

ACCESS TO ORIGINS: PANORAMA ON LEGAL AND PRACTICAL CONSIDERATIONS

ISS/IRC comparative working paper 2:
Spotlight on solutions



International Social Service
Service Social International
Servicio Social Internacional

General Secretariat • Secrétariat Général • Secretariado General

Published by:

International Social Service

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1201 Geneva, Switzerland

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www.iss-ssi.org

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Design and illustration: www.transformbrands.co.uk

ISBN: 978-2-940629-05-3

Jeannin, C. & Roulez, J. (2019). *Access to origins: Panorama on legal and practical considerations*. Geneva, Switzerland. International Social Service.

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This paper builds on and updates the work of Cécile Jeannin, who undertook an initial comparative study in 2011.



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Abbreviations

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| AAB | Adoption accredited body |
| CA | Central adoption authority |
| CRC | United Nations Convention of 20 November 1989 on the rights of the child |
| ECHR | European Convention on Human Rights |
| GGP1 | The Implementation and Operation for the 1993 Intercountry Adoption Convention: Guide to Good Practice No. 1 |
| GGP2 | Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice No. 2 |
| HCCH | Permanent Bureau of the Hague Conference on Private International Law |
| ISS | International Social Service |
| ISS/ICR | International Social Service/International Reference Centre for the Rights of Children Deprived of their Family |
| Special Commission | Special Commission on the Practical Operation of the 1993 Hague Intercountry Adoption Convention |
| The 1993 Hague Convention | The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption |
| UN Guidelines | Guidelines for the Alternative Care of Children |



Executive summary

The stories of those adoptive families created through intercountry adoption, is a story of an intercultural encounter – a meeting with another, in all of his or her individuality and social and cultural identity. The issue of identity, therefore, is central to the adoption process. The search into one's origins is part of this identity quest – a quest inherent in all, but which is often stronger amongst adopted persons.

With this in mind, ISS/IRC has updated its 2011 survey on the subject, with the aim of identifying evolutions that have occurred since that time in relation to search for origins, both at a legal and a practical level. This paper is aimed at supporting the professionals who accompany adoptees and their families at this time in life, and the various authorities with the competency to make decisions on this matter. This paper offers a presentation, analysis and detailed synthesis of the results of this updated

survey. This executive summary highlights the main trends.

From the legal perspective, international, regional and domestic instruments that deal with the adoptee's right to access his or her origins have been analysed (*see section 1.2*). At the international level, it is seen that there is a trend towards recognising this right (*see arts. 7.1 and 8 of the Convention on the Rights of the Child, arts. 9 and 30 of the 1993 Hague Convention, and para. 42 of the UN Guidelines*), despite some instruments, such as the *1993 Hague Convention*, remaining more oblique on the issue and choosing to refer to domestic legislation. With regards to the position across domestic legal regimes, ISS/IRC observes that there has been a clear evolution towards a more flexible attitude regarding the confidentiality of information on the child's background. It is promising to see an increasing number of receiving countries and countries of origin recognising

the right of adoptees to access their origins, and regulating accordingly. Conditions that accompany this right vary across legislative frameworks, sometimes radically, from one country to another. Variations in legislative and regulatory rules usually apply to the age that the adopted person may exercise this right (varying between 12 and 25 years, depending on the country); and to the nature of consent – adoptive and/or biological parents' consent, or even that of the judicial authorities.

Practically, through the implementation of these rights, countries are taking measures which ensure that they are meeting their responsibilities. For example, through the approval of measures which enable the centralisation and preservation (for a sufficiently long, and preferably unlimited time) of the most detailed possible data relating to the origins of the adopted child, including the identity of his or her birth parents (*see section 1.3.2*). Secondly, this is done through ensuring the availability of quality professional support able to respond to the diverse needs of each involved actor (adoptee, birth parents, adoptive parents). This circular also addresses the actors responsible for providing such support (*see section II.1*) and the substance of such support services (*see section II.2*).

It is clear that the support offered by competent professionals is vital, and special attention should be paid to post-adoption monitoring services, wherever these exist. Competent professional support is essential in a number of ways, from preparing the adoptee for a search for origins and its potential consequences (discovery of fraudulent elements, absence or loss of the file, the biological parent's refusal to have contact, etc), to the trips organised to their country of origin, and through the potential meeting(s) with the biological family. The results of the study evidence that

this support takes place at various levels, including general awareness-raising, the provision of information on the stages and implications of a search for origins, individual psychological support and, when there is a wish for a meeting with the biological parents, a recourse to family mediation.

Further, due consideration must be paid to the preparation and support of birth parents, who are also in need of professional support. Some ISS members have provided this support after being contacted by the adopted person, or when the birth parents themselves wish to obtain information on their child, and perhaps even establish contact.

Finally, the support that adoptive parents received at the time of their preparation for the adoption, and during the post-adoption follow-up, will also play a crucial role in supporting of a search for origins (*see section 1.3.4*). Indeed, some adoptive parents may interpret this process as a denial of the adoptive relationship, a failure of mutual love, and feel that their parenthood is questioned. Therefore, helping them to overcome these doubts and to be in a place to consider their child's biological parents as a part of their life from the beginning of the adoption, is an essential element in allowing them to constructively engage with their child's search for origins, and to support him or her in this process.

Looking forward, ISS/IRC has, based on the information received from some countries, identified current challenges being faced by those undertaking a search for origins; and formulated practical guidelines aimed at overcoming these challenges (*see section III*). Notably, among the challenges, concerns arise when there is an absence of legislation or regulations on this issue, or when there is a clash between the states' respective sets of legislation. In response, several tools aimed at undertaking lobbying

actions with governments, in order for the right of access to origins be incorporated into and regulated by domestic laws, are suggested. To this end, various avenues for developing knowledge about the conditions for exercising this right in different countries are explored. Another no less important challenge is posed by those adoptions tainted by irregularities, which have been exposed during a search for origins. When faced with these extremely delicate situations, with very strong psychological implications for those involved (the anger felt by adoptees, the development of a double mourning among the biological parents, the responsibility and guilt of the adoptive parents), recourse to family mediation can be an appropriate response¹ (*see section III.1*), as can be the establishment of support groups (*see section II.3*), and adapted psychological follow-up (*see section II.2*).

Other challenges are emerging with the proliferation of new technologies, in particular the expansion of social networks, such as Facebook, WhatsApp, YouTube, etc.

Technologies which mark the end of the era of secrecy in adoption (*see section III.2*). In response, ISS/IRC considers it important to highlight the risks raised by adoptees and biological parents, or other members of the biological family, meeting through social networks, in the total absence of professional supervision, of preliminary preparation, or with protection of the privacy and confidentiality of personal data. In particular, these practices may jeopardise the security and physical integrity of biological mothers, for instance, due to religious, cultural or other particular characteristics. Some countries have put in place mechanisms intended to raise awareness among the public on such risks and to prevent them, these mechanisms are highlighted in this document.

Finally, this circular looks forward to, and touches upon, the importance of origins for donors conceived persons or persons born through surrogacy arrangements. Recognising that they should equally have the right to access information on their origins.

1 See ISS/IRC Monthly Review of December 2011 N°12/2011.



Introduction

An adoptee's access to his or her origins is a process, which, dependant on the case, is undertaken at different moments in life, and for diverse – more or less known and conscious – reasons. As stated by Johanne Lemieux – a social worker from Quebec, specialised in intercountry adoption – “the questioning and understanding of origins vary depending on the child's emotional and mental age, and subsequently that of the adult. This search does not have the same importance and meaning for all”². Thus, for some adoptees, it will never arise, for others, this need to know will gain a deep significance. It might appear at adolescence, at the birth of the adoptee's first child, or at the death of the adoptive parent(s).

From a psychological perspective, this quest stems from a personal need that may be linked to the building of one's identity, or to the wish to lift the veil on a part of his or her story which has been kept in the dark for a long time. The term ‘identity’ refers to the comprehension of the ‘I’, the idea one has of oneself. The search for origins may therefore be interpreted as a step in the construction of who we are. Thus, it is worth reiterating that it is not a process that is specific to adoption, but to everyone. From the adoptive parents' point of view, this need is, however, often perceived as a denial of the adoptive relationship, as a failure of mutual love. As underlined by Johanne Lemieux, “Parents wrongly believe that they have not loved their child enough, that they

2 Excerpt of the Practical Guide *L'adoption Internationale : Démystifier le rêve pour mieux vivre la réalité*, J Lemieux, Le Monde est ailleurs Inc., 2006.

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have not repaired the past enough, that they will lose something special with him or her if they let or encourage him or her to return to his or her country of origin. Some parents also desire to prevent the child's suffering disappointment, if he or she does not find answers or the object of their desire". Thus, raising awareness and preparing the adoptee for this step is essential in order to prevent such difficulties, and to avoid conflicts likely to result in breakdowns.

From a legal perspective, and in acknowledgement of the significance of the issue of identity for the individual's positive development and fulfilment, international legislation recognises the importance of accessing one's origins through several international instruments, in particular the *Convention on the Rights of the Child* (notably, the recommendations of the Committee on the Rights of the Child to Member States act to strengthen the good implementation of this right in relation to adopted children³), the *1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption*, as well as the *Alternative Care Guidelines for Children*.

Some regional legal texts also address the issue of origins, such as the *2008 Council of Europe Convention on the Adoption of Children*, the *African Charter on the Rights and Welfare of the Child* and *Inter-American Conference on Adoption Law Conflicts (1994)*.

In domestic law, the recognition of this right has undergone significant developments, due, in particular, to the change of individual and social views on adoption. At the individual level, the higher quality

of the preparation and support offered to prospective adopters has made it possible to recognise the need to give respect to the child's pre-adoptive life and to his or her origins. Once neglected in many cases, most often due to fear or ignorance, the trend nowadays is towards an integration of the child's origins and past into the adoptive family. At a social level, noticeable developments have been observed as adoption has gradually become a more accepted and recognised form of filiation. The taboos that once existed regarding adoption, and which used to result in families keeping it secret have slowly faded, even though they remain strongly in place in some countries (Jamaica, Zimbabwe as per information from 2011). Faced with these changes, legislators have developed mechanisms to remove some obstacles that were previously in place. Thus, the confidentiality that was once the main and absolute rule, has become increasingly more flexible.

In parallel, intercountry adoption is undergoing comprehensive changes and its current realities are very different from those that existed some twenty years ago. The profile of internationally adopted children has changed considerably. Now, primarily, these are older children, who may have known and lived with their biological parents; children with disabilities or other diseases; or sibling groups. Thus, they may already have some knowledge of their origins, which the adoptive family will have to build upon. As a result, the pre- and post-adoption services offered to these children will be of a different nature.⁴

3 See pp. 116 and following of the *Implementation Handbook for the Convention on the Rights of the Child*, UNICEF, revised in 2002.

4 See L. Marcella Estrada Jaramillo (2018). *Strengthening the child's preparation and making adjustments according to his or her specific needs* in Jeannin, C. (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns*. International Social Service. Geneva, Switzerland.

In this context, states are considering the creation of new services aimed at better supporting all those actors involved in a search for origins – that is, primarily the adopted person himself or herself; and then his or her biological family, and his or her adoptive family. Indeed, a search for origins may entail risks and requires adapted professional support during the entire search process – before, during, and after the search.

This synthesis addresses all these issues based on data gathered through a study undertaken by the ISS/IRC in 2011 and updated in 2018. This study was circulated among its network of CAs in countries of origin and receiving countries, accredited adoption bodies, child protection services, international organisations (including International Social Service), research centres and independent professionals. Approximately 30 countries provided a reply to the questionnaire that

was sent to them, including eight countries of origin (Belarus, Brazil, Burkina Faso, Croatia, Dominican Republic, Mexico, Romania and South Africa) and 18 receiving countries (Andorra, Australia, Belgium, Canada, Denmark, France, Germany, Hong Kong, Ireland, Italy, Malta, Norway, New Zealand, The Netherlands, Portugal, Spain, Sweden and Switzerland).

In order to be as comprehensive as possible, ISS/IRC also referred to secondary sources of information such as the State Profiles available at the HCCH Permanent Bureau's website and recent ISS/IRC publications in order to refine and complete the data received. Such information was also used to update, to the extent possible, information from countries that had participated in the survey in 2011, but not in 2018.



I. Statistical, legal and practical considerations

1. Statistical considerations

Overall, we can observe a certain tendency to integrate data on searches for origins cases into the annual reports of competent authorities.

While in some countries, such as Portugal searches for origins are still uncommon, in others it is widespread. For instance in New Zealand the CA observed that most adoptees wish to find their origins.

Some statistics on ISS's involvement in searches for origins cases in 2017⁵

- Africa: Algeria (3 cases)
- North America: United States (35 cases)
- Asia, Middle East, Oceania: Australia (371 cases); Japan (50); Lebanon (16 cases); New Zealand (7 cases); Thailand (14 cases)
- Europe: Germany (44 cases); Greece (7 cases); the Netherlands (70 cases); Spain (14 cases); Ukraine (7 cases)

5 Figures received as part of an internal survey of the ISS network to which 65 ISS members responded.

In *Australia*, 2,627 requests for information were made during the 2017-2018 fiscal year,⁶ 87% of which were requests for identifying information. 86% of these requests were made by adoptees while 8% were initiated by biological parents. This trend is reversed when it comes to accessing non-identifying information: 48% of demands came from biological relatives, and 30% from adoptees. Most adoptees who requested access to information were 35 years of age or older (91%). As of June 30, 2018, there were 8,609 vetoes filed in Australia, more than half of which were initiated by the adoptees themselves (*see section 1.2.1.3*). In the Australian state of Victoria, more than 34,000 requests for access to information relating to adoption have been registered since the 1984 Adoption Act. Currently, 500 such requests are made per year. In South Australia, children adopted internationally account for most of the requests, and cases in which the biological parents make the requests are rare. Over the 2016-2017 fiscal year in South Australia, 275 people requested and received information about their adoption. However, amongst these requests the number of adoptees adopted internationally is not known, nor is the number of vetoes related to an intercountry adoption among the 375 vetoes still in place.

