



Fact Sheet N° 37

Intercountry Adoption

THE PRIMARY IMPORTANCE OF COOPERATION BETWEEN CENTRAL AUTHORITIES

The Hague Convention of 1993 on the protection of children and co-operation in respect of intercountry adoption (HC-1993) is based on the distribution of responsibilities between the State of origin and the receiving State, including all the actors, whatever their level of participation in the process may be. However, the spirit that the Convention inspires is not just dividing the responsibilities without sharing them and developing a genuine co-operation focused on the best interests of the child. Furthermore, intercountry adoption cannot be disassociated from domestic adoption or from a global policy for children and their family of origin. This implies that the various actors involved in implementing HC-1993 both in countries of origin and the receiving countries, should promote and do the necessary to increase respect for and development of this policy. The aforesaid concern to promote co-operation to better achieve the objectives set, can also be found in the CRC which refers to it on numerous occasions.

For a reliable Central Authority

It is essential that States give some thought to the role and, consequently, to the qualifications and the profile that the Central Authority should have. It plays a "central" role in guaranteeing that adoption is organised in the best interests of the child. This entails, particularly in States of origin where the child's adoptability is determined and where the matching is established:

1. The Central Authority should be an entity that is competent in matters of children's rights and child protection, either by its election or its creation within the structures for child and family welfare, or by the composition of its professional team and by its multidisciplinary profile.
2. It should be conceived as a professional body where professional competence and the ethics of children's rights should take precedence over political partisan considerations.

3. Its professional staff and those who run it should have security of tenure, unlike the repeated changes in the administrative or political hierarchy or the periodic administrative rotations; experience is acquired progressively and is of prime importance, for reasons of efficiency and quality in the best interests of children, to maintain stability in experienced and qualified teams.

A joint responsibility

The establishment of a Central Authority meeting such requirements is not always an easy matter and requires time and resources. Thus, receiving countries could become more involved and support countries of origin which must establish – sometimes starting from nothing – a Central Authority, which has the available staff and resources to enable it to fulfil its mission efficiently. A genuine support would enable to ensure the establishment of a reliable system, based upon the joint responsibility of States of origin and receiving

States, which could efficiently apply the basic principles of the HC-1993.

This implies a genuine international cooperation upon which the safeguard of the best interests of the children will depend. This cooperation has a fundamental role to play at each step of the adoption procedure, for example when determining the role of accredited bodies. As for matching, it perhaps materialises best the spirit of cooperation sought by the HC-1993. By submitting the files of children and of prospective adoptive parents to each other, and by both determining whether the matching is suitable, States become jointly responsible for the reliability of the procedure and for safeguarding the interests of the individuals involved.

A genuine involvement in achieving progress in countries of origin

In a broader meaning, cooperation considered by the CRC connects with the field of development and implies a genuine involvement in achieving progress relating to the global protection policy for abandoned children or children at risk of so being in countries of origin. The prevention of abandonment, the support to families of origin, the fight against long-term institutionalisation of children, the improvement of living conditions in residential institutions, the identification and implementation of a permanent family life plan for each child in placement, the development of domestic family solutions (adoption, foster care) are just

as many areas that may be included in a broad definition of cooperation.

From a practical point of view, this may include organising visits among central authorities of receiving countries and countries of origin; supervising and supporting the requests from intermediaries wishing to develop activities in one country or another; encouraging the training of local staff; combining development programmes with intercountry adoption (for example, by supporting awareness program to family planning), even though the offer to provide intercountry cooperation does obviously not have to be linked to the carrying out of a specific number of adoptions by nationals of the State offering that cooperation.

A philosophy...

The above considerations reflect that the concept of cooperation covers such a wide spectrum that it may sometimes become difficult to tackle. Of course, receiving States cannot respond to all the needs associated with the establishment of a national child protection policy in countries of origin. However, beyond these very practical implications, cooperation must essentially be understood as a general principle. What matters to the practitioner is keeping in mind that what is decided in a receiving country will have implications for the country of origin, and that a henceforth easier dialogue should help to cooperate in making the right decision.

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For more information:

PERMANENT BUREAU OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW, *Preparatory report on a new convention on intercountry cooperation and the protection of children in matters of interstate adoption*; November 1989

Conclusions and Recommendations of the second meeting of the Special Commission on the practical operation of the Hague Convention of 29 May 1993 on the protection of children and cooperation in respect of intercountry adoption, 17 - 23 September 2005

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

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