive and useful role in the adoption procedure, but their number should correspond to the real possibilities for intercountry adoption in Moldova.

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# 01

## Adoption in context

# 1.1. International context of intercountry adoption today

<sup>5</sup> HCCH. "HCCH members." Available at <https://www.hcch.net/en/states/hcch-members>

<sup>6</sup> In 2013, 25 foreign agencies were accredited; in 2014, 24. In 2015, the number was reduced to 16 agencies, including 10 from Italy, 4 from the United States, 1 from Spain and 1 from Switzerland. In comparison, 4 intercountry adoptions were processed in 2013 and 7 in 2014.

In recent years, the number of intercountry adoptions throughout the world has been consistently falling, and now stands at less than half its peak total of about 45,000 in 2004. This is due in part to the growing number of countries of origin that have ratified or acceded to the *1993 Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption* (the Hague Convention)<sup>5</sup> and have begun applying its safeguards increasingly strictly, resulting in fewer children being deemed eligible for adoption abroad.

Over the same period, however, interested parties in receiving countries, seeking to compensate for those lower numbers, have been looking to develop intercountry adoptions, even from non-Hague countries, and the number of international adoptees from these countries has risen, in some cases very substantially.

Moldova, as a country of origin for intercountry adoption, is concerned about this global phenomenon: even if the number of children being adopted abroad has been limited in recent years (see table 1), the interest of receiving countries and their adoption agencies remains, as illustrated by the number of the latter being accredited in Moldova 24 agencies for just 7 adoptions in 2014)<sup>6</sup>. In addition, by having successfully promoted the development of domestic adoptions, Moldova, as many other countries, mainly proposes special needs children to foreign applicants as young healthy children have become largely adopted nationally. This situation raises new challenges, in particular in terms of the evaluation and preparation of the child, the search for prospective adoptive parents ready and able to adopt a child with special needs, and the realization of professional matching services.

**Table 1**  
Number of Moldovan children adopted abroad by country, 2011 to 2013

Receiving countries	2011	2012	2013
U.S.A.	9,319	8,668	7,094
Italy	4,022	3,106	2,825
France	1,995	1,569	1,343
Canada	1,785	1,367	1,242
Spain	2,560	1,669	1,188
Germany	934	801	661
The Netherlands	528	488	401
Sweden	538	466	341
Switzerland	367	314	256
Denmark	338	219	176
Norway	297	231	154
Australia	215	149	129
<b>Total</b>	<b>22,898</b>	<b>19,047</b>	<b>15,810</b>

Source: ISS/IRC. Monthly Review, No. 186, October 2014.

## 1.2. General overview of adoption Moldova

Moldova's national authorities have been seeking to improve the country's alternative care and adoption systems for many years. Indeed, already in 2003 and 2006, UNICEF and the then relevant authorities requested assistance in these fields, resulting in a first mission by Terre des Hommes (2003) and a second by ISS (2006), both in conjunction with UNICEF<sup>7</sup>.

Since those reports, of course, the situation has evolved on a number of fronts. Progress made by the Government of Moldova in the protection of children deprived of parental protection or at risk of losing it over the last few years has been genuine and positive. Among the latter, one can note that the Government has acted on deinstitutionalisation, while also offering alternative solutions based on a family and community model. The fact that children with disabilities are subject to full and specific care is to be underlined, however, institutions remain an option still too often used. It is interesting to note some MLSPF recommendations for the future, in particular, the establishment of a national register listing children in difficulty as well as existing social services, their personnel and costs; and, finally, the prevention of abandonment of those children, whose parents have emigrated on for work.

In the specific framework of adoption, Law No. 99 on adoption (2010) includes several provisions that are particularly positive:

- The consideration of the child's opinion throughout the adoption procedure appears in the preamble of the Law and in specific provisions relating to his consent (article 26).
- The principle of subsidiarity—that issues should be dealt with at the most local level—is not only clearly expressed in article 3, but is also implemented and appears to function given the latest

statistics (see subsection 1.3).

- A fixed and unique tax contributes to protecting the prospective adopters against financial abuses and the children against any form of marketing.
- The provisions on the biological parents' consent (article 24) state that the latter may not consent to the adoption of their unborn child, and that they may only do so a minimum of 45 days after birth.
- The provisions in articles 56 and 57 penalize not only any form of gain resulting from an adoption, but also those acts, which force a person to consent to an adoption and those persons, who are unauthorized and act as intermediaries with a view to facilitating or obtaining an adoption.

That said, certain developments have in fact been surprising, such as the substantial reduction in intercountry adoptions and the uneven evolution of domestic adoptions. At the same time, there are persistent concerns about the lack of a child-centred focus in both domestic and intercountry adoption procedures (as exemplified by the absence of a proper evaluation of the psycho-social aspect of adoptability) and the limited resources in terms of professional capacities in the raions (lack of qualified social workers and/or psychologists at all stages of the alternative care and adoption processes).

Other important changes have occurred since the coming into force on January 1, 2014 of Law 140 on the special protection of children at risk and children separated from their parents. The law is explicit in stating the exact circumstances in which the status of a child is officially recognized as being "without parental care" and how the guardianship authorities at all levels should act.

<sup>7</sup> Hofstetter, Marlène. "Adoption in Moldova – an assessment report for UNICEF", November 2003. Hervé Boéchat and Nigel Cantwell. "Adoption in Moldova: a situation assessment", ISS, November 2006. Since neither report was made public, they will not be used as references in the present report.

## 1.3. Statistics



*Data collection about adoptions should be improved so as to capture every intercountry adoption involving a child with permanent residence in Moldova, including when the child is adopted in a country that has not ratified or acceded to The Hague Convention (1993.)*

In its 2013 Activity Report, MLSPF states that 139 children were declared adoptable in 2013, while 176 domestic adopters were registered.

That same year the Ministry received 16 adoption applications from Moldovan citizens and 49 applications from foreign adopters.

**Table 2**  
Moldovan figures regarding adoption

	Total	Domestic	Inter-country	Age 0 – 2	Age 3 – 6	Age 7 – 17
2014	121	104	17	26	63	32
2013	99	87	4	38	37	24
2012	74	74	0	36	28	10
2011	98	78	20	48	29	21
2010	208	162	46	87	63	58
2009	212	182	30	56	57	99

Source: MLSPF, 2013 Activity Report. Available at <http://www.mpsfc.gov.md/en/rapoarte/>  
UNICEF, TransMonEE Country Profiles. Available at [www.transmonee.org](http://www.transmonee.org)

**Table 3**  
Figures for receiving countries adopting in Moldova

Receiving country	2012	2011	2010	2009	2008	2007	2006
Australia	0	0	n/a	n/a	1	n/a	n/a
France	1	0	0	n/a	n/a	n/a	n/a
Israel	n/a	n/a	n/a	n/a	3	5	n/a
Italy	0	16	30	18	48	32	12
New Zealand	n/a	n/a	n/a	n/a	1	n/a	n/a
Spain*	0	1	27	17	5	15	7
Switzerland**	1	1	0	2	0	0	0
U.S.A.	3	10	13	5	33	20	16
<b>Total</b>	<b>5</b>	<b>28</b>	<b>70</b>	<b>42</b>	<b>91</b>	<b>72</b>	<b>35</b>

Source: Australian InterCountry Adoption Network (AICAN), International Adoption Statistics.

Available at <http://www.aican.org/statistics.php?region=0&type=birth>.

U.S. Department of State, Intercountry Adoption Web page.

Available at <http://travel.state.gov/content/adoptionsabroad/en/country-information/learn-about-a-country/moldova.html>

\* Ministerio de Sanidad, Servicios Sociales e Igualdad.

\*\* Federal office of statistics.

Table 4

Comparison between Moldovan and receiving countries' figures for intercountry adoptions

Figures	2014	2013	2012	2011	2010	2009	Total
Moldovan	7	4	0	20	46	30	100
Receiving countries	n/a	n/a	5	28	70	42	145

Globally, there are frequently discrepancies year-on-year between adoption data provided by countries of origin and receiving countries. This is often due to factors such as different accounting periods (for example, U.S. data capture the fiscal year [October to September] rather than calendar year) and delays in registration, recording or finalization of adoption in the receiving country. In many/most countries, these differences tend to “level out” over time, one year “compensating” for another. However, in the case of Moldova, this is not what comes out of the figures. Indeed, over the four years under consideration (2009-2013), receiving countries' figures were systematically higher than Moldovan figures, with a total difference of 49 (years 2009 to 2012). The reasons behind this remain unknown; in addition, we have not been able to get figures about intercountry adoptions being processed with applicants whose permanent residence is in a non-contracting State (especially the Russian Federation and Ukraine).

***Data collection about adoptions should be improved so as to capture every intercountry adoption involving a child with permanent residence in Moldova, including when the child is adopted in a country that has not ratified or acceded to The Hague Convention (1993.)***

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# 02

## Adoption and the alternative care system

## 2.1. General considerations about the child protection system<sup>8</sup>

<sup>8</sup> Sources: Alternative Report to the 46th Session of the United Nations Economic and Social Council (ECOSOC) in relation to the 2nd Report of Moldova, March 2011. Available at [http://tbinternet.ohchr.org/Treaties/CE-SCR/Shared%20Documents/MDA/INT\\_CESCR\\_NGO\\_MDA\\_46\\_9578\\_E.doc](http://tbinternet.ohchr.org/Treaties/CE-SCR/Shared%20Documents/MDA/INT_CESCR_NGO_MDA_46_9578_E.doc); Bradford, N. Beth, "Developing short-break foster care service for children with disabilities in the Republic of Moldova - Final Project Evaluation". Partnerships for Every Child, November 2012. Available at <http://www.google.ch/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCsQFjAB&url=http%3A%2F%2Fwww.p4ec.md%2Fhandlers%2Fdownload.ashx%3Fid%3D40%26lng%3Den%26name%3DFinal%2520Evaluation%2520Report%2520-%2520EIDHR.pdf&ei=-CT8VO3xK4a8PazPgKgN&usq=AFQjCNFxFReELdKSmXBLGoiw8QP0qCgkOYg&bvm=bv.87611401.d.ZWUj>; Bunkers, Kelley McCreery, "Foster Care Services for Children in Moldova", MLSPF and UNICEF, March 2013. Available at <http://www.socialservice-workforce.org/system/files/re-source/-files/Foster%20Care%20Services%20for%20Children%20in%20Moldova.pdf>; Child Rights Information Network (CRIN), "Access to justice for children: Moldova", April 2014. Available at <https://www.crin.org/en/library/publications/moldova-access-justice-children>; Evans, Peter, "Evaluation of implementation of the 'National Strategy and Action Plan for the Reform of the Residential

The Republic of Moldova is a small Eastern European country situated between Romania and Ukraine. The country was one of the 15 republics of the former USSR from whom it gained independence in 1991. Having some 3.5 million people<sup>9</sup>, including over 20 per cent under 18 years old, it still faces serious economic and social challenges posed by the transition to a market economy, including increased unemployment, poverty and corruption, which have had an especially severe impact on children belonging to the most vulnerable segments of society.<sup>10</sup> The

Childcare System in Moldova 2007-2012", UNICEF, OAK Foundation and Terres des hommes, 02 March 2013. Available at [http://www.unicef.org/evaldatabase/files/2012\\_003\\_Evaluation\\_of\\_Child\\_Care\\_Reform\\_ENG\(1\).pdf](http://www.unicef.org/evaldatabase/files/2012_003_Evaluation_of_Child_Care_Reform_ENG(1).pdf); Family for Every Child, Partners for Every Child, "Children's Reintegration -- Longitudinal study of children's reintegration in Moldova", 2014. Available at <http://www.familyforevery-child.org/sites/default/files/resources/Reintegrating%20children%20in%20Moldova.pdf>; Grigoras, Stela, "Protecting Children of Moldova from Family Separation, Abuse, Neglect, Exploitation", Better Care Network, Every Child, and the USAID Displaced Children and Orphans Fund (DCOF). Presentation, Washington D.C., 17 October 2013. Slide presentation available at <http://www.bettercare-network.org/resources/infoDetail.asp?ID=31983>; MLSPF, "2013 Activity Report" Chapter 5, pages 104-134. Available at <http://www.mpsfc.gov.md/en/rapoarte/>;

National Bureau of Statistics of the Republic of Moldova, "Education in the Republic of Moldova", 2015. Available at <http://www.statistica.md/pageview.php?l=en&id=2819&id-c=350>; PopulationData.net, Pays et territoires, Moldavie. Available at <http://www.populationdata.net/index2.php?op-tion=pays&pid=140&nom=moldavie>; UNICEF, "Annual Report 2013, Moldova". Available at [http://www.unicef.org/about/annualreport/-files/Moldova\\_COAR\\_2013.pdf](http://www.unicef.org/about/annualreport/-files/Moldova_COAR_2013.pdf); UNICEF Moldova and Government of the Republic of Moldova, "Child Abandonment in the Republic of Moldova", 2006. Available at [http://www.unicef.org/moldova/ChildAbandonmentENG\\_with\\_cover-page.pdf](http://www.unicef.org/moldova/ChildAbandonmentENG_with_cover-page.pdf); UNICEF, "Republic of Moldova -- Statistics". Available at [http://www.unicef.org/infobycountry/moldova\\_statistics.html](http://www.unicef.org/infobycountry/moldova_statistics.html); UNICEF Moldova, "Children of Moldova". Available at <http://www.unicef.org/moldova/children.html>; UNICEF, TransMonEE Database, 2014. Available at [population of Moldova is largely rural: 65 per cent of all children live in villages<sup>11</sup>, where services are fewer and poverty much more common than in the cities.](http://www-</a></p>
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With 30 per cent of its GDP attributed to agriculture, Moldova remains the poorest country in Europe, although economic stabilization over time has led to a drop in the poverty rate from 73 per cent in 1993 to a little over 25 per cent in 2013. Overall, about one quarter of Moldovans live in poverty; but this rate rises quickly for

[www.transmonee.org](http://www.transmonee.org); UNICEF, TransMonEE, Monitoring situation of women and children in Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS), Database 2014. Available at <http://www.transmonee.org>; U.S. Department of Labor, "Findings on the worst forms of child labour - Moldova", 2013. Available at <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/moldova.pdf>

<sup>9</sup> National Bureau of Statistics, Statistical databank on population and demographic processes. Available at <http://statbank.statistica.md/pxweb/Dialog/Save-show.asp>

<sup>10</sup> UNCRC, 50th session, "Examination of State party reports under the Convention", February 2009.

<sup>11</sup> National Bureau of Statistics, Statistical databank on population and demographic processes. Available at <http://statbank.statistica.md/pxweb/Dialog/Save-show.asp>



children in rural areas, from large families, or living in single-parent households. Half of Moldovan children are raised on less than USD 2.5 per day<sup>12</sup>. At present, children constitute 30 per cent of the extremely poor population in the country.

Moldova has one of the highest rates of migration in the world. In the last 10 years, one third of the working population in the country has gone abroad in search of better-paying jobs. Left at home without supervision, and without parental love, children become even more vulnerable. Some quickly find themselves in orphanage boarding schools. The absence of parents increases the risks that the children are already exposed to, such as neglect, abuse, drug use and trafficking. It is also reported by other studies that children left behind with grandparents or without any adult supervision are at heightened risk of developing behaviour problems and getting into conflict with the law. Only 63 per cent of children in Moldova live with their two parents, 26 percent live with one parent only (mother or father) and 11 per cent are not living with any biological parent.<sup>13</sup>

Almost 5,000 children continue to grow up in institutions<sup>14</sup> – a legacy of the past. Children with disabilities are especially overrepresented in this population<sup>15</sup>.

Despite all these challenges, Moldova has made strong commitments to support its poorest families with new priorities such as moving children back to their families and redirecting funds towards community-level social services. Overall, the country is slowly changing its approach to child protection from problem-based to system-based, as is clearly articulated in new laws<sup>16</sup> and policies<sup>17</sup>. Moreover, the new “Child Protection Strategy 2014-2020” has added further impetus to these efforts by targeting three objectives that are a logical extension of reforms in the child protection system:

- 1) providing the necessary conditions for raising and educating children in the family through the prevention of child-family separation; stopping the institutionalization of children under age three and continual reduction of the number of children in residential care;
- 2) preventing and combating violence,

neglect and exploitation, promoting non-violent practices in education;

- 3) balancing family life with work demands to ensure harmonious growth and development of the child by re-emphasizing the social significance of motherhood and fatherhood and the role of both parents in raising children; and promoting support services for working parents<sup>18</sup>.

The child protection system in the country is designed to respond as much as possible to the needs and problems of children at risk of separation from their families and children who are already left without parental care.

The system incorporates a number of important facilities, services and instruments that provide community-based prevention services such as day-care centres, community centres, mother and baby units. These components provide assistance to more than 11,000 children at risk<sup>19</sup>.

Regulations and Standards for Family Support Services (September 2014) targeted the prevention of child-family separation. The reform of the residential child-care system also boosted reform in the education system. Inclusion of children with special education needs (e.g., children with disabilities, Roma children, children from poor families) has become a leitmotif of these processes and is a measure to prevent child-family separation and the institutionalization of those children.

An important role in preventing the institutionalization of children without parental care is played by kinship care or guardianship. By the end of 2013, 9,263 children in Moldova were in formal guardianship care, the majority (over 70 per cent) between 7-18 years of age<sup>20</sup>. The number is likely significantly higher given the large number of children in unregistered informal care<sup>21</sup>. In fact, 21 per cent of children in Moldova have at least one parent living abroad and 5 per cent have both parents abroad<sup>22</sup>. Parents from rural areas are more likely to leave their children behind than those from urban areas, and most children left without parental care are 10 years or older and left in the care of close relatives<sup>23</sup>.

However, as underlined by MLSPF, the Moldovan central authority, even though

<sup>12</sup> UNICEF, “Moldova country profile”. Accessed 30 January 2015 at [http://www.unicef.org/moldova/overview\\_940.html](http://www.unicef.org/moldova/overview_940.html)

<sup>13</sup> UNICEF, “Moldova -- child protection infographic”. Accessed 30 April 2015 at [http://www.unicef.org/moldova/Situation%20of%20children\\_25961.html](http://www.unicef.org/moldova/Situation%20of%20children_25961.html)

<sup>14</sup> Statistics of the MLSPF: CER 103A

<sup>15</sup> Accessed 30 April 2015 at [http://www.unicef.org/moldova/Children\\_of\\_MD\\_for\\_web.pdf](http://www.unicef.org/moldova/Children_of_MD_for_web.pdf)

<sup>16</sup> Law No. 140 on special protection of children at risk and children separated from their parents. Government Decision No. 270 from 2014 on approving Instructions on intersectoral cooperation mechanism for identifying, evaluating, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

<sup>17</sup> Government Decision No. 434, “Child Protection Strategy for 2014-2020”, approval 10 June 2014. Accessed 30 April 2015 at <http://lex.justice.md/md/353459/>

<sup>18</sup> Decision No. 434, <http://lex.justice.md/md/353459/>

<sup>19</sup> Grigoras, “Protecting the Children of Moldova.” Accessed 30 April 2015 at <http://www.bettercarenetwork.org/BCN/details.asp?id=31983&themeID=1002&topicID=1017>

<sup>20</sup> MLSPF, Statistics Report CER 103 for 2013

<sup>21</sup> UNICEF Moldova and MLSPF. “Children without adequate parental care: Assessment of legal and informal guardianship in child care and protection in the Republic of Moldova”, 2015.

<sup>22</sup> UNICEF and the Ministry of

Health of the Republic of Moldova. (2014).

<sup>23</sup> Children Left Behind, “Countries of Origin—Moldova”, 2011. Accessed at <http://www.childrenleftbehind.eu/countries-of-origin-moldova/>

<sup>24</sup> 270 children benefit from professional parental assistance (160 assistants registered) and 359 children live in CCTF.

