

## Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption

The Adoption Convention was developed to respond to the serious and complex human and legal problems in intercountry adoption. It gives effect to Article 21 of the United Nations Convention on the Rights of the Child (UNCRC) by adding substantive safeguards and procedures to the broad principles and norms laid down in the UNCRC. These substantive safeguards are aimed at ensuring that intercountry adoptions take place in the best interests of the child and with respect for the child's fundamental rights. The safeguards established by the Convention are only minimum standards, and Contracting Parties are therefore encouraged to improve these standards. The Adoption Convention recognises that growing up in a family is of primary importance and is essential for the happiness and healthy development of a child. It also recognises that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in their country of origin (*i.e.*, the principle of subsidiarity).

By setting out clear procedures and prohibiting improper financial or other gain, the Adoption Convention provides greater security, predictability, and transparency for all parties to the adoption. It also seeks to prevent illicit practices, including the abduction, sale of, or traffic in, children. The Adoption Convention establishes a system of cooperation between authorities in States of origin and receiving States, designed to ensure that intercountry adoption takes place under conditions which help to guarantee the best adoption practices and elimination of abuses. The Convention specifies the functions to be performed by each State in the process and makes clear that receiving States and States of origin must share the burdens and benefits of regulating intercountry adoption.

### Principal features of the Convention

#### *Best interests of the child are paramount*

The Adoption Convention gives effect to Articles 3 and 21 of the UNCRC, which provide that the best interests of the child should be the paramount consideration in adoption. For example, Contracting Parties should give due consideration to the principle of subsidiarity; ensure that the consent of the mother is only given after the birth of the child; ensure that the child is adoptable and prospective adoptive parents are eligible and suitable to adopt; and preserve information about the child and child's parents. The child's best interests should guide the child protection system; if intercountry adoption is needed as part of such a system, it should be ethical and child-centred.

#### *Principle of subsidiarity*

'Subsidiarity' means that Parties recognise that a child should be raised by their birth family or extended family whenever possible. If that is not possible, other forms of permanent family care in the State of origin should be considered. Only after due consideration has been given to suitable national solutions should intercountry adoption be considered, and then only if it is in the child's best interests. Institutional care should generally be considered a last resort for a child in need of a family.

#### *Safeguards to protect children from abduction, sale, and trafficking*

Parties should establish safeguards to prevent the abduction, sale, and trafficking of children for adoption by protecting birth families from exploitation and undue pressure; ensuring that only those children in need of a family may be adopted; preventing improper financial or other gain and corruption; and regulating bodies and individuals involved in adoptions in accordance with the Convention standards.

## **Recognition of adoption decisions**

The Adoption Convention achieved a major breakthrough in establishing a system of automatic recognition of adoptions made in accordance with the Convention. Every adoption certified to be made in accordance with the Convention is recognised “by operation of law” in all other Contracting Parties (Art. 23). In other words, the Convention gives immediate certainty in relation to the status of the child and eliminates the need for a procedure for recognition of adoption decisions or re-adoption in the receiving country. The automatic recognition is facilitated by the use of a model form for the Article 23 certificate, which attests the conformity of an intercountry adoption with the Convention requirements.

## **Post-adoption matters**

While the Adoption Convention only applies until the adoption procedure is finalised, it acknowledges that what happens during the adoption procedure will be relevant to the adopted child at a later stage in life. The Convention provides for the preservation of any information concerning the child, including the identity of the child’s parents and the child’s medical history, and the right to have access to this information. The Convention also provides for the promotion of post-adoption services, which may include counselling and support, search for origins, post-adoption reports to the State of origin, and remedies for breakdown or disruption of the adoption.

## **Role of authorities**

The Convention provides for a system of Central Authorities in all Contracting Parties and imposes general obligations on them, such as: cooperating with one another through the exchange of general information concerning intercountry adoption; eliminating obstacles to the application of the Convention; and deterring all practices contrary to the purpose of the Convention. Other competent authorities (e.g., judicial or administrative authorities) and adoption accredited bodies (AABs) may also take part in the adoption procedure according to the Convention. AABs can perform some of the functions of Central Authorities if supervised, accredited, and authorised in accordance with the Convention. AABs should also uphold the principles of the Convention and prevent illegal and improper practices in adoption.

The Convention envisages a system in which all Contracting Parties work together to ensure the protection of children. Cooperation between Contracting Parties is essential to ensure the effectiveness of any safeguards put in place. In practice, this principle is implemented through international cooperation between Central Authorities of Contracting Parties and intra-State cooperation between all concerned actors regarding Convention procedures within a State. Parties should also cooperate to prevent abuses and avoidance of the Convention.

## **Additional resources**

The [Adoption Section](#) of the HCCH website contains the latest information about the Adoption Convention. This includes:

- Text of the Convention
- Status table of Contracting Parties
- List of Central Authorities and practical information (incl. Country Profiles)
- Explanatory Report on the Adoption Convention
- Guides to Good Practice
- Notes on habitual residence and financial aspects of intercountry adoption
- Recommended Model Forms
- Information on the technical assistance programme (ICATAP)