In Belarus, the CA receives about five to seven requests a year related to an intercountry adoption. Most of these are detailed searches for biological parents or relatives in relation to adoptions that took place in the

late 1990s and early 2000s. For adoptions after 2004, adopted children have all the information about their biological family and adoptive families available, as a system of open adoptions is in place.

In Ireland, most origin search requests are related to domestic adoptions.

In the Philippines, the number of requests for information on the circumstances of adoptions is increasing significantly. In 2016, 13 requests were made, 27 in 2017, and 29 as of 29 August 2018.⁷ Regarding requests made by a biological relative, there were 20 in 2016, 38 in 2017 and 27 until 30 August 2018.⁸ In 2017, 17 reunions were registered, as opposed to 0 in 2016, and 6 in 2015.⁹ In general, visits undertaken by adoptees to the Philippines are the most common event (23 in 2016, 42 in 2017 and 31 as of 30 August 2018¹⁰).¹¹

In Québec,¹² 50 persons applied for summaries of antecedents and international reunions in 2017. Of these requests, 44 were made by adoptees, five by an adoptive parent and one by a biological parent. It is important to note that this figure is steadily increasing. In fact, 21 requests were registered in 2015 and only nine in 2014. In addition, most requests came from adoptees between the ages of 18 and 29.

In the Czech Republic, 16 requests were received in 2017-2018. Eight of them came from adoptees, while six and two respectively came from biological siblings and parents.¹³

6 See the report *Adoptions Australia 2017-18*.

7 These statistics were obtained during an [informal meeting of the European central adoption authorities in Brno](#) (Czech Republic) in October 2018.

8 See statistics available at the [Central adoption authority](#).

9 See statistics available at the [Central adoption authority](#).

10 These statistics were obtained during an [informal meeting of the European central adoption authorities in Brno](#) (Czech Republic) in October 2018.

11 See statistics available at the [Central adoption authority](#).

12 See the *L'adoption internationale au Québec - Statistiques 2017* report, available at: <http://publications.msss.gouv.qc.ca/msss/fichiers/2017/17-116-05W.pdf>, pages 17-18.

13 These figures were shared during the [informal meeting of European central authorities in Brno](#) (CZ) in October 2018.

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The ISS/IRC wishes to encourage countries to both provide detailed statistics in the field of search for origins, and also to allocate adequate resources to the competent authorities. This type of data makes it possible to understand the growing extent

of this phenomenon, identify certain trends such as the increase of searches following the unearthing of illegal adoptions, and lastly helps to better identify the needs of professionals in terms of tools and knowledge.



2. Legal considerations

2.1 Recognition and limitations of the right of access to origins

One of the first steps in a search for origins is consulting the respective laws of the countries involved in the search. It should be noted that the domestic laws on this matter differ, as this summary shows, and that various conflicts of laws can arise. The resolution of which will depend on the mechanisms developed by the states and their engagement with private international law.

2.1.1 Access to origins in international and regional law

As mentioned above, international law recognises access to origins through a number of instruments, including Article 7.1 of the CRC, which guarantees the child's right, "as far as possible, (...) to know and be cared for by his or her parents"; and Article 8, which enshrines the right of the child to preserve his or her identity.¹⁴ In addition, the recommendations of the Committee on the Rights of the Child to Member States reinforce the effective implementation of these rights for adopted children.¹⁵

¹⁴ It is interesting to note that the drafting of Article 8 was proposed by Argentinian civil society in response to the kidnappings and illegal adoptions of children of political opponents during the dictatorial regime. For more information on this topic see Baglietto, C., Cantwell, N. & Dambach, M. (Eds.). 2016. *Responding to Illegal Adoption: A Professional Handbook*. Geneva, Switzerland: International Social Service, pages 35, 134 and following.

¹⁵ See pages 116 and following of UNICEF's *Implementation Handbook for the Convention on the Rights of the Child*, revised in 2002.

It was recommended that receiving states and states of origin provide different forms of assistance and counselling for different stages of the child's development to adulthood, including preparation for origin searches and reunions of the adoptees with members of their biological families.

Paragraph 29 of the Conclusions and Recommendations of the 2010 Special Commission

In 2017, the Special Rapporteur on the sale of children, sexual exploitation and child pornography devoted her annual report to illegal adoption. In her recommendations, the Special Rapporteur invites Member States to “[e]nsure the right to information about one’s origins and access to information about the rights of victims of illegal adoptions.” She also recommends that states, “establish mechanisms for addressing the concerns of adoptees, adoptive parents and biological parents about the circumstances of an adoption and for facilitating the search for origins(...), providing adequate psychosocial support when necessary.” For its part, the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is more nuanced. It recognises in Articles 9 and 30 the responsibility of Contracting States to preserve information on the child’s origins, including those relating to the identity of his or her biological parents, and to, “ensure access of the child or his or her representative to this information under appropriate guidance”. However, it defers to the conditions laid down by the laws of each country. For its part, The United Nations Guidelines for the Alternative Care of Children sets out in paragraph 42 that,

“When a child is relinquished or abandoned, states should ensure that this may take place in conditions of confidentiality and safety for the child, respecting his/her right to access information on his/her origins where appropriate and possible under the law of the State.”

Some regional legal texts also address the issue of origins. This applies to the Council of Europe Convention on the Adoption of Children (Revised, 2008), which expressly provides that an adopted child shall have access to information held by the competent authorities concerning his or her origins (Article 22 (3)). In addition, Ms. Petra de Sutter, member of the Parliamentary Assembly of the Council of Europe, recently received a research mandate entitled “Anonymous donation of gametes: balancing the rights of parents, donors and offspring”, showing the growing importance of the issue in different, but related, spheres. As for the Americas, the 1994 Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors is much more restrictive and opts for the secrecy of adoption with very limited access to non-identifying information in Article 7.¹⁶ Lastly, the African Charter on the Rights and Welfare of the Child stresses that the ethnic, religious or linguistic background of the child must not be lost during an adoption placement (Article 25 (3)).

2.1.2 Access to origins in national law

When accessing one’s origins is not a recognised right

Some countries have yet to recognise the right of access to one’s origins in their legislation: either this right is explicitly refused (Jamaica and Zimbabwe), or it is not provided for.

16 Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors, Article 7.

When accessing one's origins is a right

It is encouraging to note that more and more *countries of origin* recognise the right of access to origins (Belarus, Brazil¹⁷, Burkina Faso¹⁸, Croatia¹⁹, Dominican Republic, Ecuador, Kosovo, Latvia, Mexico²⁰, Uganda, Panama, Philippines²¹, Romania, Serbia, Republic of Korea²², South Africa²³, etc).

Among *receiving countries*, all Australian states (since the fiscal year 2017-18)²⁴, Belgium, Germany, the Netherlands, Norway, New Zealand, Québec²⁵, Spain, Sweden and *Switzerland* explicitly recognise the right of adoptees to access information on their origins, and attach certain conditions to this right. Portugal, on the other hand, does not have a law that includes a specific reference to this right, however it is recognised emanating from Article 26 of the Portuguese Constitution, which enshrines the universal right to personal identity. In Hong Kong, although absent in the law, this right is provided for in practice, in the Code of Practice for Accredited Bodies. The same is true for Andorra, where an administrative procedure set up by the Andorran Adoption Service

allows adopted children to access all the information available about their adoption. In Federal States, such as Australia or Canada, the situation varies from one state, province or territory to the next, depending on whether or not a veto right against the adoptee is in place (*see section 1.2.1.3*).

2.1.3 Conditions of access to origins in national law

In addition, the exercise of this right is always subject to conditions that are generally related to the adoptee's age or the consent of the adoptive parents, biological parents or others.

Reaching legal age

In many countries, adoptees must reach the age of majority in order to assert this right (Andorra, French Community of Belgium for identifying information²⁶, Brazil, Burkina Faso²⁷, Croatia²⁸, Dominican Republic, Greece²⁹, Malta,³⁰ Norway³¹, Portugal, Republic of Korea, Romania³², Spain, South Africa, Switzerland for identifying information³³, and Uganda, as well as a number of Australian states and territories, Canadian provinces, and Mexican states).

17 See Article 48 of the Law N° 12.010 of 2009.

18 See articles 50-55 of the 2013 guidelines issued by order relating to proceedings for national and intercountry adoptions of children in Burkina Faso.

19 See arts. 124 and 142 of the Family Law of 2014.

20 See Article 410C of the Federal Civil Code.

21 See Article 75 of Law No. 273/2004 on adoption proceedings http://www.copil.ro/anpdca-content/uploads/2017/05/lq-273-din-2004-republicata-3-word_en.pdf.

22 See Article 36 of the *Special Law on Adoption of 2012*.

23 Section 248 of the Children's Act of 2005.

24 See Adoptions Australia 2017-2018.

25 See Article 538 of the *Civil Code of Québec*.

26 See *Country Profile* available at the HCCH website.

27 See *Country Profile* available at the HCCH website and Article 51 of the 2013 guidelines issued by order relating to proceedings for national and intercountry adoptions of Burkinabe children.

28 See *Country Profile* available at HCCH website.

29 See *Country Profile* available at HCCH website.

30 See *Country Profile* available at the HCCH website.

31 See *Country Profile* available at the HCCH website.

32 See articles 76-77 of Law No. 273/2004 on adoption proceedings http://www.copil.ro/anpdca-content/uploads/2017/05/lq-273-din-2004-republicata-3-word_en.pdf.

33 See <https://www.bl.admin.ch/bl/fr/home/gesellschaft/adoption/herkunftssuche.html>; <https://www.admin.ch/opc/fr/federal-gazette/2016/4757.pdf>.

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This age limit may however be higher than 18, as it is in the Canadian provinces of British Columbia³⁴ and Newfoundland³⁵ where it is set at 19 years of age; in New Zealand where it is 20³⁶ and in Italy where it is 25.³⁷ On the other hand, it may also be lower – in Germany, it is 16 years of age³⁸; in Serbia, 15³⁹; and 14 in Tanzania and Québec⁴⁰.

Notably, in the Flemish community of Belgium, a 12-year-old child can access information about his or her origins. If an adopted child under 12 years of age asks to consult his or her record, the CA will examine the request with regard to the maturity of the child. In the French community of Belgium, an adopted child of at least 12 years of age will have access to non-identifying information. If the child is under 12 years of age, the presence of his or her parents or legal representative is required. In all cases, professional guidance is mandatory. The age of majority must also be reached for the adoptee to be informed that his or her biological relatives are seeking to contact him or her. If contact is not wished for, the requesting party's details will be kept in the adoption file.⁴¹

In Brazil, access to information on adoption proceedings can be granted to adoptees who are not yet 18, at their request, provided that they have legal assistance and psychological support.⁴²

In Croatia, the law provides that the Social Welfare Centre may authorise a minor's access of birth records if the centre has determined that it is in his or her interest.⁴³

In some cases where the adoptee, still a minor, requests access to information on his or her origins, only his or her legal guardian or parent may have access to the record. In particular, this is the case in Germany, where for a child under 16 years of age only, the child's legal representative will have access to the information.⁴⁴

In Burkina Faso, the adopter may request a search regarding the origins of the adopted child 15 years after the adoption.⁴⁵

Therefore, most of the time, if the person is still a minor, the consent of his or her adoptive parents is required (in Belarus and Romania⁴⁶ for example), and sometimes even that of his or her biological parents (Australian states of Tasmania and Victoria).

There are very few countries that do not set an age requirement. To our knowledge, Cambodia⁴⁷ and Sweden are examples of states where everything comes down to the age and maturity of the child, paving the way for a case-by-case interpretation. On the other hand, in the Netherlands, the law does not foresee any age limit, however in practice, an adopted child below the age of 12 years should be accompanied by

34 See the [Adoption Act](#).

35 See [Access to Adoption Information/Post-Adoption Services](#).

36 See [Country Profile](#) available at HCCH website.

37 See [Country Profile](#) available at HCCH website.

38 See [Country Profile](#) available at HCCH website.

39 See [Country Profile](#) available at HCCH website.

40 See the website of the [Secrétariat à l'adoption internationale](#).

41 See page 5 of [l'Avis n°17 du 28 février 2018](#).

42 See ISS/IRC 2016 Country Situation on Brazil and Article 48 of the Law n° 12.010 of 2009.

43 See [Country Profile](#) available at HCCH website.

44 See [Country Profile](#) available at HCCH website.

45 See Article 51 of the 2013 guidelines issued by order relating to proceedings for national and intercountry adoptions of children in Burkina Faso.

46 See [Country Profile](#) available at HCCH website.

47 See [Country Profile](#) available at HCCH website.

his or her parents to access his or her file, or to initiate a search process. This same principle also applies until the age of 16, but some exceptions are allowed. Finally, from the age of 16, the search process can be started independently.

ISS/IRC considers that this last option offers a certain flexibility that is beneficial to the child's full enjoyment of his or her right to access information on his or her origins. However, it considers it important that specific criteria for assessing the child's maturity be put in place in order to ensure that the decisions made by professionals are consistent. Beyond these matters, one of the fundamental aspects of this right is the necessary professional support available to him or her (*see section II*).

Obtain authorisation from an authority

The right of access to origins may also be subject to the prior authorisation of a judicial authority (Oaxaca State in Mexico, Portugal, and Romania for identifying information⁴⁸ including the identity and contact details of biological family members). In Italy and Portugal, a request must be filed with the Tribunal by a person who can prove that he or she has a legitimate interest.