<sup>25</sup> Government of Moldova, “Framework Regulation on the Professional Parental Assistance Service and Minimum Standards of Quality”. Government Decision N° 760 from 17 September 2014. Available at <http://lex.justice.m-d/md/354816/>

<sup>26</sup> Regulated by Government Decision No. 937 from 12 July 2002. Available at <http://lex.justice.md/md/296958>; and Decision No. 812 from 02 July 2003 at <http://lex.justice.md/index.php?action=view&view=-doc&lang=1&id=304878>

<sup>27</sup> Bunkers, “Foster care services”.

<sup>28</sup> MLSPF, CER 103.

<sup>29</sup> UNICEF, TransMonEE database, Accessed 4 May 2015 at <http://www.transmonee.org/>

<sup>30</sup> Evans, “Final Report” page 16.

<sup>31</sup> Evans, “Final Report”.

<sup>31</sup> Evans, “Final Report”.

<sup>33</sup> Family for Every Child, “Children’s Reintegration”. Accessed 06 May 2015.

<sup>34</sup> Accessed 28 April 2015 at <http://www.unicef.org/moldova/overview.html>

the concept of “a child without parental care” (in the context of the UN Guidelines for Alternative Care), might seem to apply to children whose parents — one or both — live abroad, it is important to note that migrants’ children are typically left in the informal care of relatives or close acquaintances — a situation that excludes them from the list of children who qualify as “in need of protection”. According to Law No. 140 on child protection, migrants’ children are considered children separated from parents, not children without parental care.

All in all, there has been a significant increase in family-based alternative care (65 per cent of children in public care). On the other hand, recent statistics<sup>24</sup> show little use of foster care, available in Moldova in two forms — professional parental assistants<sup>25</sup> and family-type children’s homes<sup>26</sup>. As noted in previous report, “There clearly exists the need to increase the use of foster care as a reliable, safe and accessible family-based alternative<sup>27</sup>.” At the end of 2013, there were 755 children placed into both forms of foster care<sup>28</sup>.

Considered to be a long-term protective measure, the country’s first response to neglected and abandoned children was, historically, their institutionalization. In 2006, there were 11,551 children living in 67 large state-run institutions (orphanages or so-called general and auxiliary boarding schools)<sup>29</sup>. The main reasons for children’s abandonment “are financial difficulties, single motherhood, abuse/neglect, and the child’s health<sup>30</sup>.” Deinstitutionalization is an ongoing process. While not every objective has been achieved, several improvements have been registered<sup>31</sup>: there were 5,900 children living in institutions at the start of 2013, which is less than half the number in 2007<sup>32</sup>; the number of children with disabilities living in residential care in 2012 was 2,881, which represents a huge decrease from 4,674 children in 2007; so far, 18 institutions run by the Ministry of Education have been closed and another 23 institutions were identified for closure by 2015. At 1 January 2013, 29 of 49 remaining large-scale residential institutions were special needs schools<sup>33</sup>. Additionally, there were 27 residential centres (boarding schools) with 1,557 children.

The establishment of “gatekeeping commissions”, district-level bodies that control referrals to institutions, is an incentive to develop alternative services to institutionalization at the local level. Despite all the successes in the area of deinstitutionalization, children with disabilities and young children still largely remain in institutions<sup>34</sup>. Also, despite the data that shows almost a 40 per cent drop in the number of children with disabilities living in public residential care between 2007 and 2012, two key elements remain unknown: the exact number of children with disabilities currently in public residential care and whether the child’s disability is the result of his/her institutional placement.

One of the last solutions considered by the child protection system in Moldova for children without parental care is adoption, domestic and intercountry. As a process, adoption in Moldova has undergone many changes, both with regards to the legal framework as well as at the level of concepts and practices. With the adoption of Law No. 99, for example, new steps were introduced to the process under the old Family Code, such as the preparation of prospective parents, a matching procedure, pre-adoption placement and post-adoption follow-up. These procedural changes, along with reforms of the child protection system (e.g., the transfer of guardianship authority held by MLSPF), as well as new professionals in the system resulted in a decrease of the number of adoptions, both national and international.

Moreover, Law No. 140, which entered into force on 1 January 2014, was expected to contribute to better protection of Moldovan children as it came into effect. Indeed, in addition to the law’s main objective of building a child protection system, it introduced child protection workers at the community level and established an “intersectoral referral mechanism” (such as a multidisciplinary advisory team) with clear procedures to identify, evaluate, assist, refer, monitor and keep records of children at risk and children without parental care (article 1). The child protection measures now fall under district and local guardianship authorities that determine the child’s status and decide upon protection measures that are in the best interests of the child and follow state policies of the central child protection authority (the MLSPF).

## 2.2. General comments

One should stress the importance of the adoption of the National Strategy on Child Protection, which tackles not only families' vulnerability to institutionalization but also other child protection issues, such as the trafficking and exploitation of Moldovan children. Also, there should be a greater focus on avoiding the institutionalization of children with disabilities and children under the age of three. Furthermore, the reform should not only concentrate on deinstitutionalization, but also on improving the living standards of children who are in residential care (e.g., by offering staff training). Efforts are to be made to collect more disaggregated data on children leaving Moldova's institutions.

Foster care must be further developed. The low salaries, low levels of child allowances and the lack of specialized foster carers (for children with disabilities or behavioural problems) are great hindrances and are reflected in the small number of children taken care of by foster families.

Within the current assessment, we have also identified the following issues, more related to adoption:

- Procedures surrounding the situation of **single mothers** (and especially young or underage mothers) do not offer sufficient safeguards and support. The possibilities of support, both material and psychological, remain limited. Several social assistants underlined the lack of temporary placement options for newborns (either a foster family or a children's home). Thus, the district (raion) social workers rely mainly on centres in the cities of Chisinau and Balti, which welcome both mothers and children, but only for a limited period of time. Considering the importance of supporting young mothers during and after pregnancy, and the potential for child abandonment, it is essential that more efforts be put into this matter.
- As it will be repeated several times in this report, the **psychosocial dimension** is too often absent in the different measures to support families and children at risk. This is mainly due to the absence of trained psychologists in the different social services of the country.

## 2.3. The place of adoption in the alternative care system



*More support should be given to the district authorities in charge of social services to ensure that professionals have the necessary resources (both in time and budget) to fulfill their duties in a satisfactory manner.*

*Trained psychologists should be made available nationwide to cover the needs and responsibilities of the raion's social services.*

<sup>35</sup> Grigoras, "Protecting the Children of Moldova."

### 2.3.1. Social assistance and family protection services

In the five *raions* visited, we met with very dedicated people trying their best to serve the population and to provide the necessary services. However, there is a persistent shortage of qualified staff in most of these *raions*. Even though Moldova has made great efforts to better support district authorities (the number of certified social workers doubled between 2007 and 2012, from 538 to 1,158 individuals), it appears that specialists (especially psychologists) are simply unavailable in many places. In addition, the workload is often too heavy to ensure proper delivery of professional services. For instance, the five-page job description shared by one of the specialists in child rights clearly demonstrated it would be impossible for a single person to carry out all the different tasks described. Other professionals also underline the difficulties of implementing Law No. 99 on adoption due to the lack of human resources, e.g., too few specialists and too many turnovers. The project "Protecting the children of Moldova from family separation, abuse, neglect and exploitation"<sup>35</sup> confirmed this observation by describing the "low human and organizational capacities of local authorities, service providers and communities to prevent separation and provide protection to children."

We were told that, in some cases, the expectation of the extra work needed to change the situation of a child (for example, from foster placement to adoption) might actually keep staff from undertaking the process.

In addition to the personal difficulties and stress that such a situation implies, the latter also has negative impacts on the services provided and, in turn, on the quality of child protection. If the social assistant is overload-

ed, one cannot expect the delivery of high quality services. This is particularly true regarding the various reporting requirements of the adoption procedure:

- Preparation for the consent to adoption
- Deprivation of parental rights
- Evaluation of the child's adoptability
- Evaluation of domestic prospective adoptive parents
- Matching
- Preparation for the adoption decision
- Follow-up reports

These different steps (explored more fully in the following chapters) are all essential, but the lack of human resources and proper training put them at risk. One of the key missing elements is the absence of psychologists in the services. Even if the law required a psychologist to evaluate prospective adoptive parents and the adoptable child (articles 2 and 9), the State is not yet providing resources to hire these experts. As a consequence, local services are, for most of them, relying on psychologists in the education system to assess parents and children during their free time. However, a psychologist in education hardly has the necessary training and knowledge about adoption to undertake these evaluations in a meaningful manner.

***More support should be given to the district authorities in charge of social services to ensure that professionals have the necessary resources (both in time and budget) to fulfill their duties in a satisfactory manner.***

***Trained psychologists should be made available nationwide to cover the needs and responsibilities of the raion's social services.***

### 2.3.2. Cooperation among raions and the national registration system

Obviously, the size and composition of the populations in different *raions* vary. Thus, depending on the usual residence of the adoptive parents, the possibility of having a child in their raion proposed for adoption can be very low, even non-existent. As a consequence, some parents submit their file to another *raion* in order to have a better chance. They do this on their own initiative, most of the time, or further to the proposal of the child rights specialist of the *raion*.

While this practice is acknowledged, it illustrates the need to have stronger cooperation among *raions*, but also a system that would allow a national view of the adoption situation, both in terms of numbers and locations of adoptive parents and adoptable children.

Law No. 99 on adoption establishes a national registration system<sup>36</sup> for both groups (adoptive parents and adoptable children), but its implementation and how it will work remains unclear to adoption professionals in the *raions*.

There are two main reasons for having a registration system at the national level:

- Considering the uneven possibilities for adoption and the needs of adoptable children among raions, it is necessary for any State to have a national overview of both groups to be able to meet the expectations of the latter. The way a national register would function should be discussed in detail among the different authorities and services concerned, but such an option is probably the only one that can ensure a quick and efficient system for domestic adoptions.
- The practices of different countries<sup>37</sup> regarding the placement of adoptable children with domestic adoptive families takes into account the fact that the adoptive family and the biological family should not live too close to each other in order to avoid unnecessary sources of tension. In the “full adoption” model, the child enters his/her adoptive family completely and permanently, and loses

his/her ties with the biological one. Easy access to the child’s origins may lead to unexpected consequences, such as the adopted child being in the same school as brothers and sisters still living with the biological family. To avoid this, it might be wise to place a child with an adoptive family in a different region.

***The national register for domestic prospective adoptive parents and adoptable children should be reviewed to improve the possibilities of domestic adoptions and to preserve an appropriate distance between the biological and adoptive families.***



*The national register for domestic prospective adoptive parents and adoptable children should be reviewed to improve the possibilities of domestic adoptions and to preserve an appropriate distance between the biological and adoptive families.*

<sup>36</sup> Moldova Law No. 99, article 21, para. (1): “For approval of adoption, the territorial authority to require the consent of the biological parents the child’s home.”

<sup>37</sup> This is particularly true for relatively small countries. In Switzerland, for example, district authorities would place a child for adoption in a different district from the one where the biological family lives.



*It is recommended to organize periodic meetings, conferences and training at the national level to improve communication among actors – particularly in the child protection field – to share views and experiences.*

<sup>38</sup>The Hague Conference, *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice No. 1*, page 42.

### 2.3.3. Communication among authorities

Communication in this context is about sharing views and information in general, and not just in the case of an individual adoption procedure. During the interviews conducted for this report, it was striking to observe the very limited communication between the different actors in the adoption process. This was particularly true between district authorities and the judiciary (both at district and national levels), but also between the latter and the central authority.

As stated in Good Practice Guide No 1: “In some countries, the central authority will take the leading role in ensuring that all other authorities and bodies are kept well informed of their roles and responsibilities in relation to adoption. Regular meetings between the relevant authorities and bodies will ensure that they maintain good communication and co-operation.”<sup>38</sup>

Among unfortunate consequences, the limited exchanges among official actors creates a “fragmented” system where each participant only deals with what is related to their functions and loses sight of the inputs of the other interventions, as well as the global understanding of the child’s situation.

***It is recommended to organize periodic meetings, conferences and training at the national level to improve communication among actors – particularly in the child protection field – to share views and experiences.***

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# 03

## Adoption in Moldova: the child

## 3.1. Determining the appropriateness of the adoption of a child

In 2009, the United Nations Committee on the Rights of the Child (UNCRC) noted that Moldova had passed new adoption legislation aimed at ensuring compatibility with international standards. But, the committee also expressed regret at the lack of adequate information on the procedural aspects of adoption, e.g., measures that ensure the best interests of the child are paramount; that children adopted outside of the State party – i.e., in private arrangements – enjoy safeguards and standards equivalent to those available in national and intercountry adoptions; and that the placement of a child does not result in improper financial gain for any party involved.

The adoption system in Moldova has since improved, in particular thanks to the entry into force of Law No. 99 on adoption (2010). In addition, different initiatives from the Government of Moldova promoting domestic adoption (no-fee policy, television and press releases) are bearing fruits: the number of domestic applicants to adoption has increased significantly in recent years, indicating a better acceptance of adoption within the population. Differences in numbers year to year, however, remain difficult to explain (see section 1.3 on data).



## 3.2. The adoptability of the child

### 3.2.1. Legal definition

Law No. 99 on adoption makes clear in article 1 that adoption in Moldova is intended as a form of child protection. It also states that an individual must be under age 18 to be adopted; in other words must legally be a child (article 10). The law then defines the circumstances under which a child becomes officially eligible for adoption — i.e., “adoptable” (article 20):

- 1) After all measures to (re)integrate the orphan child or the child without parental care into the biological or extended family are exhausted, the territorial authority at the child’s place of residence shall issue a decision on establishing the status of adoptable child.
- 2) The measures to (re)integrate the child into its biological or extended family are carried out according to an individual assistance plan, which is implemented during six months from the moment the track is started to be kept, according to the provisions of the Family Code, as an orphan child or a child without parental care.
- 3) A child left without parental care because of abandonment, missing parents, the parents’ mental condition, evasion from educating the child, from protecting the child’s rights and legitimate interests, acquires the status of adoptable child after the court decision, that refers to those below, becomes irrevocable:
  - the parents are deprived of their parental rights
  - the parents are declared incapable
  - the parents are declared missing or deceased.
- 4) A found child, whose parents are unknown, acquires the status of adoptable child after all investigations for identifying its parents, which are carried out during six months, are exhausted.
- 5) The decision of granting the child the status of adoptable child is communicated

by the territorial authority to the child’s biological parents, including those who were deprived of their parental rights, the guardian or the custodian, the social institution or the family-type service in which the child is placed/sted.

During interviews of Moldovan professionals, it appeared that these legal provisions are somewhat difficult to understand as they deal with different types of situations and give different answers depending on the context considered. By reading the relevant articles in the law, we identified the following examples of potential difficulties:

- **§1 and §2** — If a child is an “orphan” or reintegration was unsuccessful, then the **territorial authority** establishes the child’s status as “adoptable.”
- **§3** — If a child is “left without parental care”, then the **court** decides the child is “adoptable.”
- **§4** — If a found child’s parents are unknown and remain unknown during a six-month search, the child acquires the status of adoptable.

The way that article 20, Law No. 99, is written raises difficulties in understanding (and implementing) its logic. For example:

- 1) Two different authorities (the territorial authority or a court) have the jurisdiction to pronounce a child “adoptable” but how they share the responsibility is unclear. For example, in a situation where the biological parents are failing to protect the child’s rights and best interests”, the territorial authority may want to place the child outside the biological family for a limited period of time, during which rehabilitative measures are taken, and then attempt to “reintegrate the child”. In that case, which element is dominant: the attempt at reintegration or the parents’ failure at their duties? Which institution shall make the ruling: the territorial authority or the court?

In this regard, the Moldovan central



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*According to the Moldovan central authority, the exclusive jurisdiction of guardianship authorities to pronounce both a child to be without parental care and “adoptable” is stipulated in article 17 of Law No. 140 on child protection (2013). In addition, the circumstances for starting a procedure to deprive parental rights can be found both in Law No. 140 on special protection and the old Family Code (2000).*

authority made the following decision: only the territorial guardianship authority can issue a decree pronouncing the status of “adoptable” regarding the child. The central authority also recognized that, in some situations, the court must make a decision first on the situation of the parents, but the court has no say on the child’s status.

- 2) §4 addresses the situation where parents are unknown, but it does not say who has jurisdiction to declare the child “adoptable”.
- 3) What is the difference between “unknown parents” (§4), “missing parents” (§3) and an “orphan” (§1); and who decides which situation is applies?
- 4) Neither is the law clear about the circumstances in which a procedure is initiated to deprive a couple of their parental rights. According to §3 b), the court can declare the parents to be incapable but it fails to define the conditions. For example, if a mother is an alcoholic, single and neglecting or mistreating her child, is this a sufficient reason to declare her incapable or officially deprive her of parental rights through a court decision?

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### 3.2.2. The judicial procedure for the child to become adoptable

Article 23 of Law No. 99 on adoption says that it is necessary to get the consent of the biological parents to approve an adoption. But, article 20, details the requirements to be “adoptable” and parental consent is not one of them.<sup>39</sup>

Furthermore, the law does not cover a situation where the biological parents might deliberately and voluntarily give up a child for adoption. The law gives the impression that consent is only necessary in the case of adoption. Also, does this mean that the territorial authority has to require the consent of the biological parents for the child to get a different type of status, i.e., “left without parental care”? Part of the answer can be found in the Moldova country profile posted on The Hague Permanent Bureau website that says only children with the status “left without parental care” can be adopted in Moldova so that no parental consent is required.<sup>40</sup>

Many respondents in this study shared concerns about collecting the consent of the biological family. For example, if a woman became pregnant outside marriage and wanted to give the child up for adoption, it is impossible to do so in a discreet manner since investigations have to be undertaken up to the 4th degree<sup>41</sup> in the extended family to find an alternative solution. The same is true for minors who are pregnant. Most of the time, according to the experiences of the persons interviewed, it is impossible to find all those relatives and even less likely that one of them will be willing to take on the child. As a consequence, decisions to establish a child’s status are very lengthy and not necessarily effective.

Furthermore, the judicial authority may request documents that confirm the consent of the biological family and to consider the case in court (article 23 [6]) in order to avoid abuses during the process. But, if the review of the case is done without any additional inquiry and based solely on available documents, the requirement is not an additional safeguard but just a formality that, once more, lengthens the procedure. Some professionals interviewed proposed that in the case where a baby is to be given up for

adoption it should be possible to confirm consent within three months of birth, countersigned by the biological parents, without going to court.

The consent may be revoked before the court decision on the approval of adoption is issued.<sup>42</sup> However, the approval of the adoption takes place only after the matching which means that it is far too late for the biological parents to withdraw their consent, as adopters and child have already met.

Here again, the various exchanges of views between the experts and their Moldovan respondents demonstrated that going into individual cases related to “adoptability” raises complex answers. From its side, the Moldovan central authority agreed that there is a need to regulate special situations where the consent of the biological parents might result in the child being declared “adoptable”. For example, the refusal to keep the newborn child in the family is due to the fact that the pregnancy was the result of abuse or sexual violence. In this case, the decision is not about “deprivation of parental rights” but rather “consent to adoption”.

It must be stressed, however, that other situations might require the consent of the biological parents without depriving them of parental rights. This is the case where the family is affected by abuse, poverty or social pathologies such as alcohol and drug abuse, or antisocial behaviour. In such a context, the child’s adoptability must be established after the parents are deprived of their parental rights, based on the court decision, which explicitly confirms the parents’ refusal to raise the child.

In such cases, is there a risk that biological parents are somehow “forced” to keep a child, as they would receive some support from the State? And, if abuse exists and leads to the placement of the child — without depriving parents of their rights — what will be the long-term options for the child?

Finally, a child who is left without parental care is not automatically “adoptable” from a psychosocial point of view. (Box 1 on the psychosocial s of adoptability.)