Obtain permission from one of the parties of the adoption triangle

Access to origins may also be subject to the agreement of one or more of the parties concerned:

- Adoptee him or herself (Victorian state in Australia, Romania for identifying information⁴⁹, Switzerland⁵⁰)

- Biological parents (Ecuador, Republic of Korea)
- Adoptee and biological parents (Canadian provinces of Saskatchewan and of Manitoba for all adoptions prior to March 15, 1999)
- Adoptive parents (for example, in Québec if a child under 14 wishes to access his or her origins; or in Switzerland and in the Australian state of Tasmania regardless of the age of the adopted children)
- Adoptive parents and biological parents (ie. Georgia).⁵¹ It is noted that Georgia provides for a possible **withdrawal** of such consent

Therefore, if the biological parents or adoptee refuse the transmission of information and contact details, it is possible that only non-identifying information is provided. Some laws provide for an exception, for example when the non-disclosure of information may have serious consequences for the health of the adoptee or his or her close relatives, such as in Romania when the adoptee is still a minor.⁵²

The Central Authority of the Philippines, through its website, provides an authorisation form for the disclosure of information to adoptees, adoptive parents and families/biological parents. The information is related to names, phone numbers, email and postal addresses.⁵³

Other parts of the world, such as certain states or territories in Australia, Ontario in Canada and New Zealand, go further and have introduced a **veto right system**, which

48 See arts. 76-77 of [Law No. 273/2004](#) on adoption proceedings.

49 See Article 80 of [Law No. 273/2004](#) on adoption proceedings.

50 See [Country Profile](#) available at HCCH website.

51 Articles 64-65 of the Law on Adoption and Foster Care of May 2017.

52 See Article 81 (2) of [Law No. 273/2004](#) on adoption proceedings.

53 See [Authorisation for release of information](#).

can be exercised by adoptees, the biological parents and sometimes even the adoptive parents (British Columbia in Canada). The situation in Australia varies. In New South Wales, Victoria and Western Australia, a veto right that could be exercised against an adoptee wanting to contact his or her biological parents has either been abolished, or never existed in the first place. In others, such a right persists (Tasmania,⁵⁴ Northern Territory and the Australian Capital Territory). It should be noted that South Australia, through its 2016 reform, banned all veto rights for adoptions that took place after August 17, 1989. However, an exception exists where the disclosure of the information would be dangerous to one of the parties, or if such disclosure would not be in the best interests of the adoptee. In the Canadian province of Alberta, this right was abolished without retroactive effect. As for New Zealand, the right of veto regarding access to birth records has been restricted to adoptees aged 19 and over since 1986.

Although the trend towards greater legal recognition of access to origins seems to be on the rise, large disparities remain, especially in terms of the easing of the conditions of access through the abolishment of the need for the biological family's consent or the lifting of the veto right in some countries.

2.2 Interaction of the right of access to origins with the right to remain anonymous

Even though the right to access information revealing the identity of a person is recognised in many national laws, this right does not always prevail over that person's right to remain anonymous. Faced with the potential conflicts that may arise from these situations, the responses vary from one country to another.

Where the right of one takes precedence over the right of the other

In some countries, **the primacy of the right of adoptees to access their origins is clear and unequivocal** (Australian states of Victoria and South Australia after August 17, 1989, Brazil, the Canadian province of Newfoundland, Dominican Republic, the Mexican states of Oaxaca and Jalisco, Norway, Sweden, Spain after 1999, and Switzerland⁵⁵). In others, however, the right to anonymity prevails (Australian states of Tasmania and South Australia before August 17, 1989, France, Hong Kong, Italy, Spain for all adoptions that took place before 1999, etc). In some cases (ie. the Netherlands) there is the possibility of bringing a legal action to try to lift this anonymity, or impose a veto (*see section 1.2.1*).

Seeking consensus

Matters are more delicate when the legislation of a country requires the **mutual consent of both the adoptee and his or her biological parents** to access his or her origins (Canadian

54 http://www.dhhs.tas.gov.au/children/adoption/past_adoption_services

55 See Article 268c of the *Civil Code*; In Switzerland, after the revised Adoption Act came into effect on January 1, 2018, biological parents searching for their child or seeking information about him or her will be able to obtain his or her personal data with the child's consent once he or she reaches the age of majority. The child may also consent if he or she is capable of discernment and if his or her adoptive parents have consented. The law had already granted the child an absolute right to know his or her origins, but he or she can now also obtain information about brothers and sisters and half-brothers and half-sisters once these siblings have reached the age of majority, and if they have consented.

Province of Saskatchewan). In such cases, a consensus will have to be reached, often through a third-party mediator. In Germany and South Africa, where the law tends to favour adoptees, in practice everything possible will be done to find a satisfactory solution for all those involved. Depending on the particular case, only limited access to the adoption record maybe granted to the adoptee, which still gives him or her access to significant information about his or her origins.

A solution must also be sought in the event of a conflict between the laws of the receiving country and the country of origin, for example, through rules set by the private international law of the countries in question. For its part, Quebec has chosen to defer to the law of the country of origin and thus stipulates in its law that identifying information may be disclosed to the adoptee, unless the law of the country of origin stipulates otherwise.⁵⁶

International and regional trends

As mentioned in the introduction, legislation at the international level tends to favour the right of adoptees to know their origins. In 2013, the Committee on the Rights of the Child issued *General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration* setting out in its paragraph 56 that, “Due consideration of the child’s best interests implies that children have access to the culture (and language, if possible) of their country and his family of origin, and the opportunity to access information about their biological family, in accordance with

the legal and professional regulations of the given country (see Art. 9, para. 4).”

At the European level, the *European Convention on the Adoption of Children (Revised)* stresses the right of adopted children to know their identity over the right of biological parents to remain anonymous.⁵⁷ However, the trend emerging from the European Court of Human Rights, seems to be different. In its judgment *Odièvre v. France* of February 13, 2003,⁵⁸ the Court did not act on the request of Pascale Odièvre, a young 37-year-old woman in search of her personal origins, who wanted to know the name of her mother who gave birth to her in secret. It is worth noting, however, that this decision was adopted by ten votes to seven votes, and the Court may reach a different conclusion should it have to pass judgment today on a similar situation.

In conclusion, it is important that anyone involved in a search for origins complies with these various laws, even if this represents an obstacle to accessing the information sought. However, a consensual approach should be promoted when there is a conflict of laws. In fact, legislative prohibition often reflects a cultural tendency to protect the rights of the person searched for. This aspect must be an important part of the preparation of adoptees when they start a search for origins process (see section II.2). For example, in some countries the birth mother – or even the entire biological family – may be endangered as a result of the disclosure of a past adoption, which she might have kept secret.

56 [Website of the Québec Central Authority](#); See Article 563 of the Civil Code of Quebec as amended by Bill n°113, An Act to amend the Civil Code and other legislative provides as regards adoption and the disclosure of information.

57 Article 22.3: “The adopted child shall have access to information held by the competent authorities concerning his or her origins. Where his or her parents of origin have a legal right not to disclose their identity, it shall remain open to the competent authority, to the extent permitted by law, to determine whether to override that right and to disclose identifying information, having regard to the circumstances and to the respective rights of the child and his or her parents of origin. Appropriate guidance may be given to an adopted child not having reached the age of majority.”

58 An English version of the judgment can be found at: http://unipd-centrodrittiumani.it/public/docs/42326_98.pdf.



3. Practical considerations

In the context of an intercountry adoption, the quest for the identity of an adoptee may prove difficult due to a variety of factors related to potential conflicts of loyalty that may emerge or the cultural, linguistic, legal or administrative obstacles that may be encountered. This is why it is important for anyone wishing to search for one's origins to understand from the outset

– with professional *guidance (see section 11)* – the limitations and risks involved, such as the unearthing of fraud in the adoption proceedings,⁵⁹ a missing or destroyed adoption record, or a biological parent's refusal of contact. The outcome of this quest will mainly depend on the quality of adoption records, their preservation, and procedures for access.

Practical guide for accredited bodies

Procedure for the preparation and preservation of intercountry adoption records

Quebec's Central Authority has published a guide that outlines the procedures to follow when preparing and archiving an adoption record and that specifies the rules for the confidentiality of the information contained in those files. Available in French at:

<http://publications.msss.gouv.qc.ca/msss/fichiers/2015/15-116-08W.pdf>.

59 Regarding illegal intercountry adoptions, ISS/IRC published a manual in 2015: *Responding to Illegal Adoption – A Professional Handbook* which details a number of measures taken by professionals, individuals and appropriate State authorities to deal with such discoveries and put a stop to them.

The preservation of information is therefore the prerequisite for the exercise of the right of everyone to access his or her origins. Enabling this access, therefore, means that each country must strive to systematically collect and preserve information about the child's background, and, ensure that it is preserved for a sufficient duration.

3.1 Collection of information per country

Although the *Convention on the Rights of the Child* provides in Articles 7 and 16⁶⁰ – as previously mentioned – for the preservation and confidentiality of information on the identity of the child, and the *1993 Hague Convention* requests states to preserve information on the identity of the child's biological parents as well as medical and family history, the reality is more complex. Information should not be restricted to the child's original birth certificate, but should, for example, also include information on the different institutions or foster homes in which he or she lived in his or her pre-adoptive past. This idea is further reinforced by Article 7 of the *Convention on the Rights of the Child*, which includes in the elements of the child's identity his or her history since birth, the different places where he or she lived, his or her caregivers, and the decisions made concerning him or her.⁶¹ Thus, for a child adopted at an older age, it may be important to know what happened to his or her orphanage mates, foster home siblings or foster parents, who likely played a significant role in his or her life. In addition, this data may prove to be quite useful in order to better assess the developmental stages of the child and his or her physical and mental needs.

Integrated birth certificate

A birth certificate bearing the names of the biological and adoptive parents is known as an "integrated birth certificate." It also has the full name given to the child by his or her birth parents or guardians, as well as the adoptive name of the child. Integrated birth certificates are available to people who were adopted in South Australia and access to these certificates is subject to the policy issued by the Registrar of Births, Deaths and Marriages.

At the national level, a number of legislative reforms have highlighted the importance of information about the child's life before adoption. For example, in 2013, Burkina Faso adopted a judgment enacting guidelines relating to procedures for national and intercountry adoptions of children in Burkina Faso.⁶² According to this judgment, [translation] "every child proposed for adoption must have a record containing all the documents produced during the adoption proceedings." In 2016, South Australia created the integrated birth certificate (see box).

Against this backdrop, ISS/IRC strongly encourages using these practices and others such as the *Later Life Letter* (see below), which are consistent with the promotion and implementation of the right of the child to know his or her origins. In particular, ISS/IRC wishes to highlight the *Lifebook* developed by the International Social Service,⁶³ in which caregivers for the child are invited to detail with the child his or her daily life after his or her arrival at the institution.

60 See pages 126 and 218 of UNICEF's *Implementation Handbook for the Convention on the Rights of the Child*, revised in 2002.

61 See page 125 of UNICEF's *Implementation Handbook for the Convention on the Rights of the Child*, revised in 2002.

62 See the Country Profile available on the website of the Permanent Bureau of The Hague; this order is available upon request from the ISS/IRC.

63 For more information, please contact Marie Jenny, coordinator of the project *A Better Future is Possible*, which works for children with disabilities in residential care: marie.jenny@iss-ssi.org.

The later life letter, a tool for collecting information on the life of the child⁶⁴

This tool takes the form of a letter written by the social worker who first introduces him or herself to the child or the young adult by addressing him or her by the name he or she had at the time, and explains to him or her what his or her role in the adoption process was. The letter must also include all the details about the birth and the events that led to the child's adoption, which may help him or her shape his or her own identity and dispel his or her doubts. Information on the pregnancy, birth, and the child's home before the adoption are very valuable for this purpose. Details regarding the child's culture, religion and ethnicity may also be included, enabling the child to clear up any grey areas. Further, it is common for the child to know his or her biological mother's story, but not that of his or her father. This letter is therefore an opportunity to include any information available about the father, for example, from the point of view of the mother. Finally, the guide to writing the letter addresses many sensitive and specific issues, such as abuse, rape and incest, and explains how to adequately describe these circumstances.

3.2 The preservation of information by countries

Despite serious shortcomings in some countries, progress has been noted. In Colombia, for example, at one time the responsibility for preserving information on the child's past was left to the institutions caring for the child, which posed the huge risk that in the event of a change of management or other sudden events, this information would be destroyed. However, for some years now this responsibility has lied with the Colombian CA, who is in charge of the intake and follow-up of requests from Colombians adopted abroad wishing to access their adoption record(s).

This trend has become widespread in many countries where the public authority for adoption is now responsible for collecting and preserving information on the child's

origins (Andorra, Burkina Faso⁶⁵, Belgium, Cambodia⁶⁶, certain provinces of Canada, including Québec⁶⁷, Chile, Costa Rica, Croatia,⁶⁸ Dominican Republic, Germany, Hong Kong, Italy, Republic of Korea, states of Mexico, Norway, New Zealand, Republic of Korea, South Africa, South Australia, Spain, Philippines, Portugal, Sweden, Switzerland and Western Australia). In addition, other entities may be involved, such as the civil registry office (Australia, Germany, certain states of Mexico, Spain, Switzerland), the archives of certain courts (Cambodia⁶⁹, Dominican Republic, Italy, Mexico, New Zealand, Switzerland) and, in many cases, the AABs that were involved in the adoption process (Malta)⁷⁰. In Denmark and the Netherlands⁷¹, these bodies are required to preserve information about the child's adoption.

64 See ISS/IRC Monthly Review No. 172 of May 2013, page 5.

65 See [Country Profile](#) at HCCH website.

66 See [Country Profile](#) at HCCH website.

67 See <http://publications.msss.gouv.qc.ca/msss/fichiers/2014/14-116-02F.pdf>.

68 See [Country Profile](#) at HCCH website.

69 See [Country Profile](#) at HCCH website.

70 See [Country Profile](#) available at HCCH website.

71 See [Country Profile](#) available at HCCH website.

In Belgium⁷², France⁷³, New Zealand, Switzerland⁷⁴ and United States⁷⁵, each adoption authority has a duty to keep archives.

Generally, this information must be preserved indefinitely or for a minimum period of 100 years (Andorra, Flemish community of Belgium, Brazil, Burkina Faso, Canada, Croatia⁷⁶, Spain, Germany⁷⁷, Greece⁷⁸, Hong Kong, Ireland⁷⁹, Italy, Malta⁸⁰, some states of Mexico, Norway, New Zealand, Peru⁸¹, the Romanian National Archives, South Africa, South Australia, Sweden and Switzerland for the federal archives⁸²). However, sometimes shorter time limits are stipulated in legislation, such as in Québec (99 years), in the US (minimum of 75 years)⁸³, in Cambodia (60 years from the date of the adoption decision)⁸⁴, the French community of Belgium and the Romanian Central Authority (50 years), in the Canadian Province of British Columbia⁸⁵, the Dominican Republic and the Netherlands (30 years), as well as in the states of Hidalgo and Oaxaca in Mexico (10 years and 5 years). Given that searches of origins can be undertaken by the

adoptee, or even by his or her descendants, years after the adoption, the longer the period of preservation the more that the right of adoptees to know their past will be respected. To this end, some countries have microfilmed or digitised adoption records for better preservation and durability, initiatives that can only be encouraged. As for the *European Convention on the Adoption of Children, revised in 2008*, it is stipulated in its Article 22(5) that, “relevant information regarding an adoption shall be collected and retained for at least 50 years after the adoption becomes final.”

According to ISS/IRC and in accordance with international obligations⁸⁶, the imposition of a minimum duration may be a step forward and offer some assurance, but it would seem that this duration should be increased to at least 100 years, and ideally in perpetuity, as is recommended by the 2010 Special Commission.⁸⁷

3.3 Data protection

Most countries have a general law on the protection of personal data⁸⁸: Privacy Act of

72 See page 3 of *Avis n°17 du 28 février 2018 du Conseil Supérieur de l'Adoption*.

73 See [Country Profile](#) available at HCCH website.

74 See [Country Profile](#) available at HCCH website.

75 See [Country Profile](#) available at HCCH website.

76 See [Country Profile](#) available at HCCH website as well as Arts. 124, 142 and 147 of the Family Act.

77 See [Country Profile](#) available at HCCH website.

78 See [Country Profile](#) available at HCCH website.

79 See [Country Profile](#) available at HCCH website.

80 See [Country Profile](#) available at HCCH website.

81 See the [Country profile](#) available at HCCH website.

82 See the [Country profile](#) available at HCCH website.

83 See the [Country profile](#) available at HCCH website.

84 See the [Country profile](#) available at HCCH website.

85 See the [Country profile](#) available at HCCH website.

86 Recommendation 28 of the 2015 Special Commission: “It was recommended that receiving states and states of origin preserve adoption records in perpetuity. The record must contain the information referred to in Article 16, and, to the extent possible, any other information or personal items relating to the child or his or her biological family.”

87 “It was recommended that receiving states and states of origin preserve adoption records in perpetuity. The record must contain the information referred to in Article 16, and, to the extent possible, any other information or personal items relating to the child or his or her biological family.” Recommendation 28 of the [Conclusions and Recommendations of the 2010 Special Commission](#).

88 Further information on data protection and new technologies can be found in the 2015 “New Technologies and Adoption” information document.

1988 in Australia⁸⁹; Act of 8 December 1992 on the protection of privacy in relation to the processing of personal data in Belgium; Law No. 010 -2004 of April 20, 2004, on the protection of personal data in Burkina Faso⁹⁰; the *Bundesdatenschutzgesetz* of 1990 (and revised in 2018) in Germany; the Personal Data Act of 2014 in Norway; Personal Data Act of 1998 (among others⁹¹) in Sweden; the Data Protection Act of 1998 in the United Kingdom;⁹² and the Swiss Federal Law concerning the protection of data (LPD) of June 19, 1992. Québec⁹³ and France⁹⁴ also have this type of law. In addition to these national provisions, the European Union has recently amended its personal data regulations.⁹⁵ In the absence of provisions for personal data relating to adoptions, these instruments provide a framework for the protection of data disclosed in a search for origins.

3.4 Transmission of information and the role of adoptive parents

In general, the transmission of information on the origins of adoptees as well as how this information is transmitted are prescribed by law (*see section I.2*). CAs and AABs normally participate in and should have protocols for the successful transmission of information (*see section II.2*).

The Special Commission recommended that the prospect of a child searching for his or her origins be included in counselling and preparation for prospective adoptive parents. When an adopted child or an adult adoptee undertakes such a search, professional support is recommended at all stages.

Paragraph 21 of the *Conclusions and recommendations of the Special Commission 2015*

Adoptive parents have a key role to play in this transmission – they are often the first ones to possess information and therefore are in the best position to inform the child about his or her background. In many cases, they may be at a loss when their child (sometimes) asks many questions, not knowing how or when to answer them (see extract below of article *How to speak to a child or adolescent about their adoption*).

Legal obligation and preparation of adoptive parents

In some countries, such as Croatia⁹⁶, Norway, Romania⁹⁷ and Switzerland,⁹⁸ adoptive parents now have an established legal requirement to inform adoptees about their adoption and, by implication, the

89 This law includes, in section 14, a list of 11 principles to be respected by the authorities in charge of collecting, using and disclosing personal data as well as by persons wishing to access personal data. These principles were replaced in March 2014 by new principles for protecting personal data. For more information on this reform, consult the website of the Office of the Australian Information Commissioner: <http://www.oaic.gov.au/>.

90 This law applies to automated or non-automated processing of personal data contained or that may be included in files in the care of a person established in Burkina Faso, or, if not established there, uses processing means located in Burkina Faso, excluding data used only for transit purposes (Article 8).

91 See also the Data Act (1973), the Debt Recovery Act (1974), and the Credit Information Act (1973).

92 See *Data Protection Act 1998*.

93 See the Personal Information Protection and Electronic Documents Act, <http://laws-lois.justice.gc.ca/fra/lois/P-8.6/Index.html>

94 See Act No. 78-17 of January 6, 1978, known as the "Act on Information Technology, Data Files and Civil Liberties," <http://www.cnll.fr/documentation/textes-fondateurs/loi78-17/>. Texts issued under the Act: https://www.cnll.fr/sites/default/files/typo/document/Decree_20_October_2005_English_version.pdf.

95 The EU General Data Protection Regulation.

96 Arts. 124, 142 and 147 of the Family Law.

97 See Article 81 (1) of the Adoption Act.

98 See Article 268c (1) of the *Civil Code*.

circumstances surrounding it. The Croatian law recommends that parents inform the child of their adoption by the age of seven at the latest, or immediately after adoption if he or she is already older than this. **ISS/ IRC considers this to be major progress reflecting the recommendations of many professionals, starting with Françoise Dolto's assertion that, "words left unspoken will cause harm"**. Adoptive parents in Québec have an obligation to discuss origins with the child as soon as he or she is of appropriate age and maturity, and to keep the documents in their possession safe so they can be made available to the child. In Sweden, this issue is covered in-depth during courses to prepare prospective adopters, and it is a key requirement when assessing their suitability to adopt. Similarly, adoptive parents in Portugal receive guidance on how to tell the child about his or her origins and adopted status. They can also seek support from adoption teams and social agencies. As Luce de Bellefeuille, former Director of the Québec International Adoption Secretariat, has said, "open discussion avoids the parent needlessly feeling that they have fallen short, or the child feeling ungrateful or disloyal

towards the parent, the day the child feels the need to find out more for him or herself." It is therefore important that children feel confident that they can always ask about aspects of their history that they are worried or curious about. Parents do not need to pre-empt these questions, but should be ready at any time they arise. The search for origins process is driven by the child. He or she will often ask for a little information at a time about his or her past, not wanting to go too far, too soon.

With some exceptions (eg. Newfoundland in Canada, Germany, Hong Kong), adoptive parents are given information about the child's past and birth family at the time of adoption. This happens in Andorra, Belgium⁹⁹, Brazil, Burkina Faso, some Canadian and Australian states and provinces, Croatia, Dominican Republic, South Africa, Spain (on condition that any identifying data are on public record), Italy (only in intercountry adoption), Mexico, Norway, New Zealand, Sweden and Switzerland. It is notable that, in Portugal, consent must be obtained from the birth parents for documents referring to their identity.

Guide for adoptive families (coramBAAF)¹⁰⁰

Social networking and contact: How social workers can help adoptive families

In response to the concerns felt by many parents, this guide advises the following: telling their child about his or her history, as openly and honestly as possible; telling their child that they will help them to contact and/or meet their birth family, if they wish; reminding them that information given over the internet is binding and cannot be withdrawn; asking the adoption agency to arrange for their child to see a social worker, who will explain the issues and risks involved in meeting up, and the importance of this happening in a safe and neutral setting; explaining to their child that their birth siblings are not necessarily ready to know about the situation; and reminding their child that they will always be there for him or her.

99 See page 3 of *Avis n°17 du 28 février 2018 du Conseil Supérieur de l'Adoption*.

100 Fursland E. (2010). *Social networking and contact, How social workers can help adoptive families*. CoramBAAF.

Support and openness by adoptive parents

It can be a difficult moment when an adoptee tells his or her adoptive parents that he or she is going to undertake a search for origins. Some adoptive parents, particularly with those whom this issue was not discussed during preparation to adopt, may feel challenged in their parental role, and may sometimes even see this as evidence of failure. It is therefore vital that prospective adoptive parents receive professional support, commencing from the preparation stage, in order to avoid these problems as far as possible. As Johanne Lemieux recommends, “The mental preparation needs to be done at this stage (...) If, as adoptive parents, we see the birth parents as being part of our lives, as having been and still being significant people for our children, we won’t stop this search from happening, but we will experience it much

more positively. Denying the legitimacy of this search can truly endanger the quality of the parent-child relationship, while genuine openness can only enrich it (...)” The use of guides such as those published by Coram BAAF can be of great help in this regard (see enclosed).

On the topic of **openness**, ISS/IRC has produced a publication on open adoptions in 2015. Among its conclusions was that, over and above the content of information given to the child, the quality of communication by the adoptive parents, their openness and transparency, can go a long way in helping the child to accept and embrace their history.¹⁰¹

According to Jesús Palacio, professor of psychology at the University of Seville (Spain), one of the key factors in disclosure of origins is the adoptive parents’ capacity to establish direct, empathic and open communication with the child on this issue.

Extract from the article *How to speak to a child or adolescent about their adoption?*¹⁰²

“(…) For parents to be able to pass on elements of their child’s past life, they must be firmly convinced of their own role as parents, and be completely at ease with the concept of the adoption they are undertaking. Why is it so difficult for some mothers to tell their child that he or she did not come from inside them, and what about the difficulties experienced by fathers? Maybe because this involves sterility, something intimate, that one does not talk about with children, or perhaps because a past wound is reopened by this question. Maybe the story of their child, which has been passed on to them, is so painful that they have difficulty speaking about it. This is when parents begin to ask: what must I say and why? Is it good to tell the whole truth? What effect could it have on my child? How am I going to be able to support my child through this ‘revelation’? When faced with these questions, parents must – and this is the duty of all parents – be able to measure the ability of their child to hear what they want to tell him or her, to pass on to him or her.”

101 This publication is available to Central Authorities through the dedicated section of the ISS/IRC website; see also ISS/IRC Monthly Review No 194, September 2015, and L. Gray (2017), Protective factors: being able to access one’s origins and benefitting from support, in Jeannin, C. (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns*. Geneva, Switzerland.

102 See ISS/IRC Monthly Review No 219, March 2018.

For an adolescent, what does it mean to search for his or her origins?

“Adolescents, who are undergoing enormous physical and psychological changes, have lost their familiar benchmarks. They knock against doors, but also against their parents! They long to be free of parental control, but at the same time are frightened of this autonomy. They are seeking their own individual identity, and they are going to construct this identity from the information available to them, and from which they must sometimes distance themselves. Their birth parents are necessarily part of this search for an identity, because it is not possible to erase the past. However, it is up to the adolescent to choose the importance he or she gives to his or her birth parents. There is no obligation to find out, to know. Throughout his or her life, the adoptee may question his or her parents about his or her origins, his or her identity. Part of this identity remains a mystery. (...) For children and adolescents to build their identity, they need to forge links between the past and the present through the narration of their story. Although this story has its gaps and its questions, it must allow each child and adolescent in his or her imagination to fill in these blanks and decipher the mysteries of his or her history. He or she will then make the difference between the biological origin and the family origin, because the objective is to enter into this new bond, and to be firmly anchored within it.”



II. Methods of access to origins, and professional support

We cannot list all the different methods of access to origins because, as previously mentioned, every individual is looking for something different in this search, and every country has its own system (*see section 1.2*). However, some patterns have emerged in terms of the competent authorities and the type of support offered to those involved.

1. Support providers

Professional support is one of the key factors for ‘success’ in a search for origins. Although a lot of adoptees undertake this journey alone, often using social networking sites, many express regrets and encounter, for example, unexpected reactions from members of their adoptive and birth families.¹⁰³

The adoptee is therefore encouraged to seek professional support, through relevant literature (see adjacent ISS guide) and meetings with experienced professionals. In practice, there are several types of actors who can provide this professional support.

103 See ISS/IRC Monthly Review No 218, January/February 2018.

Procedure to follow in a search for origins

ISS has recently published a guide called *Intercountry adoption and search for origins: A guide for adoptees*. This provides an overview of the search for origins process and its practical outcomes. It gives details of each stage, presented in two parts. The first part considers the potential risks that adoptees may encounter on their journey. The second part looks at, danger signs, questions adoptees should ask themselves, their Central Authority or AAB, to help them avoid the risks.