To summarize, the child becomes “adoptable” through an irrevocable court decision

<sup>39</sup> Moldova Law No. 99, Article 23: “(2) Individuals whose consent for adoption is required, shall be respectively informed of all the consequences of their consent, especially of breaking, as a result of adoption, of any kinship relations between the child and its biologic family. (3) The territorial authorities within the area of residence of individuals specified in para. (1) are obliged to provide them with counseling and information, until they express their consent for adoption and must compile reports on this. (4) The consent of individuals specified in para. (1) is expressed in writing, in a free and unconditioned manner, authenticated according to the provisions of the law or confirmed by the territorial authority within the area of their residence. (5) The consent of the individuals specified in para. (1) obtained by corruption, deceit, fraud, in exchange for money, other goods or for any kind of advantages promised before or after obtaining the consent is not valid.

<sup>40</sup> HCCH, “Country profile, 1993 Hague intercountry adoption convention. State of origin: Republic of Moldova”. Profile updated 31 December.2014. Accessed 11 May 2015 at [http://www.hcch.net/upload/-adopt2015cp\\_md.pdf](http://www.hcch.net/upload/-adopt2015cp_md.pdf)

<sup>41</sup> Moldova Law No. 99, Article 13 (8): “The guardian or the custodian, the educating parent from the family type homes, the foster parent have the priority right to adopt the child which they take care of or whom they have in placement, except for cases when the child is adopted by its relatives till the IVth degree, included. If the above-mentioned individual is the child’s relative till the IV degree at the same time, the priority right to adopt the child is preserved.”

<sup>42</sup> Moldova Law No. 99, article 24, para. (7).



*In reviewing the procedure of consent, particular attention should be paid to situations involving single (minor) mothers. The confidentiality of the process shall be guaranteed, and the consent expressed freely, in an informed manner.*

*In this reform process, professionals of maternity wards should be consulted to get their views on the best ways to improve the “consent procedure”.*

*Particular attention should be paid to keeping the whole procedure as quick as possible.*

once it is established that he/she is without parental care – whether, the biological parents have given their consent to adoption, are incapable, deprived of their parental rights, unknown, missing or deceased.

As a consequence, the initial reason for the child to be placed in an institution or for not living with the biological parents disappears from the moment that he/she is declared as being without parental care. This procedure makes the whole process very complicated and time-consuming, which is ultimately not in the best interests of the child. It might take up to two or even three years before a child is declared “adoptable”.

For the authors of this report, the procedure for the child to become “adoptable” should be revised and simplified in terms of the conditions that must be met for the child change status. The Legislator may consider introducing two possibilities: either the biological parents want to relinquish their child for adoption, or the territorial authority considers that the child is adoptable because his/her biological family is unable to take care of him/her.

However, the central authority’s position is different: the very fact that parents would willingly give up a child for adoption is itself proof that they should be deprived of their parental rights (except in very particular cases such as a pregnant minor or a victim of crime). In addition, the refusal to raise one’s child means the child is considered to be “without parental care”; the parents cannot impose conditions on their refusal by adding further child protection actions (including adoption), taken by the line authorities.

From the experts’ perspectives in this report, it is not a question of exceptions. Even if the law provides for biological parents to surrender their child, the action is not accepted nor integrated as a measure of protection. Only minors or victims of abuse are able to give up a newborn.

At the end of the day, this topic really has to be discussed; the different comments expressed in this report illustrate the strongly different perceptions as to whether a family can or can never be allowed to give up a child.

- ***Discussions should take place among national actors in Moldova to clarify the precise role and place of relinquishment in a view of adoption and to clearly define the conditions in which it should take place.***
- ***The consent of a biological parent (confirmed after a delay of three months), given in writing, freely and unconditionally, should be sufficient to declare a child to be “adoptable”. The compulsory search of relatives to the fourth degree should be reduced to a degree of feasibility.***
- ***In reviewing the procedure of consent, particular attention should be paid to situations involving single (minor) mothers. The confidentiality of the process shall be guaranteed, and the consent expressed freely, in an informed manner.***
- ***In this reform process, professionals of maternity wards should be consulted to get their views on the best ways to improve the “consent procedure”.***
- ***Particular attention should be paid to keeping the whole procedure as quick as possible.***

### 3.2.3. Implementation

The above legal definition of adoptability has to be put into context with the way it is implemented. Indeed, interviews with professionals and analysis of the profiles of children proposed for adoption tend to confirm that there is still a general misunderstanding about adoption that can be illustrated by what could be called the “mechanical aspects” of the procedures.

It is, of course, very positive that the principles governing child protection and alternative care are now well integrated into social services activities. The interviews carried out all over the country demonstrate that every actor knows that priority shall be given to family preservation, to support vulnerable families, to placements within the extended family, etc. If these options prove to be unsuccessful or impossible, adoption is taken into consideration (article 20 of the Law on adoption).

However, it appears that adoption is “automatically” considered as a necessary next step of the child protection process. In other words, the law foresees how the system should function and social workers apply the law step by step, opting for adoption in its turn, without always evaluating the pertinence of such a measure. A child declared “without parental care” automatically becomes an “adoptable child”. What is lacking in the current system is the “social vision” of the child’s situation, in order to ensure that any decision regarding a child is based on his/her personal needs and situation (and best interests by extension). Some professionals, for example, say that child profiles are often incomplete, containing some information about health status but very little about the psychological state of the child.

The following examples illustrate this concern. We asked: if a 10-year-old child has been abused, or has spent most of his life in an institution, or suffers from psychological disorders, would he be proposed for adoption? Invariably, the answer given by the professional was “yes”. Then we pointed out the fact that the probability of seeing such a child being adopted domestically would be very low, and internationally at least challenging. Here again, respondents agreed.

Thus, the question is: are we declaring children “adoptable” because they technically qualify under the law? Or are we evaluating the actual capacity of the child to benefit from adoption? “Adoptable” by default distorts the principle of acting in the child’s best interests because it automatically assigns them to adoption without knowing if they might actually benefit from it. “Adoptable” also assigns the children the status of “last option” whether it corresponds to the child’s needs and capacities, or not. As a consequence, and according to our observations, children are left with “adoptable” status as an ultimate official decision, with the risk that if they are not adopted, they will be stuck with this non-realistic status until they reach the age of majority at 18 years old. Furthermore, the authorities will not establish an alternative life plan for the child such as placement in a foster family or another family-like setting, because everybody is “waiting” for the child to be adopted. This can be detrimental for the development of the child who is somehow “forgotten” in an institution and does not necessarily have the benefit of adequate stimulation, attention and concern.

We agree with the central authority when it says that “establishing the status of ‘adoptable’ child does not imply anything other than the fact that, hypothetically and legally, the child is eligible for adoption. This does not represent the child’s life plan, which is developed when the [child’s] status is established, but only the fact that an adoption can be started and completed when all the factors and circumstances indicate that the adoption of the child is in his/her best interests.” In practice, as far as we have observed, the status of being potentially adoptable is often seen as the last step of the evaluation of his/her life plan, with the consequence that the child may wait years to be adopted even if the chances of being adopted are very low, not to say non-existent.

The core of the problem is linked to a misunderstanding of the concept of adoptability, as presented below.



*We agree with the central authority when it says that “establishing the status of ‘adoptable’ child does not imply anything other than the fact that, hypothetically and legally, the child is eligible for adoption. This does not represent the child’s life plan, which is developed when the [child’s] status is established, but only the fact that an adoption can be started and completed when all the factors and circumstances indicate that the adoption of the child is in his/her best interests.” In practice, as far as we have observed, the status of being potentially adoptable is often seen as the last step of the evaluation of his/her life plan, with the consequence that the child may wait years to be adopted even if the chances of being adopted are very low, not to say non-existent.*



*Adoption should be understood as a child protection measure to be considered alongside a range of other alternative care options, all of which have to be evaluated properly before picking adoption as the solution.*

<sup>43</sup> Good Practice Guide No. 1, p.8. Available at [http://www.hcch.net/index\\_en.php?act=text.display&tid=45](http://www.hcch.net/index_en.php?act=text.display&tid=45)

### 3.2.4. The concept of adoptability

According to international standards<sup>43</sup>, “before an adoption takes place, it must be established by the competent authorities of the State of origin that the child is “adoptable”. The adoptability of a child is determined according to the law and procedures of the State of origin. It is important that the legal criteria as well as medical, psychological and social aspects of adoptability that may be relevant are addressed in implementing legislation and procedures.

It is important to recall here that adoptability is to be determined on the basis of the psychological, medical and social report on the child. If the conclusions of such a report are that adoption is the most desirable life plan for the child, he/she is henceforth

considered adoptable from a psycho-medico-social standpoint.

The report should be as thorough as possible since the future of the child and the prospective adoptive family depends upon it. It is essential to reach a diagnosis of the mental, physical, emotional and relational “health” of the child that is as comprehensive and accurate as possible and does not gloss over any issues. On the basis of these four aspects, it is necessary to assess not only the resources (strengths) but also the limitations (weaknesses) of the child. With this diagnosis, professionals will be able to determine (1) whether an adoption is the appropriate solution for the child, and (2) what characteristics and aptitudes the prospective adoptive the family will need.

#### Box 1

### Good practice: adoptability from a psychological point of view

For a child to be psychologically “adoptable” he/she must have a certain frame of mind or “readiness”: they have to understand what adoption is; they have to want it; and to be capable of doing it.

To begin with, the child must be informed of what will happen and be prepared for adoption. He or she must understand the implications of adoption (taking into account both his or her age and capabilities) and he or she must have a chance to grasp their new reality progressively and safely.

Secondly, the child has to want to be adopted. The child must have been consulted, his vision of adoption explored, understood and taken into account before it takes place.

Lastly, the child must have the capacity to willingly engage in a relationship with an adoptive parent.

Source: Ana Berástegui Pedro-Viejo, Instituto Universitario de la Familia, Madrid  
“Is every adoptable child able to be fully adopted?” ICAR 3 Conference, Leiden, July 11, 2010.

It is crucial to emphasize that the legal adoptability of the child and his/her psychosocial capacity to integrate into a (new) family may not necessarily match. One need only recall some painful experiences to illustrate this reality: in the 1980s, the Swiss adoption agency Terre des Hommes organized the adoption of over 90 children aged 5 to 13 years from Brazil. These children could be described as “forgotten” in state institutions. Once adopted, it appeared that it was impossible for many of them to adjust to a family life because of severe psychological disorders.<sup>44</sup> For some of them, staying in their country of origin – even in an institutional environment – would have been preferable, as they could not cope with the rather constraining framework of family life and with the society in general (school, social integration). This proved to be beyond their capacities. As Winnicott explains:<sup>45</sup> “In the matter of adoption, one should not forget that a failure is usually disastrous for the child, up to the point that it would have been better for him/her that the attempt would not have been tried.”

- ***Adoption should be understood as a child protection measure to be considered alongside a range of other alternative care options, all of which have to be evaluated properly before picking adoption as the solution.***
- ***The adoptability of the child must be subject to a specific decision and based on a proper evaluation of the appropriateness of adoption, especially with regard to the capacities of the child. It should also allow for identifying the necessary capacities that a potential adoptive family should demonstrate in order to cope with the characteristics of the child.***



*The adoptability of the child must be subject to a specific decision and based on a proper evaluation of the appropriateness of adoption, especially with regard to the capacities of the child. It should also allow for identifying the necessary capacities that a potential adoptive family should demonstrate in order to cope with the characteristics of the child.*

<sup>44</sup> Terre des Hommes Fondation, « L'adoption dans tous ses états », 2004.

<sup>45</sup> Winnicott, Donald W., “Les écueils de l'adoption” in *L'Enfant et le monde extérieur*, Payot, 1972, 2nd ed. 1988 (non-official translation).



*Evaluation of children presenting special needs should be improved at the first stage of the intervention, and rechecked a second time when placement in institution occurs.*

*Re-evaluation should take place regularly. A proper “life plan” should be established for each child, taking into consideration their disability and capacities, so that he/she will not remain in an institution without any prospects for the future.*

<sup>46</sup> UNICEF, “The child’s right to live in a family”. Last accessed 10 May 2015 at [http://www.unicef.org/moldova/overview\\_27352.html](http://www.unicef.org/moldova/overview_27352.html)

### 3.2.5. Children with special needs

Promoting the domestic adoption of children with disabilities and of those with other special needs is invariably a challenging objective, and the situation in Moldova is surely no exception.

According to UNICEF, “progress has not been equal for all children. Today there are still about 4,000 children in residential institutions, waiting to be taken home. Most of them are children with disabilities. Babies under the age of three suffer the most as they need affection and stimulation to develop. Time spent in a residential institution causes irreversible damage and every day matters to them. Nearly 200 babies [with disabilities] in Moldova still need a family.”<sup>46</sup>

What constitutes a “disability” and its perception as a significant “special need” obviously varies according to the society concerned and its social and economic conditions. For example, some problems may be classified as a special need even though many would be remedied if appropriate resources were available. Some respondents noted that improved information to prospective adopters as to the true degree and nature of a child’s “disability” might already facilitate an adoption.

In addition, the professionals we met expressed much concern about inadequacies in the way that disability is assessed, registered and dealt with, especially the ease with which disabled children will then find themselves in residential care. For example, we were told that in many parts of Moldova there is a lack of specialists so initial assessments – at birth or in the ensuing period – may not be undertaken in an appropriate manner. On the medical side, children may be “labeled” as disabled for the sole reason that they have been abandoned or were born with “some medical problems”. The registration of the child as having a disability may, therefore, not be based on fully reliable information. Parents often feel that they have little choice but to request the child’s placement in a residential facility. It was also pointed out that there is no “double-check” of the child’s medical status upon his/her arrival at the residential facility, which may result, among other things, in unwarranted registration for intercountry adoption.

Indeed, at present, there is a general agreement that children classified as having a “disability” are invariably considered for intercountry adoption, as demonstrated by the list of adoptable children available for intercountry adoption. However, intercountry adoption cannot be seen as a panacea for the challenge of securing appropriate care for children with disabilities and even less so for the effective deinstitutionalization of these children. This will first and foremost require sustained efforts in Moldova to change attitudes as well as to support families in caring for their children. [Given the context and the “adoption focus” of this report, we will not dwell here on the need for support for families to continue caring for a child with a disability, and for a strategy to deinstitutionalize alternative care provision for these children when parental care is inadequate despite that support.] In any case, it is necessary to put in place a system where the child, and their file, is properly followed by a qualified case manager who is able to identify the needs of the child in care and to prepare a plan for his/her life over the long term.

- ***Evaluation of children presenting special needs should be improved at the first stage of the intervention, and rechecked a second time when placement in institution occurs.***
- ***Re-evaluation should take place regularly. A proper “life plan” should be established for each child, taking into consideration their disability and capacities, so that he/she will not remain in an institution without any prospects for the future.***



### 3.2.6. Sibling groups

Law No. 99 on adoption prohibits the separation of siblings by adoption, as well as the adoption of siblings by different individuals or families, except when this contradicts the child's best interests (article 10 [3]). Non-separation of brothers and sisters is a common feature of child protection solutions in Moldova such as institutional placement, foster care and adoption. At the same, this policy caused concerns for many respondents in this report because there are no doubt situations where separation is necessary and, in such a case, guidance and experiences are more difficult to find.

On the theoretical side, one can refer to the *UN Guidelines for Alternative Care* that state (II, B, 17): "Siblings with existing bonds should, in principle, not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child. In any case, every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests."

According to Guidelines VI 62: Planning for care provision and permanency should be based on, notably, the nature and quality of the child's attachment to his/her family, the family's capacity to safeguard the child's well-being and harmonious development, the child's need or desire to feel part of a family, the desirability of the child remaining within his/her community and country, the child's cultural, linguistic and religious background, and the child's relationships with siblings, with a view to avoiding their separation."<sup>47</sup>

However, when it comes to evaluating a specific case, things may become less clear, as reflected by the conflicting positions of different authors and professionals. The ones advocating for a strict respect of non-separation base their arguments on the fact that:

- "consistent joint-sibling placements increase placement stability, the child's perception of belonging, and, perhaps, even the rates of adoption of older children by foster parents;
- maintaining sibling relationships is important from a humanitarian and

- philosophical perspective. Previous foster children are more likely to report dissatisfaction with frequency of contact with siblings than dissatisfaction with frequency of contact with parents;
- the maintenance of sibling ties might be particularly important for children in foster care given the enormity of the losses that they have already experienced;
- sibling relationships should be respected and supported because of their intrinsic value as well as their tangible benefits".<sup>48</sup>

But arguments justifying the separation can also be found:<sup>49</sup>

- There are too few adopters willing to take brothers and sisters together.
- Sometimes the challenge of adoption and compensating for an early life of early neglect and abuse might be considerably easier when parents are coping with just one child and not two, three or four.
- Keeping children from dysfunctional families together includes situations where "through a period of neglect, an older child has been effectively parenting a younger child. It can be vital for them to be separated so that each child can develop a positive attachment with their new parents."
- "Siblings' relationships may be characterized by intense competition, bullying or scapegoating." The dysfunctional relationships that can form between siblings in troubled homes could hold back the development of one or more of them.
- Most siblings in care have already been separated in foster care or children's homes.

These two opinions illustrate how difficult it is to decide whether siblings should be separated or not. While there are valid reasons for both options, we have to refer back to the general principles, as set up by the UN Guidelines, stating that children "should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child."

In other words, the principle of non-separation should prevail, but specific circumstanc-

<sup>47</sup> United Nations, UN Guidelines for the Alternative Care of Children, 2010. Available at: [https://www.unicef.org/protection/alternative\\_care\\_Guidelines-English.pdf](https://www.unicef.org/protection/alternative_care_Guidelines-English.pdf)

<sup>48</sup> Leathers, S.J., "Separation from siblings: Associations with placement adaptation and outcomes among adolescents in long-term foster care", *Children and Youth Services Review* 27 (2005) 793-819, University of Illinois. 20 January 2005. Available at [http://www.researchgate.net/profile/Sonya\\_Leathers/publication/223863343\\_Separation\\_from\\_siblings\\_Associations\\_with\\_placement\\_adaptation\\_and\\_outcomes\\_among\\_adolescents\\_in\\_long-term\\_foster\\_care/links/00b4952fb9e2359a29000000.pdf](http://www.researchgate.net/profile/Sonya_Leathers/publication/223863343_Separation_from_siblings_Associations_with_placement_adaptation_and_outcomes_among_adolescents_in_long-term_foster_care/links/00b4952fb9e2359a29000000.pdf)

<sup>49</sup> Richardson, Hannah, BBC News. "Separate adoptive siblings 'for own benefit'," 20 July 2012. Available at <http://www.bbc.com/news/education-18924163>



*These two opinions illustrate how difficult it is to decide whether siblings should be separated or not. While there are valid reasons for both options, we have to refer back to the general principles, as set up by the UN Guidelines, stating that children “should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child.”*

es may advocate for a separation. To make a decision in this regard, it is then essential to have a comprehensive view of the situation of the children concerned, in particular to have a proper psychosocial evaluation of their personal history and current life, to know how strong (and positive) the relationships among the siblings are, to get an opinion of the children, etc. Handling these difficult cases also asks for having in place regular trainings of all actors involved (including judges) and efficient communication system among the latter to evaluate which option does met the best interests of the children concerned.

***Taking into account our previous remarks regarding the Moldovan context, it is therefore vital that any decision, which potentially involves a separation of siblings, is based on a solid assessment of the children’s files. Such a decision should not be made by a single body, but should be prepared by the different services in charge of the case, with the participation of the professionals, who know the children best (staff of the residential home, social worker of the raion of residence, etc.).***

## 3.3. Preparing the child for adoption

In the current practice in Moldova, the absence of preparation of children for their adoption should also be discussed, be it for national or intercountry adoption. For the child, adoption represents a severance from his/her family, foster family, friends, familiar faces at the institution, etc. To ease a difficult separation, the child should be prepared for adoption. This step is all the more important in the case of older children; successful preparation can allow the child to embrace

the proposed adoption and potential difficulties adapting can be addressed beforehand.