At the national level, ISS/IRC particularly recommends the guide *Tracing Birth Relatives – A Practical Guide for Adopted People*, published by BAAF for adoptees in the UK.

1.1 Role of Central Authorities

In South Australia, Belgium (Flemish Community), Belarus, Quebec¹⁰⁴, Romania and Switzerland applications are made to the CA to undertake searches in cases of intercountry adoptions.

Thus, in the Flemish Community in Belgium, the CA may contact the authority in the country of origin to obtain further information on the current address of the birth family, and on the availability of local support.¹⁰⁵

In Romania, the CA is more specifically qualified to identify and locate the person sought, put the adoptee in contact with their birth family, and obtain documents relating to the adoptee's past. The CA works with local authorities, courts and other national authorities that hold records on Romanian citizens, social services, AABs and, if necessary, organisations providing

psychological support or social care.¹⁰⁶ Moreover, adoptees are required by law to contact the CA, so they can jointly plan the steps necessary to contact the birth relatives.¹⁰⁷

Sometimes, there is a different allocation of responsibilities depending on whether it is a national or intercountry adoption. For example, in Belarus, although responsibility for intercountry adoptions lie with the CA, it is the guardianship authorities located in the adoptive parents' place of residence that are responsible for search for origins in the context of a national adoption. In Romania, in the case of a national adoption, local social services or private accredited bodies are responsible for contacting the adoptee's birth family, while in an intercountry adoption, the CA or AABs in the other country are responsible for contacting the adoptee.

104 See <http://publications.msss.gouv.qc.ca/msss/fichiers/2014/14-116-02A.pdf>.

105 See <https://www.kindengezin.be/contact-en-hulp/veelgestelde-vragen/adoptie/ik-ben-geadopteerd-en-op-zoek-naar-mijn-roots-waar-kan-ik-terecht.jsp>.

106 It is important to note that, in Romania, the CA does not hold records on adoptions that took place before 1998. For these cases, it cooperates with the other bodies mentioned to obtain the records.

107 Article 81(3) of Romanian Adoption Law.

Preparing the adoption triangle through official channels

The factsheets on search for origins developed by the Central Authority in Ireland, available in electronic format, recommend using official channels from the start. They provide key information on how to undertake a search for origins, right from the start of the process. This covers emotions, potential outcomes, siblings, preparation for first contact, and potential ongoing contact. These leaflets are tailored to *adopted people* but also to *birth parents* and siblings, and to *adoptive parents* of a child wishing to undertake a search for origins.

Additionally, in some countries the CA, through its post-adoption service, provides support or guidelines in addition to passing on the records (eg. Belgium, Burkina Faso, Croatia, some Canadian provinces such as Alberta, Prince Edward Island and Quebec, Denmark, Dominican Republic, Romania). This may be in the form of electronic factsheets, as in Ireland (see box). The first contact with the CA is sometimes through an electronic form provided on its website, as in the Australian states of *Victoria* and *South Australia*, the French Community in *Belgium* (for certain circumstances)¹⁰⁸, *Chile*, *Romania* and the *United Kingdom*. In addition to a contact form¹⁰⁹, the CA of the Philippines indicates the various documents to be provided if the adoptee wishes to: search for his or her biological parents; visit the Philippines; or access his or her adoption file¹¹⁰. Among these documents, a brief questionnaire must be completed so that the CA has information on the history of the adoptee, especially if the biological parents are found. Thus, the adopted person must detail personal passions, academic

and professional background, childhood, the people who are aware of the search for origins and their feelings about this approach, the motivations and expectations of the adopted person, and significantly, how the person prepared for this research.¹¹¹ The same questionnaire exists for biological parents and relatives who wish to search for the adopted person.¹¹²

1.2 Role of Adoption Accredited Bodies

In some countries, the AABs that handled the adoption are responsible in matters relating to a search for origins (eg. French Community in Belgium, Denmark, France,¹¹³ Germany, Spain, Sweden). In Germany, every adoption agency must allow access to the adoption records containing information on the adoptee's origins. Moreover, in some countries (eg. French Community in Belgium, Denmark, Finland, France, Norway¹¹⁴, the Netherlands, Sweden and Switzerland), AABs have a major role in supporting adoptees during a search for origins. Some of them have gained considerable experience in this area.

108 "It is possible that the accredited body that handled your adoption no longer exists, or that the organisation that acted in your adoption is historic and was never accredited, or that you do not wish to contact the relevant accredited body. In this case, we ask you to send us an [email](#) and [complete this form](#), or [call us on our hotline](#)."

109 See https://www.icab.gov.ph/download/post_adoption_services/ICAB-PAS-Request-Form-1.pdf.

110 See https://www.icab.gov.ph/download/post_adoption_services/ICAB-PAS-Checklist-Form-2.pdf.

111 See https://www.icab.gov.ph/download/post_adoption_services/ICAB-PAS-Personal-History-Adoptee-Form-4.pdf.

112 See https://www.icab.gov.ph/download/post_adoption_services/ICAB-PAS-Personal-History-Birth-Family-Form-5.pdf.

113 See https://www.diplomatie.gouv.fr/IMG/pdf/version_finale_procedure_recherche_origines_abregee_pour_mise_en_ligne_version_24_nov_2015_cle09baa7.pdf.

114 See [Country Profile](#) at the HCCH website.

1.3 Role of social services

In some cases, it is the general social services who provide support, even if they do not have expertise specific to adoption (eg. Burkina Faso,¹¹⁵ Italy, Prince Edward Island in Canada). However, some local social services have a department specialising in adoption (eg. within certain department councils in France).

1.4 Shared responsibilities

Often, both the CA and AABs have responsibility in the search for origins and in the communication of information, as in South Africa, some states/provinces in Australia and Canada, Belgium, Germany, Hong Kong, *Ireland* (particularly for national adoptions), New Zealand, Spain and Sweden. In Switzerland, the cantonal authorities must designate the body responsible for supporting individuals in their search for origins.

Responsibility may be delegated to either a public authority or a private body, as for example in South Australia, where responsibilities are divided between three main actors:

- The Department for Child Protection is responsible for retaining information, and for managing vetoes and requests for search for origins (*see section 1.2.1.3*)
- The Register of births, deaths and marriages provides the parties to the adoption with certificates, on the authorisation of the Central Authority

- The post-adoption support service (an NGO funded by the CA) provides help and support to the adoption parties during a search for origins, as well as social care, mediation and aftercare services

Lastly, a **separate government agency** to the CA or AABs, and which may or may not work in conjunction with them, may also provide support to adoptees, as is the case in *Ireland* and Malta. Likewise, in France the *Conseil National pour l'Accès aux Origines Personnelles* has sole responsibility for supporting individuals born in secrecy in France, in their search for origins.

1.5 Role of independent professionals and private bodies¹¹⁶

In addition to the actors mentioned above, there are **independent 'professionals'** who offer private consultations to provide support: psychologists, social workers, mediators, legal advisers, etc. There is a proliferation of these intermediaries, without them being subject to any systematic accreditation process that would ensure checks on their working methods (eg. costs, conduct, training, ethics). This is a risky trend, and it means that adoptees need to be highly vigilant (see pages 20-23 of the ISS guide mentioned in section II.1).

Where contact is established between the adoptee and members of the birth family, it may prove beneficial for all concerned to use the services of a family mediator. In fact, this is now compulsory under Spanish law¹¹⁷ and has been facilitated in some autonomous communities such as Catalonia and Castile-La Mancha. The mediator is able to play the

115 See Article 54 of ruling of 14 August 2013 on procedures manual for national and intercountry adoptions of children in Burkina Faso.

116 It is important to point out here that some people operating in the field of search for origins show little evidence of professionalism, hence the importance of the choice of service provider, and the professional training available in this area. The ISS/IRC guide *Intercountry adoption and search for origins: A guide for adoptees* suggests several approaches for choosing a service provider (see pages 20 onwards).

117 Ley 26/2015, de 28 de julio, de modificación del sistema de protección a la infancia y a la adolescencia.

role of a neutral and independent third party, managing a gradual reconciliation between those involved. He or she ensures there is respect for each individual's pace, which is a key aspect of any search for origins.¹¹⁸ This service is provided by the CA in Belarus, in Andalusia in Spain and in South Australia, and also by the post-adoption service *L'Envol* in Belgium and the *Post-Adoption Centre* in the UK¹¹⁹. In some countries, individual psychological support is provided (eg. Belarus, Belgium, Denmark, Dominican

Republic, France, Germany, Ireland, Quebec, Oaxaca State in Mexico, Romania, South Australia and Sweden).

Private organisations may also offer a post-adoption service, in the form of tracing/searching and mediation. These include the *International Social Service* (see for instance *ISS Switzerland*), which operates in many countries throughout the world, adoptive parent and/or adoptee associations such as *La Voix des Adoptés* in France and Spain, and *Espace A* and *Adopte.ch* in Switzerland.

Methodology developed by the International Social Service (ISS)

Given the sensitive nature and complexity of the search for origins process, ISS provides the following vital services before, during and after the search:

- Counselling before starting the search
- Support during the search
- Tracing
- Counselling and support in the event of a reunion
- Mediation service

For more details, [see annex at page 55](#).

The ISS/IRC urges countries – both of origin and receiving – to develop or improve services to support the search for origins, and to establish protocols identifying each actor's responsibilities. Such measures would encourage adoptees to use official channels and would facilitate the process

for them. It supports the use of trained professionals, such as mediators or psychologists, who can provide valuable assistance to the parties involved. However, it recommends a degree of vigilance in choosing intermediaries, as some are unscrupulous.

118 See ISS/IRC Monthly Review No 8, August 2011, page 3.

119 See ISS/IRC Monthly Review No 181, May 2014, page 6.



2. Obligation and quality of professional support

Although some form of support is offered in many countries, there can be wide variation in its mandatory nature, as well as in its quality and scope.

A legal requirement

The support provided to individuals embarking on this process varies greatly from country to country. Sometimes it is required by law, as in Belgium, Burkina Faso¹²⁰, Croatia, Germany, Norway, Romania¹²¹, Sweden, Tasmania and Spain, where the law stipulates that access to origins involves evaluation and mediation procedures. In New Zealand, identifying information can only be

revealed to an adoptee by a social worker or an independent counsellor.¹²² In this context, it is interesting to note that several countries have recently included a support provision in their laws. This is the case in Switzerland, where, since 1 January 2018, *new provisions in relation to adoption* require cantons to designate a body to provide advice to the biological parents, their direct descendants, or the child on request.¹²³

There have also been two relevant reforms in Romania, the first in 2012 and the second in 2016.¹²⁴ This second reform stipulates that an adoptee asking for information on the identity of his or her birth parents must

120 See Article 54 of ruling of 14 August 2013 on procedures manual for national and intercountry adoptions of children in Burkina Faso.

121 See Article 77(2) of Romanian [Adoption Law](#).

122 See [Country Profile](#) available at HCCH website.

123 See Article 268d (4) of the [Civil Code](#).

124 Decree 448/2017 also established the methodology for contacting the birth parents or relatives.

attend at least one counselling session to assess whether he or she has the necessary psychological and emotional maturity needed for the process. The same reform also requires that any contact between the adoptee and the birth family be done through the CA. Lastly, in Burkina Faso, it was made compulsory in 2013 for both the child and the adoptive family to receive preparation and support for meeting the birth family.

Support based on the identified needs

In the initial stage, this support usually takes the form of guidance and counselling for individuals embarking on a search for origins. At this point, the challenge for the professional will be, firstly, to explore and identify with the individual the real needs underlying their actions; and then to instigate the appropriate process that reflects this. In practice, some adoptees will be satisfied with gaining access, through their CA or the CA in the country of origin, to summary information such as where they lived prior to adoption and what region they came from. Others will feel a need to go and visit the country of their birth. They will be guided by a certain pull towards this second culture, which is a deep part of them and calls to be experienced. Thus, in the case of intercountry adoption, visits to the country of origin are organised through a variety of different initiatives: the personal initiative of adoptees or their adoptive parents; or through programmes suggested by adoptive family associations, AABs; or through the countries of origin themselves (eg. Colombia, Chile, Philippines, Republic of Korea, Thailand, and, more recently, China). Lastly, some adoptees will only be satisfied in their search if they meet their birth parents. The professional will therefore provide advice and guidelines on the steps to take in each of these cases.

Their role will also involve encouraging the individual to express his or her expectations, hopes and fears.

Multifaceted support

In some Australian states, Belgium, Germany and South Africa, there is a great diversity of professional support available, such as: counselling and mediation services; help with accessing information; tracing; and the provision of specialist staff. In particular, the Australian states of New South Wales, South Australia, Tasmania and Western Australia have seen the introduction of state and private services shaped by professionals from a variety of backgrounds, with skills specific to the adoption field. For example, *ISS Australia* in New South Wales provides a family tracing and reunification service, for both intercountry and national adoptions. In Luxembourg, the *Maison de l'Adoption* is a resource centre funded by the State, established in 2007 for all those involved in adoption. Among other things, this centre offers support to adoptive parents and adoptees, both before and after adoption. As required, it also provides free and confidential consultations, parent coaching and/or therapeutic support, mind and body workshops, and professional training. Some countries, such as Brazil, indicate a lack of specific programmes in this regard. Others highlight their lack of resources for this area of work (eg. Burkina Faso, Dominican Republic, Netherlands, Norway, South Africa, and Sweden).

It is also important not to overlook the support needs of birth parents. It is equally important that they receive professional support, whether it is them or the adopted child who initiated the search process. Currently, an increase is being seen in the number of birth parents undertaking this type of search. In light of this, some receiving countries are

amending their legislation to protect the rights of adoptees and adoptive families. Some ISS members active in countries of origin provide a certain level of awareness raising and support for birth parents.