***Preparing the child for should be introduced in the adoption practices of the professionals in charge.***



*For the child, adoption represents a severance from his/her family, foster family, friends, familiar faces at the institution, etc.*

### Box 2

#### Good practice: The Philippines' experience regarding child preparation

There is no hard and fast set of rules and standards for preparing children for placement, whether it is with extended family, foster care or adoption. However, all children face waiting times in the process and these periods offer opportunities for individual preparation. Placing a child, whether with extended family, foster care or adoption, depends on many factors, which are specific to the individual child.

#### Waiting and preparation

It is a fact that “adoptable” children have been, in one way or another, neglected, abused, abandoned. They are children born into difficult circumstances, including a profound sense of loss, and in need of permanent families that will provide them with the opportunity to heal. From the outset, it must be stated that no amount of preparation of the child for placement will result in a positive outcome if the preparation is not based on a comprehensive child profile and an in-depth home study report of the prospective adopters. Preparation, therefore, is not an isolated task conducted by the child’s social worker or caregiver but the consolidated effect of all the stakeholders in the adoption process, who must work hand in hand in a multidisciplinary system to match children with prospective parents.



*Preparing the child for should be introduced in the adoption practices of the professionals in charge.*

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### Pre-matching preparation

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It is a fact that “adoptable” children have been, in one way or another, neglected, abused, abandoned. They are children born into difficult circumstances, including a profound sense of loss, and in need of permanent families that will provide them with the opportunity to heal. From the outset, it must be stated that no amount of preparation of the child for placement will result in a positive outcome if the preparation is

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### Post-matching preparation

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In intercountry adoptions from the Philippines, approving a match between a child and a prospective adoptive parent does not mean an immediate physical placement: immigration proceedings with the receiving country may two to six months before the physical entrustment occurs. To ensure that the waiting period is productive for both the child and the prospective adopters, the Inter-Country Adoption Board of the Philippines requires that the parents send a welcome album or blown-up photos for their prospective child. The album is a collection of photographs of the immediate and extended family members, the child’s future home/room, including photographs of the immediate area surrounding the home, and the pets, if any.

Authorized partner agencies are requested to send a list of practical and basic words that the child must know in the native language of the prospective adopters. A brief description of the weather and a snapshot of the daily routine/schedule of the family is part of the “welcome home” package. Careful preparation such as this eases the stress during the initial contact between the prospective adopters and the child and smoothens the child’s transition into his/her new environment.

Source: Philippines’ Central Authority, ISS/IRC Monthly Review No. 172, May 2013.

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# 04

## Adoption in Moldova: procedure

## 4.0. Adoption in Moldova: procedure

<sup>50</sup> About one quarter of Moldovans live in poverty, but the rate rises quickly for children in rural areas. UNICEF, Moldova country profile. Accessed 30 January 2015 at [http://www.unicef.org/moldova/overview\\_940.html](http://www.unicef.org/moldova/overview_940.html)

Children who are candidates for adoption within Moldova mainly come from cities (Chisinau and Balti) (see table 4). This is common because cities are more populated and incomes are better compared to the countryside.<sup>50</sup>

Official figures demonstrate that Moldova is now able to fully respect the principle of subsidiarity – finding local solutions – (the Hague Convention, article 4b) as the majority of adoptions carried out between 2009 and 2013 were domestic adoptions.

**Table 5**

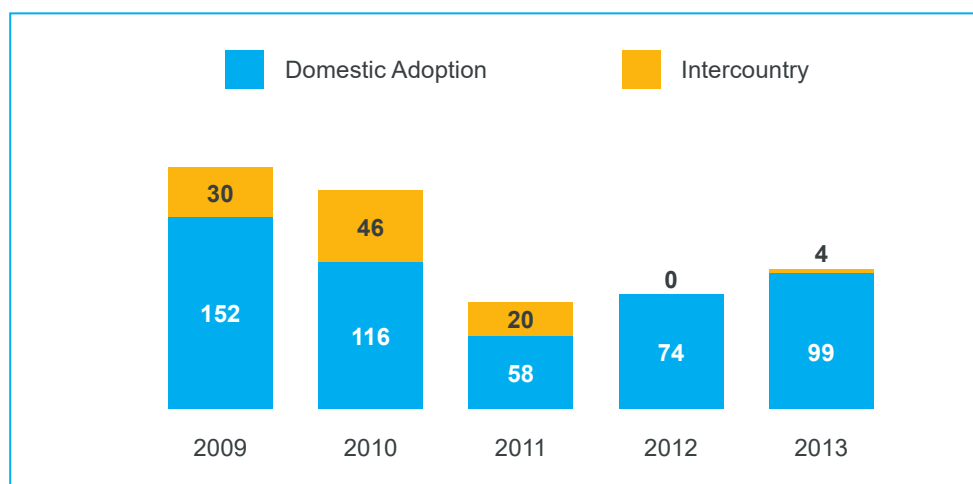
**Number of adopted children and prospective parents on waiting list, 2014**

	Domestic adoption	Intercountry adoption	Prospective parents
Ciadir Lunga	4	3	3
Causeni	4	1	5
Calarasi	2	-	-
Riscani	3	-	3
Balti	5	-	12
Chisinau	28	11	44
<b>Total</b>	<b>46</b>	<b>15</b>	<b>67</b>

**Source:** MLSPF, limited to the raions visited during the assessment for this report.

**Figure 1**

**Domestic vs intercountry adoptions, Moldova**



**Source:** MLSPF 2013 Activity Report available at <http://www.mpsfc.gov.md/en/rapoarte/> ; TransMonEE Country Profiles [www.transmonee.org](http://www.transmonee.org)

## 4.1. Formal conditions

According to Law No. 99 (article 12), individuals between the ages of 25 and 48 can qualify to adopt; they have to be at least 18 years older than the child to be adopted. This age difference can be reduced to 16 years by derogation of a court of law. Similarly, the court can rule that in the case of adoption by a married couple the lesser age limit of 25 years old applies to one spouse only. It should also be noted that the age condition should take into account the marital status of the applicant (e.g., divorced, widowed, having biological children or not). Knowing that 35 to 40 per cent of prospective adopters are single,<sup>51</sup> the conditions around such adoptions might be strengthened. In addition, derogation by the court regarding age limits (article 12 [2]) could raise concerns: is it possible for a person aged 21–23 years to understand the responsibilities of adoption and guarantee a degree of stability that is necessary for the adopted child?

There are a few articles in the legislation that concern individuals, who cannot adopt children (article 12, paragraph 4), and the following paragraphs specify that the adopters have to meet “moral guarantees and material conditions” (paragraph 5); be married for at least three years (paragraph 6); as foreign nationals or stateless individuals residing in Moldova they have to have lived in the country for at least three years (paragraph 7); and that priority is given to caretakers like guardians and foster parents as long as no relatives up to the fourth degree of kinship want to adopt the child (paragraph 8).<sup>52</sup>

If the prospective adoptive parents fulfill the above requirements, they must then go through several steps in order to be formally approved as an adopter:

- Prospective adopters must submit an adoption application with personal data and supporting documents to the territorial units/directorates of social assistance and family protection in their raion of residence or, if they live in Chisinau, to

the Municipal Directorate for Child Rights Protection.

- The territorial authorities then proceed to evaluate the moral guarantees and material conditions of the adopters by visiting them at home and using a template to gather information. The collected information is limited to data about the prospective adopters and their family members (mother, father, brothers and sisters) as well as details about their housing conditions and goods they possess.
- The prospective adopters have to attend a one-day preparatory course, organized by the local authority or, in Chisinau, by Amici dei Bambini.
- The next step consists of a psychosocial assessment of the prospective parents and the writing of the evaluation report. If no additional inquiry is necessary, the report is presented to the head of the territorial authority.
- After approval of the report by the territorial authority, the latter issues the certificate of adopter to the applicant/s.

<sup>51</sup> *Amici dei Bambini*, statistics for prospective adopters attending preparatory course.

<sup>52</sup> See point 3.2b) for comments on this specific issue.



*A national “consultation” (for example, through a conference or a questionnaire) would be a useful tool to gather relevant information about the factors limiting the development of domestic adoption.*

<sup>53</sup> A copy of the identity card, birth certificate, marriage certificate or divorce certificate; a certificate from the work place; a certified copy of the document which confirms its property rights; a criminal record; a medical certificate.

#### 4.1.1. Application process

In interviews for this study, respondents often described the administrative steps in the certification part of the process as “too much”, for example, almost a dozen documents to fulfill article 15 of Law No. 99 on adoption.<sup>53</sup> The point is that the application process should remain manageable for prospective adopters, especially for those living in rural areas where it may be harder to collect the different documents required.

*Good Practice Guide No. 1* recommends that “in developing a national adoption system, it is important for States to know what factors, if any, are inhibiting national adoption in the State, and to consider how [domestic] families can be encouraged to adopt children.”

Promoting domestic adoption is always challenging for any country. Since the administrative process and its related costs have been identified in this evaluation as potential obstacles, it might be useful to investigate the question further. Similarly, the issue of secrecy around adoption may be another factor, as well as the profiles of children proposed for adoption. More discussions among professionals in charge of child protection and adoption are needed to identify precisely the reasons that domestic adoption in Moldova may be inhibited and to come up with ways to address them.

***A national “consultation” (for example, through a conference or a questionnaire) would be a useful tool to gather relevant information about the factors limiting the development of domestic adoption.***

#### Box 3

### Good practices and templates

Convenient descriptions of good practices as well as sample templates can be found online from a number of sources. For example:

“Draft model forms for intercountry adoption”, Hague Permanent Bureau.  
Available at <http://www.hcch.net/upload/wop/ica2015pd05en.pdf>

“The Adoption Home Study Process”, Child Welfare Information Gateway, U.S. Children’s Bureau.  
Available at <https://www.childwelfare.gov/pubs/f-homstu/>

“Adoption assessor training: major themes revisited”, Ohio Child Welfare Training Program, The Institute for Human Services, 2013.  
Available at <http://www.ocwtp.net/PDFs/Trainee%20Resources/Assessor%20Resources/All%20Refresher.pdf>



### 4.1.2. Moral guarantees and material conditions of the adopters

This step in the evaluation process falls short of its name since no questions actually refer to the morality of the prospective adopters. Instead, the template<sup>54</sup> that has to be filled in focuses on the family situation and the dwelling and material conditions of the prospective parents. It raises detailed questions that are sometimes embarrassing, for example, the age of the fridge or the numbers of chairs in the house.

Every country has legal criteria to ensure that prospective parents are eligible and suitable to adopt a child. Generally, a description and appreciation of their living conditions as well as detailed information about their finances are considered sufficient, without having to go into details

about all their possessions, their number and age.<sup>55</sup> Besides, dwelling conditions are not necessarily a good indicator proxy of moral values, but currently, there is only one template and it includes both elements as the first step of the evaluation.

The draft model forms developed by the Hague Permanent Bureau can be very useful here as well (see box 3 above).

- ***This step of the evaluation process should be renamed and separation should be made between moral conditions and economic well-being by including the moral aspect in the psychosocial assessment.***
- ***The template should be reviewed and the questions simplified to facilitate a general appreciation of the living conditions.***



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*The template should be reviewed and the questions simplified to facilitate a general appreciation of the living conditions.*

<sup>54</sup> Moldova Ministerial Order No. 285 on the evaluation procedure of the moral and material conditions, attachment no 1, social inquiry.

<sup>55</sup> U.S. Department of State, “Intercountry Adoption: Home Study Requirements.” Accessed May 25, 2015 at <http://travel.state.gov/content/adoption-abroad/en/adoption-process/who-can-adopt/home-study-requirements.html>



*The preparation of prospective parents should be reviewed in terms of length (number of days), duration (timeframe), content and creation of two different procedures (preparation and evaluation). It should be made available in every raion in the country, on an equal basis (in terms of content, duration, etc.). If the annual number of adoption applications in certain raions is too low, referral to other raions or joint training among raions should be envisioned.*

<sup>56</sup> HCCH, “Good Practice Guide No. 1”, p.94.

### 4.1.3. Preparatory course

According to Good Practice Guide No. 1<sup>56</sup> “the Convention (article 5b) also requires competent authorities to ensure that prospective adoptive parents receive counselling about adoption, as may be necessary. ‘Counselling’ in this context refers to preparation for the adoption and may include training and education.” Thus, preparing prospective adoptive parents is a requirement of the convention that Member States are supposed to fulfill.

According article 19 of Law No. 99 on adoption, “during the evaluation process, provided for in art. 16, the territorial authority at the adopter’s place of residence is responsible for informing and preparing the adopter in line with a program issued by the central authority.” Despite the clarity of the law, training is not yet evenly available across the country, due to the reduced capacities of some territorial authorities. However, MLSPF encouraged *raions* to do so, in particular by referring adopters to the training organized by *Amici dei bambini*. Since the NGO established its programme in 2011, about 360 prospective adopters have attended, but have come from only 25 out of 32 districts in Moldova. It means that some districts do not refer prospective adopters to this training nor organize it themselves. This situation is unsatisfactory, not only because it is difficult to ensure the quality and accuracy of the courses organized locally, but also because it prevents the creation of uniform national training.

Initially, the preparation course was set for two days, but people from outside Chisinau asked for it to be reduced to one day. Two courses are organized per month for five to six prospective adopters (singles or couples). The curriculum addresses themes like the legal framework, the “imagined” child, creating awareness about being an adoptive parent and the profile of the child to be adopted—a content load based on the original two-day training. The trainer writes a brief report on the prospective adopters after the course and sends it to the authorities. Only in rare instances has *Amici dei Bambini* been asked whether it had doubts about issuing the certificate of “adopter” to a prospective parent.

All the professionals interviewed during this assessment agreed that the preparation is

insufficient in its current format. Some of them underlined that eight hours’ training—just one day—is not enough to raise awareness about the complexities of adoption, especially when explaining the legal framework takes up most of the time. The child right’s specialists recommended that intensive training should be organized for the prospective adopters together with specialists and adoptive parents (for example, in summer camps). Once well prepared, the prospective adopters would receive a certificate that would allow them to start the formal evaluation.

Apparently, prospective adopters largely look at the preparation as a compulsory step to get through – with no conviction about its value. Very likely, prospective adopters are not informed as to the importance of the preparation, which could be done during the first assessment (moral guarantees and material conditions).

It is also questionable whether the preparation as such has to be integrated into the process of obtaining the certificate of adopter, as exemplified by the “assessment report content” (see below). In many European countries, the preparation of the prospective adopters is done separately from the social assessment in order to avoid a conflict of interests. Indeed, prospective adopters do not necessarily talk about their fears, doubts and concerns regarding their project in a setting that is part of the official adoption process, because they are anxious about being characterized as “unsuitable” parents. They may express themselves more freely if the two procedures are separated and obtaining of the certificate is not related to the preparation.

From a good practice perspective, training adopter applicants is most of the time seen as a two-stage process:

- 1) Sensitizing and training for adoption in general: this first part is organized before the evaluation of the adoptive capacity of the prospective parents is carried out. It should include various components that:
  - correctly inform applicants about the realities of adoption — the profile and situation of a child in need of a family,
  - the proceedings and the documentation.
  - orient the applicants to the primary objective of adoption—to give an appropriate family to a child who already has his own history; and to respond to the best interests of the child.

- raise awareness of the realities of adoption and distinct facets of adoptive parenthood.
- help prospective parents eventually accept their own infertility or their grief for a lost child, and to understand that the adoptable child already has his own history, to grasp the implications that this will have for his future family relationship, etc.

This first step aims at preventing certain future problems and allows the applicants to reflect upon their capacity to undertake, and their will to pursue, their adoptive plan. Experience shows that a certain number of the applicants, becoming aware of the complexity of this plan, may decide to give up. Those who confirm their availability for adoption do so far better equipped.

- 2) Preparing for the meeting with a specific child: this second stage obviously cannot be achieved until after matching takes place. It should occur in parallel with the preparation of the child for the meeting with his future parents.

On the one hand, it is a matter of offering prospective parents the chance to express their worries about how much/little they know about the child, his history, his parents of origin (e.g. topic like alcoholism and prostitution usually bring on anxiety) and to help them overcome them.

On the other hand, it is a question of helping the future parents to present themselves to the child who is going to be placed in their care, talking to them about the characteristics of the child, his/her history, his/her needs; advising them about the way in which they are going to make contact with him by telephone in order to avoid, to the extent possible, the shocks (cultural among others involved in inter-country adoption) and disappointments.

For example future parents need to be informed about the reactions the child will have in the first moments of his new life, and reminding them that for him it coincides with a new separation (from the institution which stood for his present living environment, from the people who have been looking after him there and from the other children who cohabited with him), and urging them to react and express their feelings, their fears, about this moment.

***The preparation of prospective parents should be reviewed in terms of length (number of days), duration (timeframe), content and creation of two different procedures (preparation and evaluation). It should be made available in every raion in the country, on an equal basis (in terms of content, duration, etc.). If the annual number of adoption applications in certain raions is too low, referral to other raions or joint training among raions should be envisioned.***



*Apparently, prospective adopters largely look at the preparation as a compulsory step to get through – with no conviction about its value. Very likely, prospective adopters are not informed as to the importance of the preparation, which could be done during the first assessment (moral guarantees and material conditions).*

<sup>57</sup> ISS/IRC Monthly Review, January 2008. For more information: *Special parents for special children*, Socialstyrelsen (National Board of Health and Welfare) and MIA, Swedish Intercountry Adoptions Authority, August 2007, 130pp. The course book is available on MIA's website: <http://www.wia.eu/english/parents.pdf> and may be ordered from MIA, Sweden; [info@wia.eu](mailto:info@wia.eu).

#### Box 4

### Good practice: preparation for prospective adoptive parents in Sweden<sup>57</sup>

The Swedish Intercountry Adoptions Authority has issued the English version of the preparatory course material for prospective adopters in Sweden, entitled *Special parents for special children*. The course has been compulsory since 2005 for anyone considering a first intercountry adoption. Preparation takes place partly during the compulsory course for prospective parents, and continues during the home study and assessment. The purpose of the course is to provide prospective adopters with information and an opportunity to gain a better understanding of adoptive children and their needs, the legal provisions involved, the adoption process and the help available if problems should arise. The course is also designed to stimulate emotional processes, so with that aim in mind, it is suggested that the trainers use values clarification exercises, literature, films, radio programs, articles, homework and group discussions.



*MLSPF might consider networking among raions and organizing regular national meetings/training for child rights protection specialists to promote the exchange of good practices, experiences and challenges.*

<sup>58</sup> ISS Fact Sheet No. 22: “The evaluation of the eligibility and the suitability of prospective adopters.” Available at:

<http://www.iss-ssi.org/index.php/en/resources/training#thematic-fact-sheets>

<sup>59</sup> Content, duration and number of trainings depend on the way Moldovan actors want to tackle this issue and on the resources available. Should “adoption” be part of current curricula taught at universities? Would annual national training events be more appropriate? Is it better to organize training about adoption in general or to divide it into different sessions related to the different steps of the adoption procedure?

#### 4.1.4. Psychosocial assessment of prospective parents

The evaluation of prospective adoptive parents is complex and as such requires a process of various interviews during which the experts involved develop a realistic knowledge of the adopter’s motivations and living conditions. To make that coverage possible, good practices recommend<sup>58</sup> having a multidisciplinary team of professionals in place. Several specialists participate in the evaluation process: child-rights officers, specialists in the field of family protection, community social assistants, psychologists, etc.

However, except for the Municipality of Chisinau, which has a team of child-rights officers, the territorial authorities do not have qualified staff to manage the procedure. With few evaluations done over the years and high staff turnover, it is very difficult to build the necessary capacity in the regions to ensure a certain level of quality. Moreover, there is a lack of adoption specialists to train social workers and psychologists who, in turn, could train a larger group of professionals (“train the trainers”) in order to achieve a certain degree of expertise at the national level.