Support adapted to all circumstances

Lack of information

Where an adoptee has to abandon his or her search because the records are missing or have been destroyed, there is a need for more sensitive, tailored support. This situation is unfortunately not without consequence and presents a challenge, as identified in the Dominican Republic. Until recently, many countries did not have formalised adoption procedures (only private or informal adoptions based on a direct arrangement between the birth parents and adoptive parents) or had no regulations on retaining and archiving information. This left adoptees with very little chance of accessing their origins. In private adoptions, which the international community strongly opposes¹²⁵, there might be no traces left. This has been particularly identified as a problem in Germany. Where an adoption has been subject to a legal ruling, there is still the possibility of contacting the competent court, however it can be somewhat complicated to access judicial archives. Other alternative records that can be used in a search include the civil register, social enquiries and police investigations following the abandonment of a child, or the documents recording the birth parents' consent to the adoption. There is also the potential to trace the lawyers and notaries who played a part in the adoption, or the relevant local authorities, orphanages or nurseries.

In the absence of information on the birth family, the trained professional can still pass on objective data to the adoptee, such as: the circumstances surrounding his or her adoption; aspects of his or her history (or probable history); and the political and social environment at the time of the adoption, based on the professional's knowledge of the causes and specifics of child abandonment in the country of origin concerned. In addition, the professional could suggest that the adoptee writes a letter, to be held in his or her records, in case birth family members ever get in touch. The adoptee could also be encouraged to use his or her own imagination. The lack of access to their origins means that he or she will have to show creativity in reconstructing them. Certain films created by adoptees indicate that use of the imagination, especially through art or music, can really help in building their identity and in reconstructing the jigsaw of their lives. Although some of the original pieces will always be missing, there is no reason that new ones cannot be invented and slotted into the rest of the jigsaw.

As we are reminded by French psychologist and psychoanalyst Sophie Marinopoulos, what really counts is the narrative, the story that the adoptive parents and adoptee create based on the information available, even if such information is limited. It is not so much the content of the information but the way it is communicated to the child that will be crucial to the development of his or her life story (*see section 1.3.4*).

New information

In cases where new and sensitive information is added to the record, ISS/IRC recommends conducting a multidisciplinary assessment of the impact of this information on the adoptee's life, and the most appropriate way of communicating it, if at all.

Discovery of illicit practices

During a search for origins, it is possible that the adoptee will find that illicit practices were involved in his or her adoption, for example a forged birth certificate or forced consent by the birth parents, amounting to abduction. In light of this, it is important to inform and prepare the adoptee for this possibility right from the start of the process. There is provision for specific counselling for this specific hypothesis in Belgium and Quebec. Through its 2016 handbook, *Responding to illegal adoptions: A professional handbook*, ISS/IRC showcased the various initiatives being taken by governments, civil society and individuals in the adoption triangle, to address these sensitive situations (see *III.1.10* for further details).

Support provided by improved services and trained professional

Overall, some improvements to post-adoption support services have been observed in recent years. These improvements take various forms, for example: increasing and/or stable budgets

(eg. Belgium, South Australia,); development of coordination and collaboration protocols (eg. France, Spain); introduction of registers to facilitate adoptees' access to bodies holding data on their origins (eg. the *UK*); dedicated staff within the CA to manage searches for origins (eg. France, Québec and *Switzerland*); published recommendations on procedure (eg. Ireland, *France, Québec*); awareness-raising for countries of origin; inclusion of support for adoptees in search for origins, and development of this support, in agreements between CAs and AABs; and sharing of resources (eg. France, Ireland, UK). Some countries, such as Denmark, have also undertaken policy assessments into post-adoption support needs.

Additionally, a number of one-off training sessions have been held, including in Switzerland in 2018, in France in November 2017 on the role of origins in the adoptive family, and in Belgium in June 2017 on viewing administrative records, which was aimed at concerned professionals. Ongoing training is also provided in various countries (eg. France (*COPES*), Malta, Spain, Australia (South Australia) and the UK (CoramBAAF)).

ISS/IRC advocates for professional support for all involved in a search for origins to be written into legislation. Receiving countries and countries of origin must ensure that quality support is provided, especially in case of sensitive circumstances such as the discovery of illicit practices.



3. The importance of peer support

The importance of peer support during a search for origins was highlighted many times throughout the survey responses. Indeed, some adoptees can find it difficult to confide in those close to them, or in an unknown professional. In these cases, it can be helpful to meet and talk with other people who have been adopted.¹²⁶ These support groups present an opportunity not just for discussion, but also for cultural activities relating to the country of origin, including visits, and they often provide individualised support. Peer support is recognised as a key feature during a search for origins, given the emotional impact the adoptee may feel before, during and after the search.

In view of this, the importance of providing support to adoptees, especially through

group work, has been recognised in UK law: “Since January 2006, local authorities are required (...) to provide adopted children with opportunities to meet (...)”.¹²⁷ Meanwhile, CoramBAAF has recently published a *Good Practice Guide*, which shows that groups are a very helpful and popular tool for children and young people, and that they unquestionably help children to develop a sense of identity and to improve family relationships. This practice guide also gives very practical advice on setting up and sustaining these groups.¹²⁸

Some receiving countries have seen numerous organisations develop over the years. These are sometimes specific to a particular country of origin, such as *Racines Coréennes* and *l'Association Française*

¹²⁶ See Monthly Review No 218, January/February 2018.

¹²⁷ HMSO, 2005, Adoption Support Services Reg. 31a).

¹²⁸ Bond, H. (2016). Group work with adopted children and young people. CoramBAAF. Available at: <https://corambaaf.org.uk/books/group-work-adopted-children-and-young-people>.

Orphelins de Roumanie in France, *GOAL* in the Republic of Korea, and Born In Lebanon for adoptees from the Lebanon. Others are general, such as *La Voix des Adoptés* in France, the post-adoption service *l'Envol* in Belgium, *La voz de los adoptados* in Spain, *United Adoptees International* in the Netherlands, and *Espace A* in Switzerland. These organisations provide support additional to that of a CA, AAB, professional, friend and/or family member. In *France* and in *Quebec*, the CA has provided on its website a list of organisations for adoptees

and adoptive parents that are recognised as trustworthy.

ISS/IRC encourages the establishment of discussion groups, whether for adoptees, adoptive parents or birth parents. As Nathalie Parent, chair of the French organisation *Enfance et Familles d'Adoption*, puts it so well, "Sharing difficulties, or what is perceived as such, sometimes helps to de-dramatise what is, after all, a known difficult period. These groups can also provide a place of refuge and an outlet to express emotions."¹²⁹

¹²⁹ See N. Parent (2017). *Providing peer support in case of difficulties* in Jeannin, C. (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns* International Social Service. Geneva, Switzerland.



III. How to respond to current challenges?

1. Recurring challenges

The countries that participated in the survey referred to major challenges, that demonstrate the need for both domestic and international measures to improve conditions for adoptees in exercising their right to access their origins.

1.1 Lack of, or misunderstanding of, legislation

In response to these concerns, organisations for the protection of human rights and of children, as well as adoptee organisations and others, could undertake lobbying

activities seeking to have a right to access origins, governed by national law, introduced. These actions could be based on international agreements (CRC and the 1993 Hague Convention). Tools such as the documents produced by the Committee on the Rights of the Child (Concluding Observations to countries¹³⁰ – *see section 1.2.1.1*) or the Handbook on Legislative Reform¹³¹ published by UNICEF in 2007 could prove useful. We should not forget that this lobbying of governments, to harmonise their national laws with the CRC, represents

130 See <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> and the *Implementation Handbook for the Convention on the Rights of the Child*, UNICEF, revised 2002.

131 Available at: http://www.unicef.org/crc/files/Handbook_on_Legislative_Reform.pdf.

one of the core activities of UNICEF and other international organisations such as ISS. Meanwhile, improved awareness of conditions for exercising the right to access origins, in partner countries for intercountry adoption, should be promoted, encouraged and facilitated, particularly by international organisations.¹³² In general, countries should be encouraged to introduce specific programmes or legislation and guidelines on this issue, as has been done in Chile,¹³³ *France*, *Ireland* and Québec.¹³⁴

1.2 Lack of communication between competent authorities and risks relating to number of actors

A search for origins usually involves a number of different services, across two countries. Several countries have highlighted the lack of communication and cooperation between these services, as a factor which can lead to some delay in handling search for origins requests, and tempt adoptees to do it on their own. In addition, at the international level there are increasing numbers of intermediaries involved in the search for origins. This expansion is not always backed-up by accreditation and supervision for these intermediaries, and so it calls for a high degree of vigilance (*see section II.1*).¹³⁵

1.3 Barriers linked to cooperation between receiving countries and countries of origin

This issue should form part of the programme for cooperation between countries of origin and receiving countries. It should also be included on the agenda for international conferences bringing together actors in intercountry adoption, especially the CAs of countries of origin and receiving countries, such as the Special Commissions on the practical operation of the 1993 Hague Convention. Some receiving countries and countries of origin have conflicting views, for example on how to balance a birth mother's right to remain anonymous with an adopted child's right to know her. There are also variations among receiving countries in legislation and practice on how to proceed when a birth family tries to trace the adopted child. This causes complications for countries of origin handling these cases (*see section 1.2.2*). Lastly, legislation to grant access to the 'original' birth certificate should also be encouraged (as in Germany, New Zealand¹³⁶ and the US states of Rhode Island and Connecticut).¹³⁷

1.4 Lack of professional framework and of appropriate training for professionals

The issue of origins should be discussed with both the child and the adoptive parents, not only during their preparation for adoption

132 This ISS/IRC's study and its new *Guide to the search for origins* seek this purpose; See also the survey previously conducted by ChildONEurope, available at: <http://www.childoneurope.org/issues/adoption2.htm>.

133 See sub-programme developed by SENAME (Servicio Nacional de Menores de Chile): <http://tierra.sename.cl/difusionadopcion/BusquedaOrigenes.aspx>.

134 Secrétariat à l'adoption internationale, *La recherche des origines des personnes nées à l'étranger et adoptées par des personnes domiciliées au Québec*.

135 See also pages 20-23 of the 2018 ISS guide *Intercountry adoption and search for origins: A guide for adoptees*.

136 See Adult Adoption Information Act 1985: http://www.legislation.govt.nz/act/public/1985/0127/latest/DLM80513.html?search=ts_act_adult+adoption+information_resel&p=1&sr=1.

137 For more information on the law in the State of Rhode Island, see: http://www.childadoptionlaws.com/child_adoption_laws/adoption_laws_rhode_island.htm; for more information on the law in the State of Connecticut, see: <http://1.usa.gov/gVO5U9>. See also 2010 report from the Evan B Donaldson Institute on restoring adult adoptees' access to their original birth certificate: https://www.adoptioninstitute.org/pubs_cat/access-to-original-birth-certificates/.

– addressed by recommendations at the latest Special Commissions in 2010 and 2015¹³⁸ – but also during post-adoption follow-up. Countries need to strengthen their post-adoption services, to ensure that access to origins receives proper attention, as well as an adequate budget and human resources. Training for skilled professionals in this area could be improved, particularly through including family mediators and psychologists in service provision.

1.5 Sociocultural barriers

At the time they put their child up for adoption, birth parents often find it hard to imagine that their child could try to contact them in the future. In some countries of origin, the staff of institutions that take on care of children feel it is their duty to protect the birth mothers, and consider that children adopted abroad are already lucky. To avoid these pitfalls, the birth parents should be made aware when consenting to the adoption, and the institutional staff should understand, that a certain balance needs to be found between protection of the birth parents and the right of the adoptee to know his or her true identity one day.

Incidentally, the situation is even more sensitive if the secrecy of the birth parents is rooted in cultural considerations (eg. children born outside marriage or to single mothers, who are denounced and stigmatised in the Republic of Korea¹³⁹; children said to result from incest or adultery in Burkina Faso; children seen as a curse such as 'child witches' in Benin; or adoptions carried out in Jamaica or Zimbabwe). Such situations demonstrate a need to be aware of the

specific cultural context in each country. The adoptee will in fact have to be made aware of these customs, and supported in finding an alternative route to reconstructing his or her history. For example, this could be through the communication of non-identifying aspects of their history (the circumstances of their abandonment, details of pre-adoption care, sociocultural aspects of the country of origin, etc), or through encouragements to use their artistic creativity and imagination.¹⁴⁰

1.6 Lack of openness and support for adoptive families

It can be difficult for adoptive families to demonstrate openness despite their preparation courses, and some will tend to put off disclosing the adoption.

In line with Paragraph 21 of the Conclusions and Recommendations of the Special Commission 2015, this issue should be routinely discussed during information and preparation sessions for prospective adopters. It has been observed that families often feel ill equipped on this issue and call for tools that could help them handle the disclosure. (These could, for example, include the use of stories and/or photo albums, other people's testimonies, imagination and humour, or roleplay that professionals can use to work through this issue with parents.) To help with this, the Spanish organisation for preparing prospective adopters, ADOPTANTIS, has introduced workshops specially dedicated to the subject. Meanwhile, the *Agence Française de l'Adoption* has prepared a booklet on this theme, in its *Cahiers Psy* series for prospective adopters¹⁴¹ (see section 1.3.4).

138 Recommendations 29 of 2010 and 21 of 2015.

139 "The stigma of being a single mother in South Korea" <https://www.aljazeera.com/indepth/features/stigma-single-mother-south-korea-180226144516720.html>; "Social stigma of being an unwed mother in South Korea remains strong" http://english.hani.co.kr/arti/english_edition/e_national/830741.html.