*MLSPF might consider networking among raions and organizing regular national meetings/training for child rights protection specialists to promote the exchange of good practices, experiences and challenges.*

Back to the assessment, a template is used to gather information about the prospective parents, wife and husband. The questions asked are precise and often formulated in terms of strengths and weaknesses. Very few questions address the expected/desired profile of the child and the motivation of the prospective adopters. And the format invites short answers: for example, it seems difficult to capture the true drivers of adoption in a list of strong and weak points and the applicants might not even be aware of underlying motives such as shoring up a precarious relationship or an imbalance in the desire for a family. Prospective adopters are certainly not very inclined to talk about their weaknesses. It is the task of the social worker or the psychologist to detect them.

Concerning the profile of the child, the prospective adopters can express their expectations regarding age, sex, health and personality. Just asking such a question might give the impression that the prospective adopters have a choice, which is not the case in reality.

According to regulations, the psychosocial assessment should be made by a psychologist who should have at least three meetings with the prospective adopters as well as contacts with the extended family and the community’s relevant representatives—all within a period of 10 consecutive days.

Several respondents expressed doubts about the quality of the work done during the assessment. As already mentioned, skilled staff for psychosocial evaluations for adoption are rare. It is also unlikely that the psychologist or social worker in charge can meet prospective adopters on several occasions nor interview extended family members or community representatives in the allotted timeframe.

Also, there is no special template for single adopters, even if they present a special situation: they have no legally obligated spouse to share daily care and difficulties. Considering that they represent an important share of the applicants (up to one third, according to Amici dei Bambini), specific issues should be addressed in their assessment, such as assurance that they can count on the support of extended family and friends in case of psychological or physical problems.

- ***The template, which serves as a basis for the psychosocial assessment of domestic prospective adopters, should be reviewed to integrate a comprehensive analysis of the applicants, and leave room for descriptions, comments and evaluation.***
- ***A specific template should be developed for single-adopter applicants.***
- ***The staff in charge of the evaluation should be trained properly to be familiar with the specific challenges of an adoption process.***<sup>59</sup>

Again, according to the regulations, the whole process should not take more than 30 days but this is insufficient time to complete

such a complicated procedure and be able, at the same time, to guarantee a certain quality of work. Professionals interviewed declared that the implementation of this regulation is not possible and puts them in a delicate situation because they don't have enough time to work with the prospective parents and do a satisfactory job.

The decision to adopt a child cannot be done in a day. Questions and doubts need to have their place in the process for examination. Prospective parents should be given time between the different steps to think about what it means to become adoptive parents, to take care of an abandoned child,

to contemplate their motivation and their expectations. Such reflections are not possible in just 30 days. Worse, according to the professionals interviewed, the prospective adopters have problems just trying to be available for the different appointments and interviews in such a short timeframe.

***The length of the procedure to obtain the certificate of adopter should be extended from 30 days to at least six months.***



*The length of the procedure to obtain the certificate of adopter should be extended from 30 days to at least six months.*



*The assessment and adoption certificate (purpose, utility, content) should be reviewed and the validity of the certificate should be extended (up to two years).*

<sup>60</sup> ISS Fact Sheet No. 23 “The evaluation of the eligibility and the suitability of prospective adopters: the report”. Available at <http://www.iss-ssi.org/index.php/en/resources/training#thematic-fact-sheets>

#### 4.1.5. Assessment and adoption certificate

Following the analysis of the documents (social enquiry, adopters’ preparation report, psychosocial assessment), the head of the territorial authority requests the preparation of the assessment report, which is a very succinct document of only one page, answering five points:

- Evaluation of the couple’s relationship as demonstrated during the training course. (Not applicable to single adopters.)
- Evaluation of that identifies, during the training course, attitudes, beliefs and behaviours that contradict previous declarations of the prospective parents, e.g. evidence of stigma based on ethnicity, gender, or special needs.
- Acknowledgement of the adoption (applicants’ expectations and beliefs regarding their capacity to be parents).
- Their availability to be matched with a child with special needs or with specific characteristics.
- Conclusions.

This document can be viewed as a good “starting point”, but it does not encompass the various aspects that need to be developed in a psychosocial assessment, according to international standards. For instance, it would be difficult to know what are the “contradictory elements” mentioned in point 2, as there is no proper explanations about it. Does it refer to the couple, the adoption project, the expectations regarding the child, the motivation? Also, the purpose and utility of the assessment report are not always clear to the persons we met, especially due to the mixture of “training course” and “assessment”.

Theoretically, the assessment should include, to the extent possible:<sup>60</sup>

- The reasons why the person/s have been considered suitable to be entrusted with a child in adoption: evaluation of the capacity of the applicants to care in a lasting manner for a child who may possibly not correspond to the image they have of him/her. The motives should take into account that specific child’s potential needs, e.g., difficulties arising racial, ethnic and cultural differences, traumas linked to abandonment or possibly a prolonged period in an institution, health problems.
- A synthesis of the psychosocial information gathered during the evaluation of the suitability of the applicants and their environment. The information should be sufficiently detailed to facilitate a match in the best interests of the child.
- The administrative and legal files relating to their identity, civil status, eligibility.
- A few photos of the family.
- A description with comments on the applicant’s expectations of adoption.
- An assessment of the strengths of the adoptive family and its environment that will assure the child a satisfactory affective, moral, educative and material setting and facilitate the child’s integration; an evaluation of the limitations that could arise to compromise their care.
- Guidelines for the type of child that the applicants seem able to care for (behaviour, character, age, particularities, capacity to assume responsibility for siblings, etc.).
- Whatever other information that can help in determining a match in the best interests of the child and the family that will adopt him.

According to some child rights specialists, it might be useful to develop a simplified adoption procedure in case a guardian or a caretaker wants to adopt the child after a period of continuous care.

After the approval of the assessment report, the head of the territorial authority issues the certificate of “adopter” that has a validity of one year. A copy of the certificate is submitted to the central authority in order to include

the data of prospective adopters in the State adoption registry and to keep track of them.

The certificate's validity of only one year is a real problem. If no child has been matched with the prospective adopters during this time, they have to apply for a renewal of the certificate and go through the whole process again. In order to avoid the administrative hassle of re-qualifying, prospective adopters usually try to find a child on their own or they call upon the authorities for a match. It is impossible to know what kind of pressure might be applied in such cases. However, the validity of only one year is clearly insufficient, as confirmed by several people met.

***The assessment and adoption certificate (purpose, utility, content) should be reviewed and the validity of the certificate should be extended (up to two years).***



*This document can be viewed as a good “starting point”, but it does not encompass the various aspects that need to be developed in a psychosocial assessment, according to international standards. For instance, it would be difficult to know what are the “contradictory elements” mentioned in point 2, as there is no proper explanations about it. Does it refer to the couple, the adoption project, the expectations regarding the child, the motivation? Also, the purpose and utility of the assessment report are not always clear to the persons we met, especially due to the mixture of “training course” and “assessment”.*



*After the matching, the prospective parents visit the child at the institution. According to the directors of the placement centres, it is generally difficult to establish a dialogue with the parent: they ask very few questions about the child and do not want to speak about their personal situation. Such behaviour is a clear indication to the people in charge that the adopters are not well prepared.*

<sup>61</sup> Good Practice Guide No.1, p.87. Available at [http://www.hcch.net/index\\_en.php?act=text.display&tid=45](http://www.hcch.net/index_en.php?act=text.display&tid=45)

<sup>62</sup> Placement and Rehabilitation Centre for Young Children, Chisinau and Balti; Placement Centre for Children in Difficulties (Gavroche), Chisinau.

#### 4.1.6. Matching

The files of prospective adopters as well as those of adoptable children are registered on paper at the MLSPF. Regarding domestic adoption, the register contains little information on the adopters and, therefore, cannot be used as a matching tool. Thus, matching is done in the regions, primarily where the prospective adopters obtained their certificate. Should there be no adoptable children in that community, they might register in other districts. There seems to be very little or no exchange of information among districts regarding adoptable children or prospective adopters.

There is a considerable lack of transparency in the matching procedure. The MLSPF is not involved in domestic adoption procedures, and there is only limited--or no--collaboration between districts. It is, therefore, difficult to understand how matching functions, especially when prospective adopters and the child they want to adopt live in a different district.

***Matching should be based on complete and detailed information of the prospective adopters and the child, in order to choose the most suitable family according to the needs of the child. All possible precautions should be taken for the match to work out. Since we did not have access to concrete files, it is impossible to say if the information that serves for the matching is accurate and sufficient. However, given the conditions described in this chapter, one can entertain serious doubts as to the quality of the information. Furthermore, matching is a responsibility that must be assumed by the team of professionals dedicated to the protection of children (particularly psychologists and social workers, with the support of a legal expert to ensure compliance with the law).<sup>61</sup> Here again, considering the different practices in the raions and the lack of trained professionals, it is difficult to imagine that this condition is met.***

In a situation where the adoptable child is placed in an institution, the latter does not receive the file of the prospective adopters and its staff is not consulted on the match, even though they know the children well and

could give their advice. In general, the social workers of the authorities do not visit the child before the matching process. Thus, it is done only on the basis of templates. Three institutions visited for this study<sup>62</sup> are caring for adoptable children. The staff has to write reports on the children in view of their adoption, using two different templates, one for children up to seven years old and one for older ones. The reports are sent to the territorial authorities for the matching.

After the matching, the prospective parents visit the child at the institution. According to the directors of the placement centres, it is generally difficult to establish a dialogue with the parent: they ask very few questions about the child and do not want to speak about their personal situation. Such behaviour is a clear indication to the people in charge that the adopters are not well prepared. The experts' dissatisfaction also results from the fact that the professionals in charge of the child cannot intervene in the procedure, even if they think that the matching is not appropriate and the parents not suitable, because nobody is asking for their advice.

The matching procedures related to children placed in institutions are questionable for several reasons: firstly, the caretakers of the children are the most valuable resource to provide information on the children because they share their everyday life. Thus, it is essential that their opinions be collected when deciding about a match proposal. Secondly, the social workers in charge of matching do not meet the children, a situation which is unacceptable for such an important decision.

After having observed the first contacts between the adopters and the child, the staff should be consulted to give their opinion about the initial relationship, the attitude of the adopters and the child.

According to article 28, para. (5) of Law No. 99 on adoption, "if the adopters' matching did not happen, the territorial authority undertakes new measures to select other adopters for the child." In this regard, the child rights specialists noted that the number of matchings should be limited. Indeed, prospective adopters can be very "picky" and sometimes refuse a child for little things; nevertheless, they are automatically put on the waiting list again.



- *Regulations about domestic matching should clarify the way a matching is decided (information needed, professionals involved).*
- *Training should be made available to professionals of raions, to ensure that matching is processed in a uniform manner, consistent with international standards.*
- *The reasons for prospective parents refusing a matching proposal should be carefully analysed and taken into account for any new proposed match. A limit on the number of proposals could be added to the law.*



*After having observed the first contacts between the adopters and the child, the staff should be consulted to give their opinion about the initial relationship, the attitude of the adopters and the child.*



*After the matching, the prospective parents visit the child at the institution. According to the directors of the placement centres, it is generally difficult to establish a dialogue with the parent: they ask very few questions about the child and do not want to speak about their personal situation. Such behaviour is a clear indication to the people in charge that the adopters are not well prepared.*

<sup>63</sup> Moldova Law No. 99, article 29, paragraph (5).

<sup>64</sup> ISS/IRC, “Manifesto for Ethical Intercountry Adoption”, ISS 2015. See: [www.iss-ssi.org](http://www.iss-ssi.org)

#### 4.1.7. Trial period

Article 29 of the Law on adoption says that within five days from the match, the territorial authority at the place of the child’s residence entrusts the child to the adopter for a period of 90 days, so that the child can adapt to the adopter and their compatibility confirmed. Article 7, paragraph (1), letter (e) provides for the territorial authority to monitor progress in relations in the pre-adoption period.

In practice, however, the pre-adoption period is not perceived (by professionals or adopters) as a tool to evaluate and confirm the accuracy of the match, but as a “test period” that gives the adopters the possibility to accept or refuse the child.

This trial period is a controversial step in the adoption procedure. Some consider it a “guarantee” against to prevent a separation at a later stage. However, no trial period gives any guarantee about the bonding and future relationship between parents and children. Others look at it as a possibility for the adopters to see if the child matches their expectations. According to the adoption law,<sup>63</sup> “(the) physical and mental adaptation capacity of the child to the family environment shall be assessed (during the trial period).”

The two first points are merely in the interest of the adopters. If we look at the interests of the child, the situation is quite different. He/she will experience personal care and attention and be taken out of the institution where he/she was one among dozens of other children. The child will certainly “invest” considerably in this new relation without being necessarily aware that the situation might not last. Thus, the trial period can be extremely harmful for the child, being rejected and abandoned once more, if a separation occurs during or after this period. The risk that the trial period results in a failure increases if the matching decision is not based on a thorough examination of the adopters and the child – based on detailed reports and personal meetings – as well as strong preparation of the prospective adopters and the child. However, as we have seen above, these requirements are not often met.

International good practices<sup>64</sup> underline that these initial days of life together are not to

be considered a test for the adopters, but an opportunity to get to know the child in a familiar environment and with the support of local professionals who know the child. Although this period may be inconvenient for the adopters, this measure is part of an effective adoption process, and cannot be missed because it is not convenient.

Although the benefit of this period is indisputable and it must be respected, it is important to understand its *raison d’être* and its true objective. This period should have professional support, which serves to foster the progressive creation of affective bonds and to prevent adoption failures as much as possible. Its purpose is not to allow the PAPs to renounce the child when it expires.

In addition, this crucial period must meet certain standards, such as a sufficient minimum duration so that a decision on the merits of the adoption can be made, and supervision by a competent multidisciplinary team. When the probationary period ends in failure, it is imperative that the child is given psycho-affective support, especially in situations where the cohabitation period lasted a number of months during which time ties were created. Finally, in situations where the potential parents reject the child, they are not to be given another child at that time. It is in everyone’s best interests that a new assessment be conducted.

- ***The trial period should be understood as a tool to evaluate the accuracy of the match and to ensure the preservation of the child’s best interests.***
- ***Support and guidance shall be developed to allow child rights specialists to understand the meaning of a “trial period” and ensure a proper implementation of good practices.***

## 4.2. Domestic adoption decision

Law No. 99 on adoption establishes district courts as the authority on decisions related to adoptions. When an adoption application is sent to the Court, the latter will set a hearing where prospective adoptive parents are present. The judge can decide whether the adoptive parents need to be represented in court by a lawyer.

Even if adoption is a priority,<sup>65</sup> it is not unusual for prospective adopters to wait for months to get an appointment (an average of eight months was mentioned). This waiting period is not only detrimental to the establishment of early relationships between parents and children, but it can also have very practical consequences. For example, we met adoptive parents whose file “expired” during this period of time and who had to go through the entire preparation process again (e.g., training, evaluation and documentation).

While we understand that courts in Moldova are overloaded, as in many countries, the obligation to start the whole process from zero constitutes an unnecessary obligation that could easily be waived by the court. If the judge still has reasons for requesting an update, the latter could be limited to some documents only (e.g., criminal records).

Next, the adopters’ file is duly analyzed by a judge who ascertains whether all the legal requirements are met. Despite a real willingness to try to prevent any form of abuse in the adoption process, district judges (and representatives of the office of the Prosecutor) tend to see their role as ensuring that the file is complete and respects the necessary format. We did not come across any situations where a court refused to declare an adoption for reasons other than these legal formalities.

In terms of competence, child rights specialists would recommend that the adoption should be pronounced by the court at the place of residence of the adopters and not at the one of the child. Indeed, the evaluation of the prospective adopters and the

follow-up reports will be the responsibility of the raion’s child rights specialist in the place of residence of the adopters. In addition, the adopted child will live in this same raion once the adoption is pronounced. Thus, the court is closer to the adoptive family’s residence than the one of the child. Such proximity may help in ensuring a better continuity if any further measures need to be taken after the adoption is declared.

- ***The Judiciary should explore ways to expedite adoption files, to avoid undue waiting periods (e.g., increasing court staff, fixing a maximum delay by law).***
- ***Judges in charge of “family cases” should be sensitized to the very specific nature of adoption decisions, especially about their social component.***
- ***The potential for giving authority for adoption cases to the court at the prospective adoptive parents’ residence (instead of the one of the child’s residence) should be evaluated.***



*While we understand that courts in Moldova are overloaded, as in many countries, the obligation to start the whole process from zero constitutes an unnecessary obligation that could easily be waived by the court. If the judge still has reasons for requesting an update, the latter could be limited to some documents only (e.g., criminal records).*

<sup>65</sup> Code of Civil Procedure, Article 279, 1.b. Causes examined in the special procedure, “approval of the adoption” available at <http://lex-justice.md/index.php?action=view&view=doc&id=286229>

## 4.3. Follow-up (post-adoption)



*One should also keep in mind that once the adoption is declared, the child falls under the responsibility of the adoptive parents and is protected by the State like any other child.*

<sup>66</sup> Calculation: (5 adoptions x 3 reports in Year 1) + (5 adoptions x 2 reports in Year 2) + (5 adoptions x 1 report in Year 3) = 30 reports

<sup>67</sup> The Hague Convention imposes an obligation on Central Authorities to promote counselling and post-adoption services. The nature and extent of these services is not specified, but States must take all appropriate measures to promote them. This should be interpreted as meaning that States must do everything within their powers and resources to carry out the obligation. In a practical sense, it is difficult to see how a Contracting State can promote these services without taking steps to also provide the services, or to ensure they are provided. The words of article 9, para. (c) were chosen carefully to ensure that the Central Authority had a responsibility to “take all appropriate measures to promote counselling and post-adoption services” but was not itself directly responsible for providing those services (some States would lack the resources and qualified staff to do so). Good Practice Guide No. 1, p. 125. Available at [http://www.hcch.net/index\\_en.php?act=text.display&tid=45](http://www.hcch.net/index_en.php?act=text.display&tid=45)

According to article 45 of the Law No. 99 on adoption, the territorial authority shall prepare follow-up reports about domestic adoptions with the following frequency:

- **Year 1** – three reports (at 3, 6 and 12 months);
- **Year 2** – two reports (at 6 and 12 months);
- **Years 3, 4 and 5** – one yearly report (at 12 months).

While it is, of course, important to ensure the well-being of an adopted child with his/her adoptive family, social workers in charge of reporting are facing, here again, too heavy a workload to be able to prepare these reports in a timely and effective manner. Indeed, if, for example, a raion processes five new domestic adoptions per year, after three years it will have drafted 30 reports for just those five.<sup>66</sup> At the national level, with 100 domestic adoptions per year, the figure rises to 600 reports in total.

One should also keep in mind that once the adoption is declared, the child falls under the responsibility of the adoptive parents and is protected by the State like any other child. Thus, one could see lightening the administrative controls a bit and diminishing the number of follow-up reports. As a proposal, two reports per year the first two years, and one annual report for the next three years should be sufficient, as long as these reports are prepared in a professional way and do not just make additional administrative work.

The issue of postadoption services should be given more weight. The presence of specific support services to respond to the very diverse requests of adoptive families seems to be a key factor in the success of adoptions. Those services should include paediatric consultations, family therapy and family mediation for instance. The main objective is to help resolve crises and, sometimes, avoid family breakdown. As recommended by Good Practice Guide No. 1<sup>67</sup>, authorities must make sure to

allocate enough resources to these programmes to train professionals on the specific nature of adoption, to inform prospective parents that the programmes exist and to encourage prospective parents to use them. In addition, these services should be economically and geographically accessible and should be able to resolve the potential challenges of adoption.

- ***In domestic adoption procedures, the number of follow-up reports should be reduced.***
- ***Post-adoption support should be made available in the country, at reasonable costs for the adoptive families.***
- ***Raions should have at their disposal the necessary resources to ensure a proper follow-up of domestic adoptions.***

## 4.4. Open adoption

“Open adoption” is more and more considered by many countries as an alternative to the “full adoption” option and as a way to improve the adoption system. This section presents the “open” approach for further consideration by the Moldovan authorities.

Openness in adoption could be defined as:

- information communicated to the child about his life story
- possibility of using information for background search after age 18
- the preservation of some level of contact between the adoptee and his/her birth family after the adoption, during childhood or as a result of a search for origin.

Open adoption seems to be a relevant answer for children with certain profiles, in particular older children, who are declared adoptable but whose ties with the family of origin have been maintained on the basis of a mutual agreement. The advantage of this practice is that the child is given the same legal safeguards as a full adoption, but is allowed to maintain certain ties with his or her family of origin. To ensure the rights of the child and of all the people concerned, this form of adoption must include the following safeguards:

- development of a prior agreement, with professional supervision, between the parties concerned (adopted child, adoptive parents and birth parents) that sets out the conditions of contact (such as frequency, followup and location) but must also be flexible to meet future developments in the child’s situation and the needs of the people concerned.
- indepth preparation of each stakeholder involved. First, the adoptee may feel confused about his or her identity and family status. Second, the prospective parents sometimes view the situation as a challenge to their parental abilities and even as a threat to the success of the adoption. The birth parents’ current and future role and position with respect to

the child must be clarified.

- a professional followup, in particular if difficulties arise (psychological support, family mediation services).

Actually, Moldovan society does not seem prepared to accept this kind of adoption because of the secrecy that currently surrounds adoption; the following recommendations would be quite difficult to implement.

- ***The practice of open adoption requires a significant investment from the professionals who oversee this specific type of adoption during the preparation, implementation and followup phases.***
- ***If the Moldovan authorities would consider integrating open adoption into the child protection system, then significant investments will be needed to train staff, educate the public and ensure proper implementation and follow up, etc.***



*Open adoption seems to be a relevant answer for children with certain profiles, in particular older children, who are declared adoptable but whose ties with the family of origin have been maintained on the basis of a mutual agreement.*

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# 05

## Intercountry adoption procedure

## 5.1. The Central Authority (MLSPF)

### 5.1.1. International relations

Very few countries are currently receiving adoptions from Moldova. Since it is compulsory to go through an accredited adoption agency, only the United States, Italy, Spain, Switzerland, Israel and Belgium meet the necessary requirements and are duly accredited by the Moldovan authorities.

But, when reading their respective websites (when available), it appears that there is no particular communication from Moldova to their central authorities regarding laws and procedures in Moldova, nor detailed information about the adoptable children. Such information would allow the receiving countries to look for suitable parents through specific messages to organizations involved in intercountry adoption.

In 2011, the Italian central authority's reports mentioned 4 adoptions of special needs children out of 12 adoptions from Moldova. In the following years, the number of cases was too low to be specifically mentioned in the annual report. On the website of the French central authority, one can read the following:

"In spite of the coming into force of the Hague Convention, Moldova remains open, though limited, to intercountry adoption. The few adoptions pronounced concerned essentially older children or those presenting serious pathologies. According to the Family Code, the adoption of Moldovan children by foreigners is possible only in exceptional cases when no domestic solution (adoption or guardianship) was found or in case of serious illness for which the treatment cannot be followed in Moldova. According to Moldovan legislation, the child can be placed in pre-adoption with prospective adoptive parents for a period of six months before the adoption is declared by the Moldovan court. Besides, the details of the procedure, in particular the delivery of the agreement

in pursuit of the procedure (article 17 of Hague Convention), as well as the monitoring of the child remain to be determined. Thus, applicants are invited to redirect their application towards another country."<sup>68</sup>

The Permanent Bureau of The Hague maintains country profiles, on its website, that detail how the State is living up to the Convention. In Moldova's case, Law No. 99 on adoption is used as answers to the 2014 questionnaire used to updated the profiles.<sup>69</sup> However, since many articles of Law No. 99 also concern national/domestic adoption, the responses are very long and not necessarily to the point.

The Moldova central authority never furnished its list of accredited international adoption bodies, even though it is a compulsory requirement of the Permanent Bureau and quite important since the prospective adoptive parents have to go through an agency in order to adopt in Moldova.

- ***The Permanent Bureau should be informed regarding the accredited bodies in Moldova, including answers in the 2009 questionnaire on accredited bodies.***
- ***The collaboration with receiving countries should be enforced through direct contact with the central authorities, comprising specific information about adoptable children.***

<sup>68</sup> France Diplomatie, Government of France. "Adopting in Moldova". 2017. Available at <http://www.diplomatie.gouv.fr/fr/adopter-a-l-etranger/les-conditions-de-l-adoption-internationale/fiches-pays-adopt-internationale/fiches-pays-adopter/article/adopter-en-moldavie>

<sup>69</sup> HCCH, "Country Profile: Republic of Moldova". Updated 31 December 2014. Available at [https://assets.hcch.net/upload/adopt2015cp\\_md.pdf](https://assets.hcch.net/upload/adopt2015cp_md.pdf)



*The central authority should install a database, centralizing the complete files of the children and the prospective parents in order to contribute to and supervise the matching process.*

### 5.1.2. Position of the central authority on domestic adoption

MLSPF, the central authority in Moldova, is putting great efforts into trying to improve the adoption system and ensure that legal procedures are followed through. In particular, its staff is in charge of verifying the content of the child's file and making sure that necessary steps were undertaken in terms of evaluation of the biological family, tentative reintegration, family support, etc. If necessary, complementary investigations may be requested.

However, we have the impression that the current system still has difficulties in "facilitating" the adoption process. As a national body, the central authority should be more active in:

- Promoting domestic adoption by centralizing the complete files of both prospective parents and adoptable children. In this regard, we were told that, at the time of our mission to carry out interviews for this report, 345 children were declared adoptable (190 of them domestic), while 213 Moldovan citizens and 37 foreigners were registered as potential adoptive parents. As far as we understood, the lack of coordination among raions is one of the main obstacles to undertaking adoptions more readily. Thus, the central authority should be in a position to address this question and coordinate the transmission of information.
- Supporting local social services: at the local level, the people in charge regret the lack of communication with the central authority, which was often described as distant and sometimes authoritarian.
- Developing training, not only for child protection specialists and psychologists in the raions, but also for the judiciary. Indeed, several interlocutors considered that it would be necessary to better harmonize the way adoptions are carried out in Moldova, at the different stages. The central authority should be leading such a process, for example by organizing national meetings and giving a voice to the professionals on the ground.
- Paying more attention to linguistic issues, as some Russian-speaking interlocutors have difficulties understanding official documents that are not translated, or in attending national meetings.

- ***The central authority should install a database, centralizing the complete files of the children and the prospective parents in order to contribute to and supervise the matching process.***
- ***The authority should also play a more proactive role in supporting, clarifying and improving the adoption system in Moldova. As the national body of reference, it should develop better communications with its national counterparts at the different steps in the adoption procedure, and should also facilitate the organization of training for child protection specialists, psychologists and the judiciary.***



## 5.2. Foreign prospective adoptive parents

It is compulsory for all prospective parents wanting to adopt in Moldova to first find an adoption agency in their country of residence that will accept their application and submits it to the central authority. If the prospective parents meet the legal requirements, they are put on a waiting list. Matching proceeds between the prospective parents' profiles and those of the available adoptive children. The matching process may be different depending on the parents' country of residence. Three examples illustrate:

- United States: The file of the child has to be sent to the Moldovan Embassy in the U.S., which forwards it to the adoption agency. Being an official respondent, the Embassy receives some basic information on the child and the representative of the agency then gets in touch with the Ministry (MLSPF) to obtain further information before the child is matched with prospective adopters. In order to comply with American law, a lawyer has to verify the child holds the status of "adoptable", which requires a court decision.<sup>70</sup>
- Switzerland: Very basic information is sent to the agency (age, sex, health conditions, siblings), which decides if the child/ren can be proposed to the prospective adopters. In the case of an accepted match, the prospective parents then have to write to the central authority themselves in order to receive the complete file.<sup>71</sup>
- Italy: Depending on the agency, a very brief summary of the child's profile (see Switzerland) is sent directly to the prospective parents.<sup>72</sup>

The prospective parents have 30 days to decide if they want to adopt the child, based, in most cases, on minimal, non-identifying information as mentioned above. They are asked to commit and invest mentally and

emotionally in the relationship with a child they do not know anything about. Moreover, the children are mostly over six years old and have psychological "baggage", which the prospective parents will have to deal with. They should not be obliged to decide about the adoption of a child on the basis of so little information.

However, it is only after having made their decision, within the 30 days, that they receive the "complete" file. There is a general consensus that even these files are lacking psychological reports, details on health conditions and background information on the history and biological family of the child. They might also be outdated since it takes a long time for the children to become qualified for intercountry adoptions. (On average, it may take one year after the unsuccessful attempts to place the child domestically plus several months for the administrative procedure and the matching decision).

Adoption agency representatives are not allowed to see the child(ren) before acceptance of the match by the prospective adopters. Yet, they could provide very useful information by establishing a contact with the child and completing the file. In addition, the representative of the foreign adoption agency has no say about the matching, which is done without his/her involvement. Thus, the representative has no opportunity to see and observe the child and his/her environment. Yet, this kind of information is crucial in the whole matching process. Pierre Levy-Soussan<sup>73</sup> describes it as choosing "the association that has the best chance of growing into a true family bond. "The two are not only 'files' which are reunited for the first time, but a reality that is becoming concrete and no more imaginary (unofficial translation)."

The observation of the child and subsequent



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<sup>70</sup> U.S. Department of State website. Accessed 3 May 2015 at <http://travel.state.gov/content/-adoptionsabroad/en/country-information/learn-about-a-country/moldova.html>

<sup>71</sup> Information from the president of the Swiss adoption agency Adoptie Elvetiana.

<sup>72</sup> Information from the adoption agency AiBi Moldova.

<sup>73</sup> Levy-Soussan, Pierre. Destins de l'adoption. Fayard, 2010, page 187.



*In its observations, the central authority noticed the following: “It is necessary to distinguish between the access to information on children who are adoptable through intercountry adoption and the preliminary matching of the prospective parents with the adoptable child.”*

communication of his/her behaviours, actions and attitudes to the adoption organization, which knows the prospective parents, is extremely useful in order to accept or refuse a proposed child. The knowledge that the adoption organization and its representative in Moldova might have about the adopters and the children proposed is completely ignored. Still quoting Levy-Soussan: “The work of the adoption agencies is essential. They are the only ones capable to evaluate the similarities between a child’s file and all its specificities and the one of the adopters, with all their limits. No place for coincidences, but for a determined professionalism; the one to bring together two trajectories in order to only form one.”

Following the agreement, agencies report varying visiting conditions. One agency told us that the child can then be visited by its representatives and can even be prepared for the first meeting with the prospective parents; other sources stated that it is only possible for agency representatives to see the child only in the presence of the prospective adopters and only when the parents have seen the child for the first time.

In its observations, the central authority noticed the following: “It is necessary to distinguish between the access to information on children who are adoptable through intercountry adoption and the preliminary matching of the prospective parents with the adoptable child:

- Depersonalized information on the sex, age, health (diagnosis, disability) and the existence of siblings is accessible in Romanian to everyone on the MLSPF website. If the representative of the accredited adoption agency wishes to obtain additional information, especially on the child’s psycho-emotional development or history, he/she can receive it from the central authority upon request. Depending on the adoption capacity indicated in the prospective parents’ files, the MLSPF decides on the preliminary match and endorses the decision through the Consultative Council for Adoptions, an advisory body to the ministry.
- Based on the match decided by MLSPF, the Report on the adoptable child is handed to the prospective parents with a

request to accept the child in adoption. After receiving the acceptance from the parents, the MLSPF asks the central authority in the receiving country to provide its consent to continue the adoption procedure in line with art. 17 of the Hague Convention.

From a legal perspective, the procedure is similar for all adopters and accredited agencies. Discrepancies in the enforcement of the legal provisions or the failure of local line authorities to follow them shows a lack of professionalism.

- ***It must be ensured that procedures are understood and implemented in the same way by the different actors in charge of intercountry adoption. This may require an effort in terms of communication and sharing information.***
- ***The possibility of sharing children’s files with the representative of the agency should be evaluated.***
- ***The complete file needs to be available to the agency from the beginning in order to ensure it contains all necessary information, to verify the proposed match and to be able to hand over a detailed file to the prospective adopters.***
- ***The practical implications and the responsibilities of the adoption agencies have to be reviewed.***

## 5.3. Advisory Board for Adoption

The adoption advisory board is composed of nine members of different ministries, a representative of the Child Ombudsperson as well as two NGO representatives.<sup>74</sup> They meet irregularly, depending on the number of files submitted by the MLSPF.

The board secretariat prepares non-identifying profiles of the prospective adopters, based on files sent by receiving countries. A certain number of points are attributed to the adopters according to the evaluation of their file. The advisory board sometimes receives several parents' files for one child. The files of the children also come in the form of a non-identifying template with information about age, gender, health condition, integration measures and the registration for a foreign adoption. There are generally few indications about the character, personality or behaviour of the child and the quality of that information might be very limited, depending on the social worker that filled in the form. The templates are handed out at the time of the meeting.

Based on these reports, the board is giving its matching advice (board members insisting they have only a consultative role) and then the Ministry makes the final decision. They do not receive any feedback from the central authority and do not know if their recommendations are followed. However, we were told afterwards by the MLSPF that their advice is never questioned.

The board also makes comments and recommendations if it comes across cases of separation of siblings or erroneous and/or outdated health diagnoses and sometimes sends the file back. Since there is no indication about the identity of the child, it is impossible to know how far their observations are supported.

The central authority added: "The decision on the preliminary matching of every child is signed with pro or con by every member of the council. If the conclusion is reached by the council members that additional meas-

ures are required to identify a form of protection for the child in the Republic of Moldova or additional information on the child's health, psycho-emotional development, relationships with siblings, these facts must be recorded in the minutes of the council meeting; the matching procedure must be suspended and is resumed or cancelled after the necessary information is obtained so that all council members are aware of the suspended procedures and their evolution. The authors' recommendation to provide the CCA members with copies of the minutes from the meetings is relevant."

We were unable to see if minutes of the meetings, or a yearly activity report, were produced, as foreseen by the Regulations (page 23), but the central authority clarified the issue saying that "both the minutes from every minute and the annual activity reports of the council exist, but they have not been requested by certain members of the council. We agree with the recommendation that a copy of all minutes and activity reports must be provided to all the members of the council."

The members of the board disagreed on their role and the necessary competencies to accomplish it, as well as the need to have a proper training for matching procedures. Some board members believed their work is important and has a certain influence, whereas others hide behind the status of being "only" a consultative committee without much responsibility, merely validating MLSPF decisions. Some members expressed interest in training.

A general impression prevailed during the meeting with the board that the members are not very conscious about the legal provisions governing their tasks, about their legitimacy and importance and the way they are supposed to function.



*Based on these reports, the board is giving its matching advice (board members insisting they have only a consultative role) and then the Ministry makes the final decision. They do not receive any feedback from the central authority and do not know if their recommendations are followed. However, we were told afterwards by the MLSPF that their advice is never questioned.*

<sup>74</sup> The board is chaired by a President who, according to the "Regulation of Activity of the Advisory Board" adopted by Government Decision No. 560 on 25 July 2011, is the LSPF Minister. The board also has a vice-president elected during the first meeting by the members of the board. The vice-president is responsible for chairing the meetings in the absence of the President.

➤ **The role of the board has to be clarified. An important effort has to be made with board members to raise**



*MLSPF is considering having an external structure in charge of the matching. Such a structure would be independent (but under the responsibility of the Ministry) and it should cover every adoption-matching proposal, both domestic and intercountry.*

***awareness regarding the importance of their work, their responsibilities and the meaning and consequences of the matching procedure, including training on the legal provisions.***

- ***Regular and formalized meetings should be organized between the MLSPF and the board in order to get a general feedback about their work and talk about controversial cases.***
- ***It is necessary to ensure that the minutes of every meeting as well as an annual activity report are available to the board members.***
- ***The templates of files on the prospective adopters and the children should be handed out to the board members before the meeting, in order for them to be able to be prepared.***

MLSPF is considering having an external structure in charge of the matching. Such a structure would be independent (but under the responsibility of the Ministry) and it should cover every adoption-matching proposal, both domestic and intercountry.

While we can see this proposal as a positive way to ensure more professional matching, we do not know any countries where this model has been developed. However, we can identify the following issues to be taken into consideration if such a proposal is to be implemented.

The body could be public (administrative body) or private (NGO). In both cases, it should be made up of professionals, all together being a multidisciplinary team (medical, psychological, social and legal).

- Its mandate should cover every adoption matching (both domestic and intercountry).
- Its composition, responsibilities, budget and functioning should have a clear legal basis.
- Its decisions on matching proposals should be based on the review of the comprehensive files of both prospective adoptive parents and adoptable children, assuming that the body's members are bound by the code of professional secrecy for their function.
- The body should have the possibility to meet with relevant persons, who know the adoption applicants and the child (especially social workers from the

raions), and to ask for complementary information when necessary.

#### **Advantages:**

- A team of professionals is trained, and is able to develop a proper expertise in Moldova on professional matching.
- By centralizing the matching process, the body will get a comprehensive overview of the adoption needs and possibilities in all of Moldova, which in turn will allow for better development of domestic adoptions.
- As unique interlocutor, the body should make communication with receiving countries and adoption agencies easier, especially at the stage of the matching proposal.
- Adoption agencies could be invited to take a position on the matching proposal and discuss it with the body. The matching process is improved and better protects the interests of the child.

#### **Disadvantages:**

- The creation of a specialized body requires a proper legal basis and a proper budget.
- It is not clear to us whether capacities are available today in Moldova to staff such a body, especially if the "private option" (NGO) would be envisioned.

***A consultancy should be organized to analyse the feasibility of the project, in particular by evaluating the necessary resources (budget and human). A national consultation of the professionals concerned might help in identifying in depth the potential obstacles.***

## 5.4. Intercountry adoption decision

The national Court of Appeal has the authority to declare the adoption decision for intercountry adoptions. With Law No. 99, one judge is appointed to handle these cases for a period of one year. Since 2014, two judges have been assigned for two years each in order to gain more experience during their mandate, since they are not experts in the field of adoption. Law No. 99 on adoption has been welcomed favourably across the field because it is in line with the Hague Convention and aims to accelerate the adoption procedure.

The Court of Appeal also decides on adoption cases that have been refused by district courts after submission to the Supreme Court. However, this has yet to happen.

After the matching process, the consent of the central authority and the first meeting between the prospective adopters and the child, prospective parents have to travel to Moldova again to attend a court hearing together with the child. The judge/s first review the file to see if it is in order and, secondly, to discharge their duty to decide if the adoption is in the best interests of the child. Observing the behaviour of the adopters and the child in person is an important way for the judges to form an opinion and be convinced of the legitimacy of their decision.

Their concerns, as well as their judgment, are important. However, it is more or less the last step in the whole procedure and not really the ideal moment to question the adoption. Besides, the behaviours and interactions of adopters and children should not be inflated due to a stressful situation in court. Being aware of these weak points, the judge would appreciate the presence of the foreign agency's representative during the hearing. However, according to the law, the secrecy of the procedure does not allow it (see subsection (b) below).

- ***Judges should receive some basic training about the whole intercountry adoption procedure, especially the preliminary steps before the judgment.***
- ***Adoption agencies should be allowed to attend the court hearing.***



*After the matching process, the consent of the central authority and the first meeting between the prospective adopters and the child, prospective parents have to travel to Moldova again to attend a court hearing together with the child.*



*The general part of the Civil Code should be amended to harmonize its content with its special part and with Law No. 99 on adoption.*

#### 5.4.1. Legal inconsistency on the court's competency in inter-country adoption

As noted by several respondents, the reform of the adoption legislation failed to address a particular procedural point. The general section of the Moldova Code of Civil Procedure states that the court at the child's place of residence should have jurisdiction. However, the part of the Code that deals with adoption says the Court of Appeal is the only one competent in intercountry adoptions.