140 See the account by the organisation Espace A in Monthly Review No 6/7, June/July 2010, page 6.

141 Cahier Psy 9, « L'enfant adopté a une histoire », <http://www.agence-adoption.fr/lafa-vous-informe/cahiers-psy/9/>.

1.7 Loss or dispersal of data

To avoid this problem, the introduction of regulations stipulating that data are centralised within the competent authority for adoptions, and retained indefinitely, should be encouraged (as in Andorra, Burkina Faso, Norway and South Africa). A recommendation to this effect was adopted at the 2010 Special Commission on the practical operation of the 1993 Hague Convention.¹⁴² At the same time, data destruction should be prohibited by law or by public policy, as in the Canadian State of Saskatchewan or in the Netherlands. Lastly, some countries referred to the lack of digital records, or to incomplete records, as a barrier to search for origins (*see section 1.3.2*).

1.8 Lack of knowledge of the field of adoption

Sometimes adoptees embark on a search for origins on their own, because they do not know what organisation handled their adoption, or they are not aware of the actors involved in adoption. In addition, birth

families sometimes simply do not know of the existence of CAs. The search for their adopted child then depends on the goodwill of the competent authorities, especially as practices vary among countries of origin: some will reject requests of this nature, while others will accept them and contact the receiving countries involved, so they can cooperate in handling the request.

1.9 Practice of private and independent adoptions

Although it is advised against, some countries still allow private and independent adoptions. This results in an individual, who has been adopted without the assistance of an adoption service, often not being able to access his or her adoption records. A particular issue that exists in Germany is that an individual adopted privately cannot receive help from a professional working for an adoption service. It should be noted that, in these situations, *ISS Germany* may be able to fill this gap.

ISS publications on illegal adoptions

- *Investigating the grey zones of intercountry adoption reports* on multiple cases of illicit activities related to intercountry adoption around the world over the last 50 years.
- *Responding to illegal adoptions: a professional handbook* includes testimonies highlighting the harsh reality and challenges faced by adoptees and their families, and also outlines promising practices introduced in response to illegal adoptions, from legal but also from psychosocial, social and political standpoints.

142 Recommendation 28 of the 2010 Special Commission: "It was recommended that receiving states and states of origin preserve adoption records in perpetuity. The record must contain the information referred to in Article 16 and, to the extent possible, any other information or personal items relating to the child or his or her birth family."

1.10 Illicit practices discovered during a search for origins

The term 'illegal adoption' covers a variety of practices. In general, these are illegal practices that have taken place prior to the adoption decision, for example: forgery of documents such as the child's birth certificate; bypassing of regulations; improper financial gains; or forced consent (*see section II.2*).

Where such discoveries come to light, family mediation can once again play a vital role in these very sensitive situations. Situations, which will have major psychological

implications for the individuals involved (anger for the adoptees, double loss for the birth parents, liability and guilt for the adoptive parents, etc). It can also prove very useful to establish support groups and tailored psychological follow-up. These are approaches that are currently under consideration in Spain, in response to the many illicit practices from the 1960s to 1980s that have recently been exposed. Organisations such as *La Voix des Adoptés* in France¹⁴³ have also been established to support adoptees dealing with this type of situation.



2. Challenges of the modern world

Other challenges are emerging with the proliferation of new technologies, especially the spread of social media such as Facebook, WhatsApp and YouTube, but also through recent techniques for medically assisted reproduction. Such developments can make the process more complicated for individuals searching for their origins – or, conversely, dangerously easy.

2.1 Use of social networks

Advantages and risks

There are many reasons for people to use social networks to search for members of their birth family, due to the very nature of new technologies: the capacity for independent research, the speed, the lack of cost, the opportunity to stay in touch, and a degree of virtualisation of the process allowing, at least superficially, some emotional distance.

Searching for my origins through social networks: testimony by Ina Dutanjani Dygaard, adopted from Sri Lanka¹⁴⁴

“You need to be well informed before you start. Social networks give the impression that the world is small, but they can’t guarantee you will find the right person. It’s also possible that the person in question will not respond to your attempts at contact. I’m aware of the opportunities provided by social networks but if you have other, more reliable, channels, I would recommend using those in the first instance.”

However, an adoptee and birth parents meeting through social networks, with no intermediary, can result in unfortunate situations, giving rise to negative emotional experiences or even conflict. Although connection through social networks can be beneficial in the absence of direct physical contact, it may lead to hasty and risky contact, without any support. The adoptee may then be confronted with the financial pressures of the birth family (see box). To give another example: parents who had adopted a young boy wanted, out of curiosity, to see if there were any photos of his birth parents on Facebook. They had no difficulty in finding photos of their son's birth mother; however, they had not

been prepared for seeing her comments, expressing her regrets and distress at what had happened, and saying that she would 'reclaim' her son when he turned 18. Lastly, there is a risk that, in the absence of a DNA test, the birth family may make contact with the wrong person.

Such risks are mainly due to the total absence of professional support, prior preparation for the individuals involved, or protection of the privacy and confidentiality of personal data. By entering into direct contact with the parent they are seeking, the adoptee may put the safety and physical wellbeing of the birth mother at risk, for example due to religious, cultural or circumstantial factors, as explained above.

In her guide *Social networking and you*, Eileen Fursland offers ready-made phrases that an adopted child can use if contacted by his or her birth family through social networks.

"I didn't expect to hear from you. It's a shock and I need some time to think about it. I'll talk to my father and/or mother about it."

"I'm well, thanks, but I'd prefer not to have contact for the moment. I may think about it again once I'm over 18."

"I'm very happy to hear from you. I hope you are well. I'll talk to my father and/or mother about it, and I hope we can stay in touch and get to know each other."

Attempts to respond

Countries are relatively powerless in the face of these risks. It would be completely unrealistic and impossible to introduce controls on social networks.

All that can be done at the legal level is to impose fines for breaching the confidentiality of certain data. However, the state of Western Australia indicates that, although its adoption law prohibits the infringement of confidentiality clauses, prosecutions are very rare. The fact remains that countries have still not adopted regulations and guidelines in this area. This leads the professionals and

individuals involved to try to develop their own strategy for managing this situation, which they feel is out of their hands. Some individuals may, for example, find more information through the use of social networks than the competent authorities were able to provide them with. Conversely, as the laws and regulations do not reflect this reality, authorities can sometimes be put in an awkward situation where they are unable to use information found on the Internet. In both situations, the issue of respect for the privacy of all parties concerned arises.

A secure online meeting place

In the UK, a virtual contact centre has been introduced to enable a safe and secure electronic meeting. This gives the adoptee the opportunity to contact his or her birth parent online, without divulging either's identity. In addition, the process involves a moderator who is alert to any potential risks and acts on any inappropriate questioning or language. For example, if the birth parent asks the child for his or her mobile number, the moderator steps in, blocks the message being sent and starts a conversation with the parent involved.

On a practical level, countries and professionals have an obligation to educate adoptive parents, as part of preparation for adoption (as in Belgium, Norway and Portugal), or during conversations prior to a search for origins (as in New Zealand and the Netherlands), on the dangers of using social networks. In Tasmania, for example, this issue is raised during advice and guidance sessions for individuals searching for their origins. These sessions include discussion about the different ways of getting in contact with birth parents. Against this background, people are encouraged to conduct their search through the competent authorities. Other CAs, such as in *Quebec* and *Sweden*, warn individuals of the risks involved in personal initiatives, by publishing recommendations about this on their website. In addition, CAs warn them that any attempt to directly contact the parent they are seeking can lead to problems: if the parent was not expecting it; if the parent was not prepared or had not consented to a reunion; or if they find the wrong person. In other countries, such as Burkina Faso, the government runs wider awareness-raising campaigns in relation to meeting over the internet and cybercrime.

The UK professional training organisation CoramBAAF has also created two guides to address this risk, one for adoptive parents and one for professionals.¹⁴⁵ These publications help readers to learn about the functioning and use of the internet and social networks, and ways of protecting their child's privacy. It is not a question of becoming anti-internet, but of being aware of the risks posed to users, and ways of avoiding these risks. Numerous factsheets for adoptive parents on the use of Facebook have also been developed by various organisations, such as *Adoption Search Reunion*.¹⁴⁶ Meanwhile, two new publications are also helping to raise awareness of the role of social media in the search for origins. The first, *Life Story Work*¹⁴⁷ is aimed at professionals, while the second, *Social networking and you*¹⁴⁸ is designed for adopted children. The publication *Bubble Wrapped Children* is also worth highlighting, as it offers practical solutions for the parents of adolescents who have reconnected with their birth family through Facebook.¹⁴⁹

145 See Bibliographical resources.

146 In particular, see the factsheets developed by [Creating a Family](#) and [Michigan State University](#).

147 See ISS/IRC Monthly Review No 215, September 2017.

148 Fursland, E. (2013). *Social Networking and you*. CoramBAAF.

149 See Monthly Review No 212, May/June 2016, page 11.

2.2 Use of DNA databases

There is also increasing use of DNA databases in the search for origins, with all the precautions that this requires. Many questions need to be asked to ensure, in particular, the ethics, professionalism, and effectiveness of the database chosen. For example, the following should be checked: the site's data confidentiality policy; the transparency of processing fees; the database's reputation; how long it has been in existence; the availability of support if there is a match with a birth relative; 'input' from individuals from the countries of origin; trustworthiness (particularly in countries with high fraud risk); and so on.

ISS member in the Netherlands, *FIOM*, runs a database for individuals conceived by donor.

"This database, together with the opportunity to meet up with an anonymous donor under the supervision of an experienced professional, represents significant progress."¹⁵⁰ As well as its role of matching donors with donor-conceived individuals, *FIOM* offers a mediation service to manage meetings between the various parties.

2.3 New methods of medically assisted reproduction

New technologies are also emerging in the field of medically assisted reproduction. For many decades, it has been possible to conceive a child through the use of a donor or even a surrogate mother, and there has been a significant increase in this practice. The use of artificial wombs is now starting to be discussed as a 'novel' way of conceiving a child. These methods of medically assisted reproduction are presenting a challenge to professionals, and they call for new ideas and tools to guarantee the right to access origins and to identity, no matter how they were conceived.¹⁵¹

Donor-conceived children

Testimonies from individuals born with the help of a donor (see box below) already show how important it is to address the issue of identity and access to origins. Some countries, such as the Netherlands, have already passed legislation in this area,¹⁵² and developed new tools for tracing and contacting the donor (see box above).

150 For further information, please see ISS/IRC Monthly Reviews No 218, January/February 2018, and No 219, March 2018.

151 For further information on artificial wombs and their intersection with the right to identity, please see Page, C. (2017). *Artificial Womb Technology and the Safeguarding of Children's Rights Through an Analysis of the Right to Identity*. <https://www.universiteitleiden.nl/binaries/content/assets/rechtsgeleerdheid/instituut-voor-privatrecht/jr-page---thesis-2017.pdf>.

152 This area is governed by legislation in some countries, such as Portugal (Article 15 of Act No 32/2006 of 26 July 2006; Decree No 5/2008 of 11 February 2008), Sweden, Austria (see p.119 of Implementation Handbook for the Convention on the Rights of the Child, UNICEF, revised 2002), etc. In other countries, such as Denmark, we find a legal vacuum. This situation is a cause for debate and is already giving rise to studies, such as the one published by the Donaldson Adoption Institute (United States) in June 2011. According to this study, 80% of children born through IVF or donor insemination wish to know the identity of the donor, and to have some degree of contact with them (see: *Offspring searching for their sperm donors: how family type shapes the process*, <http://bit.ly/mRH6UJ>). See also the same Institute's report: *Old Lessons for a New World: Applying Adoption Research and Experience to Assisted Reproductive Technology*, https://www.adoptioninstitute.org/wp-content/uploads/2013/12/2009_02_OldLessons.pdf). An article published in the US around the same time also highlights the trend towards greater openness by parents when children demonstrate this need to lift the secrecy surrounding their origins (see: *A New Openness For Donor Kids About Their Biology*, National Public Radio story, 17 September 2011: <http://n.pr/nljqYa> and also <http://n.pr/qmypos>).

Testimony from a donor-conceived individual: the importance of knowing one's identity

“Meeting and forging a relationship with my donor has completely changed me: I am no longer angry with the world, my anxiety has reduced, I know where my interests and certain personality traits come from. I finally understand who I am. The missing pieces in the jigsaw of my life are slowly falling into place. My donor and I are now searching for my nine other siblings, one of whom we recently found: a lovely sister!” The full testimony is available in Monthly Review No 203, July 2016.

Children conceived through surrogacy

Another issue which now arises is the origins of children born through surrogacy. “The number of stakeholders involved in the process of surrogacy may vary from three to five persons. (...) The child’s genetic, biological and legal bonds are multiple, due to the dissection of the reproductive process and the division within the family. (...) This multiplicity of parentage may lead to questions similar to those of adoptees in terms of relationships and knowledge of their origins. (...) For these children, the causes of difficulties in accessing their origins may be numerous: the anonymity of gamete donors in some countries, the resort to a surrogate mother in a distant country, the absence of legal or administrative records regarding the use of this third person and the silence of the intended parents. (...) Surrogacy is rapidly expanding and it is essential to consider the consequences this process may have for the identity-building of children born from this technology.”¹⁵³

In March 2018, the Special Rapporteur on the sale and sexual exploitation of children included a study on surrogacy in her *Annual Report*. This includes recommendations on how to uphold the prohibition of, and how to prevent, the sale of children in the context

of surrogacy. The Special Rapporteur’s recommendations include an invitation to the international community to “support the work of the International Social Service in developing international principles and standards governing surrogacy arrangements that are in accordance with human rights norms and standards and particularly with the rights of the child”. This reflects the fact that, starting with its Call to Action in 2013 which was renewed in 2016, ISS has been considering this issue and is currently developing, with a group of experts, international principles designed to address the potential challenges in relation to upholding the rights of the child in surrogacy arrangements. ISS also aims to provide practical guidelines for ensuring that children born to surrogate mothers may fully enjoy their human rights, including access to origins.