The Supreme Court is aware of this inconsistency, but has made it clear that a special law (Law No. 99 on adoption) prevails over the general provisions of the Civil Code, and that the latter should be amended.

***The general part of the Civil Code should be amended to harmonize its content with its special part and with Law No. 99 on adoption.***

### 5.4.2. “Secrecy” vs “confidentiality”

We noted some confusion during our discussions with various interlocutors in relation to the “secrecy” and the “confidentiality” of the adoption procedure. As regards the “secrecy” question, it is vital to distinguish between, on the one hand, the desirable confidentiality of the procedure and adoption records as far as third parties are concerned and, on the other, the issue of “secrecy” which leads to the adoption being hidden from the child and other concerned parties.

According to article 41 of Law No. 99:

- The adopters shall be noted on the adopted child’s birth certificate as the parents according to the court decision approving the adoption.
- If appropriate, upon the request of the adopters or the adopted child who is 10 years [of age or] older, the court shall keep the data on the adopted child’s biologic parents which shall be specified in the court decision on approving the adoption.
- Based on the court decision approving the adoption, the competent civil status office shall make the respective changes in the child’s birth certificate.
- The legal effects of adoption, provided for by the present law, arise regardless of whether the adopters are or are not noted as being the parents of the adopted child.

“Secrecy” can have very negative longer-term implications for the child, the adoptive relationship and, in some circumstances, possibly the birth parents or other family members (e.g. siblings).

According to article 8 of the UN Convention on the Rights of the Child,<sup>75</sup> secrecy around adoption has to be balanced with the right to identity: “The word ‘preserves’ implies both the non-interference in identity and the maintenance of records relating to genealogy, birth registration and details relating to early infancy that the child could not be expected to remember. Some of these are beyond the scope of the State, but measures should be taken to enforce detailed record-keeping and preservation of records (or, in the case of abandoned children,

preservation of identifying items) where children are refugees, abandoned, fostered, adopted or taken into the care of the State. Equal care must be taken to ensure such records are confidential.”<sup>76</sup>

Today, the adoption law “formalizes” the ambiguity between the guarantees of confidentiality for biological parents and adopters and asks, at the same time, for measures to facilitate the relationship between siblings in cases of separation. We heard of concrete cases where the court ordered that the families be in touch even when the siblings did not know each other. The child/ren must know about the existence of brother(s) and/or sister(s), but they should be able to decide themselves if they want to connect or not.

Both concepts also conflict in the matching process for intercountry adoption: the information provided to the advisory board is edited to remove identifying details in order to preserve “confidentiality” but they should already be governed by a “code of confidentiality” in their capacity as members of an official body, in which case no special treatment should be applied to the files, as they are confidential anyway.

- ***It might be useful to prepare guidelines about the concepts of “secrecy” and “confidentiality” and to implement them in a way that would facilitate the adoption process.***
- ***Article 41 of Law No. 99 on adoption should be modified to abolish the secrecy around adoption, exemplified by changing the place of birth of the child in his/her birth certificate (in coordination with article 46).***



*Today, the adoption law “formalizes” the ambiguity between the guarantees of confidentiality for biological parents and adopters and asks, at the same time, for measures to facilitate the relationship between siblings in cases of separation.*

<sup>75</sup> Article 8, para. 1: “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.”

<sup>76</sup> UNICEF, “Implementation Handbook for the Convention on the Rights of the Child”, p.116. Available at: [http://www.unicef.org/french/publications/index\\_43110.html](http://www.unicef.org/french/publications/index_43110.html)

## 5.5. Diplomatic missions and consular offices



*It is fully recognized that countries of origin have a legitimate interest in the welfare of their children adopted abroad. At the same time, the spirit of the 1993 Hague Convention is one of “mutual confidence that provides the framework for cooperation under the Convention”, and post-adoption monitoring and support are essentially the responsibility of the competent services of the receiving country.*

<sup>77</sup> Conclusions and Recommendations of the second meeting of the Special Commission on the practical operation of the 1993 Hague Convention, 2005, para 18.

According to Law No. 99 on adoption (article 8, para. (d)): “In the field of adoption, the Republic of Moldova’s diplomatic missions and consular offices have the following tasks ... assure the monitoring of living conditions of children from Moldova who have been adopted abroad and informs the central authority in Moldova of the results.”

It is fully recognized that countries of origin have a legitimate interest in the welfare of their children adopted abroad. At the same time, the spirit of the 1993 Hague Convention is one of “mutual confidence that provides the framework for cooperation under the Convention”,<sup>77</sup> and post-adoption monitoring and support are essentially the responsibility of the competent services of the receiving country.

However, the experience of various countries demonstrates that diplomatic missions are not equipped to monitor the living conditions of adopted children abroad; most of the time no social workers are based within the diplomatic mission. In addition, monitoring the well-being of adopted children falls under the competence and responsibility of the receiving State. Post-adoption reports should be sent by the central authority of the receiving country as a follow-up in line with international standards.

***As any follow-up to intercountry adoption is the responsibility of the central authorities of the receiving countries involved, Moldovan diplomatic missions have no role to play in this respect. The law should be amended accordingly.***



## 5.6. Adoption Agencies

### 5.6.1. Number

According to the 2013 Annual Social Report of the MLSPF: “In 2013, 1 foreign organization in the field of international adoption from Belgium was accredited and the accreditation of 24 foreign organizations in the field of adoption from the Republic of Moldova was extended. Thus, in 2013, 25 organizations in the field of international adoption from the following countries were operating in the Republic of Moldova: Italy - 11, United States - 9, Spain - 2, Israel - 1, Switzerland - 1 and Belgium - 1.”

In 2015, Moldova counted 16 foreign adoption agencies, but many of them had not been active in the past two or three years. Thus, their number has decreased significantly from the 25 there were in 2013. Given the profile of the children, the length of the procedure and its difficulties, organizations do not find prospective parents easily and since it is compulsory to have a representative in the country, it is often not affordable to pay a salary for one, two or zero adoptions a year.

Nevertheless, the decrease in agencies can be looked at positively as it confirms that Moldova does not over-rely on intercountry adoption as a child protection measure and thus does not have to accredit many adoption agencies. However, 16 agencies remain too many for a very limited number of intercountry adoptions per year.

According to the Hague Conference’s Good Practice Guide No. 2, one of the criteria for authorization of an accredited body is the demonstrated need for the services of that body in the State of origin. Several States have already implemented the practice of linking the number of accredited bodies needed to the number and profile of children in need of a family through intercountry adoption. The good practices of the Czech Republic and Ecuador in this regard should be noted. Considering the low number of adoptable children from the Czech Republic, the Czech central authority usually

authorizes only one accredited body per country.”<sup>78</sup>

For the State of origin, accrediting and authorizing adoption agencies entails periodically assessing the need for intercountry adoption. First, the proper authority must analyse the profiles of children who require an adoptive family and who will face difficulties in finding it within their country (due to, for example, age, gender, state of physical, mental and emotional health, special needs or sibling needs) and then estimate the number of children affected. Based on these data and the best interests of the child, the next step is to draft profiles of the type and number of the following:

- families that correspond to the needs of these children;
- accredited foreign adoption agencies with which to collaborate, having relevant clients, professional skills and appropriate ethics;
- receiving States with which to develop collaboration as they that are prepared for international adoption, e.g., legislation, established processes.

It should be stressed that receiving countries are supposed to take their share of adoptions in order to limit the pressure on countries of origin. Indeed, according to Good Practice Guide N° 2 “receiving States should, to the extent possible, limit the number of [adoption] bodies accredited on their territory. Where their legal framework permits limits to be placed on the number of accredited bodies and the number authorized to work with particular States of origin, receiving States should ensure that their number of accredited bodies and the number of accredited bodies which they authorize to work with particular States of origin are reasonable and realistic having regard to the number of adoptions possible in the States of origin.”<sup>79</sup>



*In 2015, Moldova counted 16 foreign adoption agencies, but many of them had not been active in the past two or three years. Thus, their number has decreased significantly from the 25 there were in 2013. Given the profile of the children, the length of the procedure and its difficulties, organizations do not find prospective parents easily and since it is compulsory to have a representative in the country, it is often not affordable to pay a salary for one, two or zero adoptions a year.*

<sup>78</sup> Accreditation and adoption accredited bodies: General principles and guide to good practice Guide no 2, p. 34 and p.41.; available at: <http://www.hcch.net/upload/adoguide2en.pdf>

<sup>79</sup> Accreditation and adoption accredited bodies: General principles and guide to good practice Guide no 2, p. 34 and p.41.; available at: <http://www.hcch.net/upload/adoguide2en.pdf>



*Experience shows that involving accredited adoption bodies from receiving States can help promote the rights of the child, respect the principle of subsidiarity and provide multidisciplinary support, at various stages, to the child, the parents of origin and the adopters.*

<sup>80</sup> Government Decision No. 550, 22 July 2011: Approval of the “Regulations on the accreditation procedure” and on the mode of functioning of foreign organizations with attributions in the area of international adoptions in the Republic of Moldova,” and of the list of services and activities that they may undertake in the area of international adoption.

<sup>81</sup> Report and Conclusions of the Special Commission on the Practical Operation of THC-93, 28 November-1 December 2000, Recommendation 10.

### 5.6.2. Accreditation

Experience shows that involving accredited adoption bodies from receiving States can help promote the rights of the child, respect the principle of subsidiarity and provide multidisciplinary support, at various stages, to the child, the parents of origin and the adopters. The effect is that the involvement of these bodies increases the chances of a successful adoption and serves as a form of ethical guarantee. Agency mediation, however, is only a safeguard if it demonstrates certain characteristics:

- medico-psychosocial and law profession competencies;
- sufficient human and material resources understanding and demonstration of ethics in adoption matters;
- sound knowledge of the entire machinery of adoption, the profiles of children in need, the family and child policies in the country of origin;
- transparency about links with other partners who could be seen to influence its activities and its financial management.

Respect for these conditions presupposes, on the part of the concerned receiving States and States of origin, regular supervision of the adoption bodies and a systematic review of the accreditations granted. Under the control of receiving States and States of origin, these bodies could be guarantors of the ethics, professionalism and multidisciplinary nature of the intercountry adoption process.

In 2011, Moldova adopted new Regulations on the accreditation of adoption agencies.<sup>80</sup> The latter provided a long list of criteria that organizations have to fulfil in order to be accredited. Decision No. 550 calls for the following comments:

- Article 5. The following documents and information should be annexed to the request for accreditation:

(4) a history of the organization’s activity in the area of international adoption, as well as a description of cooperation and assistance programmes in child rights’ protection that have been implemented in the receiving State and in the State of origin; [Article 9 (2) of Law No. 99 on adoption also refers to “cooperation programs”]

**Comment:** Particular attention should be paid to exactly how these programmes are developed. Indeed, the 2000 Special Commission on the Practical Operation of the Hague Convention) paid special attention to aid and contributions to “countries of origin” in the context of intercountry adoptions. Its two main concerns are that child protection services and facilities must not become dependent on outside aid (which would be an incentive to continue or develop international adoptions regardless of real need) and that no linkage develops between aid levels and referrals for intercountry adoptions.

Thus, the Special Commission reported: “Receiving countries are encouraged to support efforts in countries of origin to improve national child protection services, including programmes for the prevention of abandonment. However, this support should not be offered or sought in a manner which compromises the integrity of the intercountry adoption process, or creates a dependency on income deriving from intercountry adoption. In addition, decisions concerning the placement of children for intercountry adoption should not be influenced by levels of payment or contribution. These should have no bearing on the possibility of a child being made available, nor on the age, health or any characteristic of the child to be adopted.”<sup>81</sup>

MLSPF further explained that the recommendations of the Special Commission and the Good Practice Guides were incorporated into Law No. 99. We wanted to see how much organizations are involved in helping the state reform and improve the child protection system — or, on the contrary, to maintain the residential system. This gives us an idea of the organization’s point of view and its understanding of the realities it operates in. More than that, Law No. 99 on adoption was designed to exclude any possible influences by the accredited organizations or other authorities/people to favour a specific accredited organization because of child protection support offered to the State of origin.

- Article 5. The following documents and information should be annexed to the

request for accreditation:

- 6) the methodology used by the receiving State, including a detailed description of the stages followed by the international adoption applicant:
- submission and review of the application.
  - multilateral evaluation criteria of the adopters (psycho-emotional status, health status, material and living conditions, the social environment).
  - the procedure and the curriculum for the training of the adopters; assistance provided in the post-adoption period for the adopted children and adopting parents.

**Comment:** This paragraph is formulated as if the adoption agency was responsible for all the procedures and controls. Procedures differ from one receiving State to another and in some of them it is the State that is in charge of the whole process. In addition, the agency might have its own criteria for the acceptance or refusal of an application.

The article should, for example, include wording such as: “If applicable in the receiving country concerned, and depending on the responsibilities and competencies delegated to adoption agencies in the country of residence, the following information is to be provided. ‘In the event that the agency is not in charge of some of these points, it should explain who is in charge.’”

- Article 5. The following documents and information should be annexed to the request for accreditation:
- 7) information about warnings, suspensions or withdrawals of accreditation or authorization – and the reasons for them – in the receiving country or in other countries where the foreign organization acts or did act; or a written declaration stating that their accreditation was never suspended or withdrawn.

**Comment:** To guarantee reliable information, MLSPF should address these questions to its counterpart (central authority) in the receiving country.

Article 12: In case one or several documents specified in p.5 of the present Regulations are missing, the MLSPF rejects the request for accreditation by notifying the respective foreign organization in writing within five working days from the time of the accreditation documents review.

**Comment:** The Ministry could first ask the agency to produce the missing documents since it is not always obvious exactly what kind of paper is necessary. This could avoid an appeal in court (article 13).

Article 14, para. (8): The number of suspended adoptions – and the reasons why – compared to the number started.

**Comment:** Numbers do not say anything about the quality of the work of the agency or the reason why an adoption has not been finalized. In addition, these figures are not available in most receiving countries.

In practice, and considering that the last accreditation took place in 2013, the MLSPF now deals only with the renewal of accreditations. We were told that the agencies are reliable and functioning well. However, information about Moldova’s adoption procedures posted by adoption agencies on their websites is still raising some concerns, in particular about fees. See subsection c) on services.

**When accrediting (or reaccrating) foreign adoption agencies, MLSPF should systematically check the content of their website, and verify the content of the information provided, through the central authority if necessary.**



*When accrediting (or reaccrating) foreign adoption agencies, MLSPF should systematically check the content of their website, and verify the content of the information provided, through the central authority if necessary.*



*Experience shows that involving accredited adoption bodies from receiving States can help promote the rights of the child, respect the principle of subsidiarity and provide multidisciplinary support, at various stages, to the child, the parents of origin and the adopters.*

### 5.6.3. Services

When reading the requirements of the current Moldovan regulations, one can note that only a few basic tasks concern the work of an adoption organization and most of them take place in the receiving country, well before the couple decides to adopt in Moldova (like providing information on the costs of an adoption or the verification of compliance with the legal requirements in Moldova, the adoption files, organize the prospective parents' travels and stays, and facilitate the communication between the parents and the authorities and institutions).

However, this does not fully correspond to what can be expected from professional adoption agencies. The work of adoption organizations is to create the link between the countries of origin and the receiving countries, the prospective parents and the child. Adoption agencies do play an important role in the adoption process, especially in the fields in which their presence may contribute much. For example, the following points are not fully taken into consideration by the current regulations:

**Identifying the characteristics of prospective adopters in relation to the profile of the child:** What is the role of the agency in evaluating which child is proposed for "their" adoptive parents; how does the agency encourage/ support prospective adoptive parents to consider caring for a child with special needs?

**Matching:** Involving the agency in the selection of an appropriate family for a particular child may help with evaluating the fit between the family's capacity and the needs of the child. It is certainly a contribution when it comes to submitting the matching proposal to the prospective adoptive parents for their approval.

Currently in Moldova, adoption agencies are not involved in the matching procedure; even worse, they sometimes do not receive the file of the child. Furthermore, they are not allowed to see the child as long as the prospective parents have not accepted that child. Lawmakers certainly wanted to prevent any kind of abuse, but in this case, the measure is counterproductive. Indeed, the representative of the organization has

the entire file of the prospective adopters – not just an anonymous form – and, therefore, has access to the detailed profile of the child they want to adopt. Being able to meet the child, he/she could complete the file with medical, psychological and social information and, therefore, have the knowledge to appreciate the match.

**Preparation of the adoptive parents:** Having the adoption agency present in the first and all subsequent meetings between the adopter and the child reduces tensions and anxieties and plays a positive role in facilitating the start of a child/parent relationship. As agencies' representatives do not currently participate in the matching process, they cannot intervene during the meeting between the child and the prospective parents.

**Preparation of the child for the adoption:** Preparing children for their adoption is paramount to its success but, generally, little importance is given to this aspect of the procedure. Children should be aware that their future will change, that they will leave the institution and the country and go to a very different place. It is necessary to train staff or the foster family to provide these services where they are not provided by the country of origin. Nobody is more appropriate than the agency to prepare the child with the help of a photo album, presenting the future parents, relatives, and their surroundings. The child protection officers might tell the child about his/her adoption, but their explanation will always lack reality.

**Decision N° 550 on the accreditation of adoption agencies should be revised, taking into consideration the following points:**

- **Agencies should have access to the children and contribute to establishing their files.**
- **Agencies should be involved in the matching process**
- **A relevant and efficient preparation of the children should be put in place through the adoption agencies.**

#### 5.6.4. Fees

It is always difficult to know exactly how much is charged by adoption agencies for their services; in particular what is the share of costs related to the procedure in the country of origin. The websites of 10 agencies were checked (4 American, 3 Italian and 3 Spanish), but only one gave a proper breakdown of its costs (Children's House International<sup>82</sup> – [CHI]), and another gave approximate amounts (Enzo B<sup>83</sup>).

CHI, for example mentions a "Moldova Program Fee" of US\$2,000 due with dossier submission and US\$7,000 due with referral acceptance:

This fee covers orphanage donation or foster care fees when/if applicable 10%; courier services, document processing, family assistance in country, translations to and from English, official fees, notary, cost of birth certificate, passport, court fees, verbal translations 35-45%; administrative and office expenses, including utilities, general office expense, agent and staff transportation 15-20%; fee for service 35-45%.

Obviously, the explanations provided do not necessarily reflect the current practice, and some items would deserve further justification (in particular "orphanage donation or foster care" fees).

***The Italian adoption agency Enzo B refers to "Procedure in Moldova: 9.000 €" without giving a cost breakdown. This deserves further inquiry.***



*Foreign adoption agencies should be more transparent regarding the fees charged to their clients, and should justify the amounts spent in the Republic of Moldova, in a transparent way.*

<sup>82</sup> <http://childrenshouseinternational.com/republic-of-moldova/>

<sup>83</sup> <http://www.enzob.it/adottare-in-moldavia/>

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# 06

Additional comments  
on Law No. 99  
on adoption

## Law No. 99 – the legal framework on adoption

## Comments

### Article 2. Key concepts

The law relies on key concepts defined below:

**Adoption** – special form of protection applied in the child’s best interests by means of which the filiation (bonding) between the adopted child and the adopter is established as well as the kinship relations between the adopted child and the adopter’s extended family

— definitive severance of ties between the child and their biological family should be included in the definition

— “family” should be replaced by “couple”; a child is adopted by two “adopters” and not by a “family” as a group of persons

**Adopter** – an individual or a family (spouses) [that has] submitted an application and is being kept track of by the authorities [with jurisdiction] in the field of adoption, as provided for by the current law

— an application “to adopt a child”  
— “adoption agency” and “central authority” should be included as key concepts

— “siblings” itself constitutes a “special need”; no need for age

**Adoptable child with special needs** – adoptable child who has:  
c) one or more siblings who turned seven years old

— “family” should be replaced by “couple”

**Adoptive parent/parents** – an individual or a family (spouses) who adopted the child according to the provisions of this law

### Article 7.

Responsibilities in the field of adoption of the territorial authorities

(1) In the field of adoption, the territorial authority fulfills the following important tasks:

d) assures that adopters match

— “adopters match” what?

### Article 9.<sup>4</sup>

Annulment of accreditation in the Republic of Moldova of the foreign organization with tasks in the field of international adoption

Another cause for annulment relates to the fact that the yearly volume of adoptions or the number of adoptable children does not justify the presence of too many foreign organizations.

## Chapter III

### Background conditions of adoption

#### Article 10.

Adoptable child

(5) In the case of separation of siblings through adoption, the

The maintenance of contact between siblings implicates some knowledge of their origins, i.e. information about their biological parents. Necessity to review article 3 as mentioned in Section 4.4. of the report.

central authority or, depending on the case, the territorial authority, in cooperation with the foreign organization, in the child's best interests, shall undertake the necessary measures to facilitate the communication and the maintenance of relations between siblings, taking into account the age, degree of maturity, wishes, siblings' feelings and the extent of their information on the adoption.

**Article 13.**

Submission of adoption application

- (2) As a confirmation that the application was submitted, the individuals mentioned in para. (1) are issued a certificate.

There might be confusion about the certificate mentioned in article 2: "adopter's certificate – a document issued to the adopter, as provided for in the current law, which certifies adoption capacity, resulting from meeting moral guarantees and material conditions required for the child's multilateral and harmonious development through adoption"

**Article 29.**

Article 29. Custody over the child for the purpose of adoption

- (1) Within 5 days from the match, the territorial authority at the place of the child's residence entrusts the child to the adopter for a period of 90 days, so that the child can adapt to the adopter and confirm their compatibility.

- (5) Physical and mental adaptation capacity of the child to the family environment shall be assessed by the territorial authority at the adopter's residence from the perspective of social-professional, economic, cultural, linguistic, religious and any other elements specific to the place where the child lives while being entrusted into custody, that may be relevant for assessing its subsequent evolution in the case of the approval of adoption.

Only the child has to adapt to the adopter? The adaptation capacities of the adopters should be included.

**Article 31.**

Approval of adoption in court

- (2) Adoption approval application must include the following:
  - c) request to change the child's last name and/or given name, the name that the child will have if the

The place of birth should not be changed. It is part of the fundamental identity of the child and quite necessary if he/she wants to make a search for their roots. The law should be modified in order to abolish the secrecy around adoption and the possibility of changing



<sup>84</sup> MLSPF expressed its agreement, but added that the consent for continuing the adoption procedure issued by the central authority of the receiving country must be accompanied by the adopters' consent for the acceptance of the preliminary matching.

adopters have different last names, the request to change the place of birth

the place of birth on the child's birth certificate. The right of the child to know about his/her history and the identity of the birth parents should be guaranteed by law and promoted in public. Professional services should be developed in order to facilitate appropriate and guided access to information for adopted persons.

**Article 34.**  
Submitting an international adoption application

**(2)** Foreign nationals or stateless persons who are in the Republic of Moldova for the purpose of service and who reside on its territory for at least two years (hereinafter – foreign nationals or stateless persons with a residence in the Republic of Moldova) who wish to adopt a child residing in the Republic of Moldova, may submit an international adoption application (...)

**(3)** Nationals of the Republic of Moldova residing abroad who wish to adopt a child residing in the Republic of Moldova may submit an adoption application:

**a)** according to the international adoption procedure provided for in para. **(2)**;

**b)** according to the domestic adoption procedure provided for in the present law, enclosing with the adoption application submitted to the territorial authority the documents provided for in article 15 para.(1) letters d)-g), issued by the competent authorities/institutions of the receiving State, if the laws of the receiving state provide for the possibility to recognize the domestic adoption approval court decisions taken by the courts of the Republic of Moldova.

The reasons why foreign applicants living in Moldova would go through an international adoption procedure should be clarified; moving the child outside of the country of origin is the only way to qualify for an intercountry adoption procedure.

Neither adoption agency nor central authorities will accept an application from a couple living in the State of origin of the child.

The same comment is valid for **(3)**

**Article 37.**  
Adopter's matching – issuance of notification for international adoption

**(1)** The central authority of the Republic of Moldova shall select, according to defined criteria, the

Sending the file of the child directly to the adopter without going through the adoption agency might be problematic. The matching proposal is supposed to go to the central authority of the receiving country first.<sup>84</sup>

adopter appropriate for the adoptable child and shall transmit to the selected adopter the report on the adoptable child's situation without disclosing the child's identity and its place of birth/residence, asking the adopter to express consent or disapproval with regard to the adoption of the respective child.

To which criteria are we referring?

#### **Article 38.**

Submitting the international adoption approval application to the Court of Appeal

(1) After receiving the consent of the central authority of the Republic of Moldova to continue the adoption procedure, the adopter shall submit, directly or via the foreign organization accredited in the field of adoption, an application for the approval of the international adoption to the Court of Appeal at the child's place of residence.

It is problematic that the adopter can directly submit his application without the intervention of the adoption agency or the central authority. The decision to adopt a child, especially a child with special needs, is not easy; the prospective parents need advice and support to evaluate their capacities against the profile of the child. If they can submit their application directly, they lose out on this important assistance.

#### **Article 39.**

Expenses related to international adoption procedure

Along with the submission of the international adoption application, the adopter shall pay a unique and fixed fee representing the counter value of the expenses incurred by carrying out of all services related to the realization of the international adoption procedure on the territory of the Republic of Moldova. The Government decides the amount, method of payment and destination of this fee.

Reference to the decision should be made available.<sup>85</sup>

The central authority is clear that in the legislative approach of the Republic of Moldova, it is not allowed to include references to a regulatory act (i.e., law) of lower legal power (such as a Government Decision).

<sup>85</sup> <http://lex.justice.md/index.php?action=view&view=-doc&lang=1&id=341421>

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# 07

Key

recommendations

## 7.1. For the consideration of Authorities

While detailed recommendations have been throughout this report on very specific aspects of the issues, the following can be read as a summary of the key questions to be considered by the authorities.

As noted in the first chapter of this report, we are not focusing here on issues of alternative care for children, despite the obvious relevance to our subject. Given the scope of the current assignment, the limited time of the field mission and ongoing related reforms (guardianship, in particular) our focus remained on adoption alone. That said, we would emphasize that the following principles are important aspects of adopting and similarly significant for improving the adoption system:

➤ It is vital that **the involvement of qualified social workers** be enhanced and accelerated so that alternative care and adoption decisions can be based on individual requirements rather than simply the general application of administrative criteria. It is our understanding that social workers are facing heavy and/or complex workloads. This can only

have negative impacts on their capacity to manage each individual case with the necessary attention. This question pertains to the responsibility of Moldovan authorities, which could decide to increase resources (both budget and human) in the raions, support specialized training, facilitate national meetings of experts, etc.

- The “psychological dimension” of social work, specifically in the adoption sphere (assessment of the child, the prospective adoptive parents, matching and follow-up) cannot be implemented properly as long as social services in the raions do not have trained psychologists available. Unless this situation changes radically, we cannot see how adoption measures, as an integral part of the overall child protection system, can respond appropriately to the best interests of each child concerned.
- It is recommended to periodically organize meetings, conferences and training at the national level to improve communication among actors, and to share views and experiences.



*While detailed recommendations have been throughout this report on very specific aspects of the issues, the following can be read as a summary of the key questions to be considered by the authorities.*

## 7.2. Proposals concerning adoption in general



*Data collection about adoptions should be improved so as to encompass every intercountry adoption involving a child with permanent residence in Moldova, including when the latter is adopted in a country that has not ratified or acceded to the Hague Convention.*

- Data collection about adoptions should be improved so as to encompass every intercountry adoption involving a child with permanent residence in Moldova, including when the latter is adopted in a country that has not ratified or acceded to the Hague Convention.
- The national register for domestic prospective adoptive parents and adoptable children should be reviewed to improve the possibilities for domestic adoptions and preserve a certain distance between biological families and adoptive families.
- Widen the criteria for assessing a child's adoptability to include not only legal status but also psychosocial factors. Provide for an enhanced front-line role for social workers in assessments of the child and determination of the capacities of prospective adopters that the child's proper care would require.
- Improve the evaluation of children with special needs, make sure that a life plan is decided for each one of them, and evaluate their capacities to benefit from an adoption, either domestic or intercountry.
- Ensure that such comprehensive assessments of the child and of the prospective adopters are made available in a timely manner to the judge responsible for issuing the adoption order.
  - To ensure optimal transparency, clarify and disseminate information on the exact process, requirements and costs for adopting a child.
  - Support the exchange of good practices with other countries of origin.

## 7.3. Proposals concerning domestic adoption issues

- Ensure the exchange of information regarding the files of prospective adopters and children among raions.
- Ensure the thorough assessment of domestic applicants for adoption by qualified social workers on the basis of established criteria that cover psychosocial and other relevant issues.
- Review the preparation of prospective adopters in terms of length (number of days), duration (time frame) and content; create two different stages (preparation and evaluation) and keep preparation separate from evaluation of prospective parents.
- Review the content of the adoption certificate so it is in compliance with the international standards as developed in chapter 4.1. e).
- Increase the duration of the validity of prospective adopters' authorization to two years, subject to verifying that the basic information on which it was based has not changed significantly since its issuance. Include the possibility of making prospective parents sign a contract obliging them to inform the authorities about relevant changes.
- Establish a procedure whereby social workers and other concerned professionals (e.g. medics, psychologists) undertake a **proper matching process** based on the needs of the child and the assessed capacities of prospective adopters to meet those needs appropriately.

## 7.4. Proposals concerning intercountry adoption issues

We would emphasize from the start that ensuring compliance with Hague standards and procedures is a **joint responsibility** of the Moldovan authorities and the ruling authorities of the receiving countries.

### On the Moldovan side:

- It is vital that a **professional matching** procedure be established, ensuring a child-focused approach. It must rely on comprehensive and reliable social work assessment reports regarding both the child and the prospective adopters. This too is required for compliance with Hague standards.
- The number of foreign adoption agencies accredited in Moldova should be limited and put in relation to the real needs of the country. One or two agencies per receiving country should be enough to meet the current necessities of adoptions.

### On the part of the receiving countries:

- Receiving countries with adoption agencies active in Moldova should reassess their capacities to undertake the adoption of special needs children, in particular the pre- and post-adoption services offered to prospective parents.
- Receiving countries should evaluate, together with the Central Authority of Moldova, the current needs in terms of number of foreign adoption agencies, and limit their accreditation /authorizations accordingly.
- Fees charged by adoption agencies should be reviewed by the central authorities of the receiving countries to ensure that they are reasonable and justified.

# Annex 1:

## List of persons interviewed

### Agency / Organization

### Name

#### NATIONAL LEVEL

Ministry of Labour, Social Protection and Family	Viorica Dumbraveanu, Head, Child Protection Division
Ministry of Labour, Social Protection and Family	Corneliu Tarus, Deputy Head, Child Protection Division
Ministry of Labour, Social Protection and Family	Anastasia Gruzin, Senior Consultant, Child Rights Protection Section
General Prosecution Office	Iurie Perevoznic, Chief Prosecutor for Minors and Human Rights
General Prosecution Office	Mariana Gornea, Deputy Head, Minors and Human Rights Division
Supreme Court of Justice	Maria Ghervas, Judge
Placement and Rehabilitation Centre for Young Children, Chisinau, Ministry of Health	Maria Tarus, Chief Physician
Temporary Placement and Rehabilitation Centre for Children, Balti, Ministry of Health	Valeriu Slobodean, Chief Physician
Consultative Council for Adoptions	Cezar Gavriiliuc, Director, NGO CRIC; Member of the Council
Consultative Council for Adoptions	Liliana Rotaru, Director, NGO CCF/Hope and Homes UK; Member of the Council
Consultative Council for Adoptions	Violeta Melnic, Ministry of Justice Deputy Head, General Directorate of Governmental Agent; Member of the Council
Consultative Council for Adoptions	Tatiana Borta, Ministry of Foreign Affairs and European Integration, First Secretary, Law and Consular Relations Directorate; Member of the Council



Consultative Council for Adoptions	Rodica Josanu Ministry of Education Head, Law Section; Member of the Council
UNICEF	Frauke de Kort, N Beth Bradford; Sergiu Rusanovschi

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### CHISINAU

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Municipal Directorate for Child Rights Protection	Liliana Balan, Head, Family Reintegra- tion and Adoption Section
Municipal Directorate for Child Rights Protection	Ina Ionasco, Specialist, Adoption
Municipal Directorate for Child Rights Protection, Centru Sector	Nelly Bezusca, Specialist, Guardian- ship and Adoption
Municipal Directorate for Child Rights Protection, Sector Ciocana	Valentin Plamadeala, Specialist, Guardianship and Adoption
Placement and Social Rehabilitation Centre "Casa Garoch"	Tatiana Bucsan, Psychologist
Municipal Placement and Rehabilitation Centre for Young Children	Valentina Canariov, manager
Court of Appeal	Nina Vascan, Judge

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### CALARASI

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Directorate for Social Assistance and Family Protection	Vasile Gilca, Specialist, Child Rights
Directorate for Social Assistance and Family Protection	Cristina Negru, Manager, Foster Care Service
Court	Grigore Daschevici, President of the Court
Court	Marcel Juganaru, Judge
Prosecution Office	Dinu Triboi, Deputy Head Prosecutor
Prosecution Office	Mariana Ciobanu, Prosecutor in Charge of Minors

**CIADIR LUNGA**

Section for Social Assistance and Family Protection	Vladimir Tauciu, Head, Section
Section for Social Assistance and Family Protection	Ivanna Coltuclu, Specialist, Child rights protection
Court	Alexandra Peni, Interim Chair of the Court
Prosecution Office	Ludmila Bratan, Prosecutor in Charge of Minors

**RISCANI**

District Executive	Galina Zamurdac, Deputy President of District, Responsible for Social Problems
District Executive	Livia Tolinca, Principal Specialist, Child Rights Protection
Prosecutor's Office	Olga Gaugas, Prosecutor

**CAUSENI**

Directorate for Social Assistance and Family Protection	Aurelia Malai, Principal Specialist, Child Rights Protection
Court	Veronica Nichitenco, President of the Court
Prosecutor's Office	Ion Oboroceanu, Prosecutor

**FOREIGN ADOPTION AGENCIES**

Carolina Adoption Services, U.S.	Albina Zara, Representative
AiBi Italy	Stela Vasluian, Director

**NATIONAL NGOs**

Lumos	Domnica Ginu, Quality Manager
CCF/ Hope and Homes UK	Liliana Rotaru, Director
CCF/ Hope and Homes UK	Tatiana Moca, Program Manager

**BENEFICIARY GROUPS**

Adoptive parents	Ciadir Lunga (1 female), Chisinau (1 female)
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## Annex 2: Adoption fees, Children's House International (CHI)

<b>PROGRAMME FEES PAID TO CHI (HAGUE STANDARD 96.40)</b>	<b>USD</b>
<b>Application fee due with initial application</b> <ul style="list-style-type: none"> <li>covers review of the application and entry into our file system; non-refundable.</li> </ul>	\$ 700
<b>CHI agency fee:</b> (\$3,000 due at application approval, \$4,500 due at home study approval) <ul style="list-style-type: none"> <li>40 per cent covers case management costs and salaries for agency personnel (e.g., case managers, international specialists, supervising social workers, administration and agency staff);</li> <li>53 per cent covers operational costs (supplies, office rent, state licensing, COA accreditation costs and fees, conferences, training, utilities, shipping &amp; postage, copiers, insurance, maintenance, publications, professional fees, websites, databases and computer programs, contractors, etc.)</li> <li>7 per cent for programme development.</li> </ul>	\$ 7,500
<b>Moldova programme fee:</b> (\$2,000 due with dossier submission, \$7,000 due with referral acceptance) <ul style="list-style-type: none"> <li>10 per cent is a donation to orphanage or foster care fees if applicable;</li> <li>35-45 per cent goes to courier services, document processing, family assistance in country, translations to and from English, official fees, notary, cost of birth certificate, passport, court fees, oral translations</li> <li>15-20 per cent for administrative and office expenses, including utilities, general office expense, agent and staff transportation</li> <li>35-45 per cent% fee for service.</li> </ul> <p>There are no extra fees for care of child 96.40(b)(4). There are no fixed contributions. Costs for additional medical testing, procedures or reports requested by the prospective adoptive parents are not included in the fees listed above and are the responsibility of the prospective parent.</p>	\$ 9,000
<b>SUB-TOTAL PAID TO AID TO CHI</b>	<b>\$ 17,200</b>
<b>Post-adoption report deposit</b> (due at referral acceptance) <ul style="list-style-type: none"> <li>Refundable when all required social work reports have been completed and final adoption documents and U.S. certificate of citizenship is received on time by CHI</li> </ul>	\$ 500
<b>Total fees paid to/through CHI</b> <ul style="list-style-type: none"> <li>(subtract \$500 PAR deposit if all reports are paid in advance)</li> </ul>	\$ 17,700

**HOME STUDY/PAR EXPENSES (96.40(B)(1))**

<b>Home study estimate</b> – paid to CHI if service is provided by CHI in Washington, Florida or Utah; cost varies by state	\$ 1300 - \$ 3000
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<b>Post-adoption/post-placement report</b> (estimate per report)	\$ 200 - \$ 500
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- requirements and cost varies from state to state
- paid to CHI if service is provided by CHI in Washington, Florida or Utah; fee estimate per report

Adoption education courses on the Internet (USD \$30 - \$50 each)	\$ 150 - \$ 250
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**TRANSLATION/DOCUMENT/DOSSIER EXPENSES (96.40(B)(5))**

- |   |                 |
|---|-----------------|
| • Citizenship and Immigration Services filing fee | \$ 720          |
| • Fingerprint charge (2 @ \$85 each)              | \$ 170          |
| • Passports (2 @ \$135 each)                      | \$ 270          |
| • Document authentication (cost varies)           | \$ 100 - \$ 500 |

Miscellaneous legal expenses in U.S. (re-adoption, U.S. birth certificate, etc.) varies by state	\$ 500 - \$ 3000
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**TRANSLATION/DOCUMENT/DOSSIER EXPENSES (96.40(B)(5))**

- |   |           |
|---|-----------|
| • round-trip airfare (two adults at about \$1,300 - \$2,000 per person each trip – cost varies) | \$ 3000 + |
|---|-----------|

Child's one-way airfare (estimate only, cost varies) - per child	\$ 800
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**IN-COUNTRY EXPENSES/FEES**

(estimates will vary depending on USD-EUR exchange rate) (96.40(B)(1))

- |  |                    |
|--|--------------------|
| • Lodging (hotel or apartment) \$70-\$200 per day, estimate only, cost varies (37+ days) | \$ 2600 - \$ 7000+ |
| • Public transportation and meals in-country – estimate only                             | \$ 2600 +          |
| • Incidentals (amount varies depending on family desires and tastes)                     | \$ varies          |
| • Translations for child's visa, per child   | \$ 400 - \$ 500    |
| • Child's U.S. visa, per child   | \$ 325             |
| • Child's medical for U.S. visa – estimate only, per child                               | \$ 100             |

**For every child**  
Whoever she is.  
Wherever he lives.  
Every child deserves a childhood.  
A future.  
A fair chance.  
That's why UNICEF is there.  
For each and every child.  
Working day in and day out.  
In 190 countries and territories.  
Reaching the hardest to reach.  
The furthest from help.  
The most left behind.  
The most excluded.  
It's why we stay to the end.  
And never give up.