In addition, the Committee on the Rights of the Child has repeatedly issued recommendations on access to origins for children born through surrogacy, for example, to *Israel* in 2013 and to *Georgia* in 2017 when the Committee recommended that the states “ensure that a child born through surrogacy motherhood will be able to get access to the information about his or her origin”.

In addition to these international initiatives, although the *European Court of Human Rights* has stated that the prohibition of surrogacy does not infringe the *European Convention on Human Rights*, it has recognised that refusal to transcribe the child's parentage (namely, with respect to the birth father as recorded on the original birth certificate) constituted a disproportionate interference in the child's right to a private life, protected by Article 8 of the Convention. The court's reasoning reflects the fact that biological parentage is a fundamental part of each person's identity.¹⁵⁴

States and professionals as well as families encounter many challenges in the search for origins, in relation to new technologies and new methods of medically assisted reproduction. ISS/IRC commends the numerous initiatives developed around the world and recommends that they are promoted and shared. Not only do such initiatives serve to inspire professionals, they also help to change attitudes about new family structures. In this context, ISS/IRC emphasises the need to always place and keep the child at the heart of discussions.

154 Extract from presentation given by Laurence Bordier at the symposium *La recherche des origines : enjeux actuels et perspectives* held in Biel in May 2018.



Recommendations

The statistics provided for this survey demonstrate that there is a constant increase in the number of searches for origins undertaken. ISS/IRC hopes that this document will provide support for all those involved in adoption – adoptees themselves, their birth and adoptive families, and also the various professionals working in this field – to ensure that these searches are conducted with respect for the rights and needs of all involved.

In light of the proliferation of search methods, it is important to provide international, regional and national frameworks for the process, and to ensure that the multidisciplinary teams of professionals are equipped and trained.

- Ensuring an appropriate legal framework in accordance with international standards

- **Fulfilling commitments in accordance with international instruments:** ISS/IRC endorses the various recommendations made by the Committee on the Rights of the Child, and during the various Special Commission meetings. Countries are encouraged to ensure legal recognition for, and effective application of, access to origins; in particular through the allocation of adequate financial and human resources.
- **Adoption of a national law or regulation on the search for origins:** This would enable harmonised case-management in search for origins. It should include the following aspects:
 - Involvement of the competent authorities

- Mandatory multidisciplinary professional support
- Preservation of information indefinitely in a secure format (digital archiving)
- Assisted communication of information
- Awareness-raising and preparation for adoptees and their adoptive and birth parents
- Avenues for reaching a consensus in the event of conflict of laws, or a conflict between individuals, with use of mediation if necessary
- Particular attention to the use of new technologies
- Providing for professionals to be equipped and trained for the search for origins process
 - Ensure that the need for ongoing **training** of professionals in the practical and legal developments in the adoption field, and especially in the field of search for origins is met. In this regard, the activities of ISS/ IRC are designed to raise awareness among professionals, provide tools, and promote sharing of best practice.
 - Professionals have clearly expressed their need for a **database**, at the national and international level, which acts to bring together all search for origins services. (This is a need which has been highlighted by numerous professionals).
- Ensuring all in the adoption triangle are equipped
 - **Awareness-raising, preparation and support for adoptees** in the various aspects of a search for origins.
 - Awareness-raising activities may occur through various channels, including the adoptive parents, CAs, AABs, or NGOs such as ISS.
 - **Awareness-raising, preparation and support for birth relatives**, at the time they consent to the adoption, but also when they wish to obtain information about the adoptee.
 - **Awareness-raising, preparation and support for adoptive parents**, mainly during their preparation for adoption, but also when the adopted child wishes to find out about his or her origins.
- Developing new strategies in response to new technologies and methods of medically assisted reproduction
 - CAs and NGOs should encourage adoptees to use the **official channels**, to avoid the risks involved in the use of new technologies.
 - The child’s right to know his or her birth parents, and everyone involved in his or her conception, should be respected as far as is possible.
- Improving responses to the discovery of illicit practices during a search for origins
 - **Development of appropriate legal responses** (eg. prosecutions, fines, compensation) **and political responses** (eg. enquiry, official apology).
 - Introduction of **protocols** within the CAs to help professionals manage these situations appropriately and consistently.
 - **Improvements to psychological and social support services** for victims.

Although for more than a decade the number of adoptions across the world is declining, the search for origins remains a key issue. This is because adopted children grow up and their needs change over the course of their lives. Access to origins is among these needs. More broadly, these needs are the responsibilities of both receiving countries and countries of origin to protect and safeguard the rights granted to adoptees throughout their lives by national and international instruments. This is a responsibility that may extend to the adoptee's descendants – a search for origins may be undertaken by one of their children or grandchildren. So, yes, intercountry adoption does have a future – that of the adoptees; and that of their relatives and descendants. It follows that countries must strive to develop and improve pre- and post-adoption support for adoptive families, and must recognise the important role of search for origins, through the allocation of sufficient material and human resources to address the needs and rights of those persons in the adoption triangle.



Appendix: ISS action in the field of search for origins

Re-establishing family links: A core mission of the International Social Service

Re-establishing links within families separated by borders is the core mission of the International Social Service (ISS) which, based on its long-lasting experience, has developed a methodology, including for the search for origins by adoptees.

ISS history

For the last 94 years, ISS has been providing multidisciplinary, professional and legal social services, upholding the best interests of children, individuals and their families. The idea of an international social service was first discussed at an international conference in 1914, when delegates from 17 countries concluded that international action was necessary to help migrant women. It is only after the World War I that the Young Women's Christian Association (YWCA), recognising the void in international protection of families and children, decided to take action.

Because no organisation existed to respond to the needs of these migrating families, YWCA leaders realised that a new type of social services for separated families and children was needed. In 1924, and realising the need to create a new organisation dedicated to migration, representatives from the USA, the United Kingdom, Czechoslovakia, France, Greece, Poland and Switzerland founded the International Migration Service in Geneva, which was then renamed in 1946 the International Social Service to better reflect its global mandate.

International casework services delivered by ISS: What and how

Today, ISS is an international federation of 130 interconnected non-governmental organisations and child protection authorities that have the capacity to assist children and families facing complex cross-border social situations. In some countries, there may be more than one ISS partner such as in Germany, where there are two representations.

This intercountry casework service is based on international standards, such as the UNCRC as well as the Hague Conventions on family matters. This service can be divided into seven core activities: (1) child protection, (2) child abduction, (3) family welfare/custody and access, (4) adult protection, (5) unaccompanied children, (6) surrogacy/donor-conceived persons, and (7) adoption and post-adoption.

According to ISS rules and procedures, all requests for ISS services have to be referred to the national ISS partner. This means that persons seeking assistance have to contact the national ISS office, who will act as the entry point. The request will then be handled according to ISS methodology, in collaboration with the ISS office where the service is requested. In countries, where the ISS partner has no expertise to provide assistance on family tracing and reunification matter, they should be able to refer further or advise the enquirer. Furthermore, in countries where ISS is not represented, the ISS General Secretariat, which is located in Geneva, Switzerland, tries to refer the persons to the competent authorities or reliable organisations to get further support and advice. The ISS methodology is

developed in its internal casework manual, which is currently under review.

It should also be noted that intercountry casework service capacity and expertise vary according to the context. In other words, not all ISS partners have the same resources and expertise in handling intercountry casework.

Family tracing and reunification in the field of search for origins

Family tracing and reunification¹⁵⁵ are part of the services provided under the activities of family welfare/custody and access, unaccompanied children, surrogacy/donor-conceived persons, adoption and post-adoption. It refers to the assistance ISS provides in tracing family members when the whereabouts of the family are unknown. The ISS General Secretariat estimated that the total number of cases including phone and email enquiries handled by the ISS network in 2016 could be estimated at 20,000 family tracing cases and 14,000 family reunification cases.

Alexander was adopted in 1957, some months after his birth, by a stationed US couple. His three years younger sister Maya never had the chance to meet him. In 2015, she therefore contacted ISS Germany in Frankfurt and asked for support in searching for her brother. With the help of ISS USA, it was possible to find Alexander in a short time. The siblings started to write letters. Alexander was very happy about the search undertaken by his sister, and said: 'Words cannot describe how I feel; it is like a new chapter of my life is unfolding'. For Alexander, it meant a lot that his sister wanted to know

him, as he often feels alone in the USA. Alexander did not have a good childhood; his adoptive parents died some years ago, and the contact with his adoptive siblings stopped. Maya and Alexander also started to call each other, and they have had daily contact through Facebook, which made the contact easier and closer. Both are very happy that they have found each other. In March this year, three years after the first letter, Maya planned to visit her older brother in the USA. Both were excited and happy about the upcoming meeting.

Our casework practice has shown that many adoptees feel the need to access information about their birth family, country of origin, culture, language, genetic heritage, and this can be a very sensitive process for individuals, who have minimal support and knowledge of how to navigate overseas adoption records or access information from their country of origin.

Considering the sensitiveness and complexity of this process, the services offered by ISS prior, during and after the search for origins are key. Indeed, ISS social workers provide:

- **Counselling before starting the search:** They explore together with the adoptee what their expectations, wishes and motivation are to start the search
- **Support during the search:** They help adoptees to gather information, perhaps by contacting the authorities within the country of origin if information is missing; they put the information together to allow the partner in the other country to do the search

155 For further information, see the ISS factsheet on family tracing at: http://www.iss-ssi.org/images/advocacy/Tab1-ISSAdvocacy/Fiches_Advocacy/Tracing_factsheet_ANG.pdf.

- **Tracing:** They share the available information with the partner in the other country, or scan the information received by the partner to see what steps of tracing are possible (eg. getting contact with registry offices, youth welfare offices, churches, etc)
- **Counselling and support in case of reunification:** They give advice to adoptees on how to write a first introduction letter; they help them to put their wishes and needs into words without overwhelming the other side
- **Mediation services:** As long as both sides want to establish a contact using the ISS offices as points for exchanging letters, emails. Indeed, sometimes, people can be found but they do not react to contact efforts. In these cases, mediation is needed to allow the adoptee to understand the possible feelings or hindrances of the searched person without having the chance to discuss it personally. ISS also offers a place where to meet and offer to accompany first meetings
- Approach the overseas countries' Central Authority or Government for information on organisations that may be able to provide post-adoption services and support
- Conduct internet research and explore social media adoptee peer support groups, for information on professionals conducting search and reunion services overseas
- Liaise with the intercountry adoption groups and adult intercountry adoptees who may have information on potential search and reunion services overseas

Once the potential *Overseas Searching Partner* has been identified, the ISS social worker will establish contact by email or telephone to advise on the type of search required, the capacity to assist and the costs associated. Following this initial liaison, the background experience, capacity to assist and costs will be discussed with the ISS Manager in order to provide confirmation to proceed. The potential partner will then receive a '*Guide for searchers undertaking birth family search and reunion work on behalf of International Social Service*' (available at ISS/IRC) to understand and accept ISS working principles and standards. The ISS social worker will continually assess and monitor the progress of the new partner, with regards to communication, standard of casework practice and costs associated. One of the key principles of the casework practice is transparency and communication, for example, ISS requires updates on all activities related to the search, including what information has or has not been found at the time, in compliance with applicable data protection rules.

Identification of and work with partner in countries without the presence of an ISS member

Often a request for tracing is sought in a country where the ISS network does not have an established or reliable working member, therefore it is important for ISS to identify a new *Overseas Searching Partner* using the following means:

- Consult with the ISS General Secretariat and/or ISS/IRC and/or other ISS members for information on '*informal contacts*' providing search and reunion services for the ISS network

Aware of the current needs of adoptees looking for their origins, the actual challenges will be, among others, to strengthen the ISS network by identifying and training new partners to better support the individuals concerned; as well as to

find resources to provide these services for free or at least at a minimal cost. ISS also encourages governments to identify means to respond to those needs, such as the use of a professional DNA database, such as the one set up by ISS Netherlands.

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More information:

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AFIN, Grupo de investigación/acción sobre Infancia y Familia: www.afin.org.es.

The electronic bibliographical database of the ISS/IRC: <http://www.iss-ssi.org/index.php/fr/ressources/base-de-donnees-bibliographique>.

Subprogramme of the SENAME (*Servicio Nacional de Menores de Chile*) for adoptees interested in contacting their birth family, <http://medusa.sename.cl/buscandoorigenes/Home.aspx?changeidioma/es>

Organisations that are active in this field.

- Adoptados.org. Espagne. Projet de communauté virtuelle pour faciliter le contact entre les personnes adoptées. www.adoptados.org/.
- Canadian Council of Natural Mothers, *Canadian Council of Natural Mothers* Peer support for people separated by adoption. Support in search and reunion, on-line support and discussion group, shared experiences in and validation of adoption loss, library of adoption related book reviews, search tips and valuable links, across Canada membership, and more.
- South Australian resources:
 - [Post Adoption Support Service](#)
 - [Salvation Army Family Tracing Service](#)
 - [SA Link Up – Nunkuwarrin Yunti](#)
 - [Post Care Services](#)
 - [South Australian Chinese Adoption Support \(SACAS\) Inc.](#)
 - [World Families Australia Inc.](#)
- International Social Service. List of national branches and affiliated offices available at: <http://www.iss-ssi.org/2009/index.php?id=172>.

Non-exhaustive list of adoptees' associations:

- France
 - [La Voix des Adoptés](#)
 - [Racines Coréennes](#)
- Spain
 - [AFIN](#)
 - [La voz de los adoptados](#)
- Republic of Korea
 - [G.O.A.L.](#)
- Switzerland
 - Born in Lebanon
- The Netherlands
 - [United Adoptees International](#)



Published by:

International Social Service

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1201 Geneva, Switzerland

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www.iss-ssi.org

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