

INTERNATIONAL SOCIAL SERVICE
International Resource Centre
For the Protection of Children in Adoption



Brochure n°1

**THE RIGHTS OF THE CHILD
IN INTERNAL AND INTERCOUNTRY
ADOPTION**

**Ethics and Principles
Guidelines for Practice**



THE RIGHTS OF THE CHILD

IN

INTERNAL AND INTERCOUNTRY ADOPTION

INTRODUCTION

To mark the tenth anniversary of the United Nations Convention on the Rights of the Child the International Social Service has prepared this document for its interlocutors in the network of the International Resource Centre for the Protection of Children in Adoption (IRC/ISS), and all those active in upholding the rights of the child. It deals with both internal and intercountry adoption. While certain principles and practices referred to relate more to intercountry adoption, it is the protection of the child that must continue to be the primary concern in both areas.

- *ISS/IRC deems it essential to define the **ethics and principles** that should govern adoption, a fundamental decision in the life of several human beings, among them a child in a vulnerable position.*
- *Although the ethical principles are conceived essentially as a frame of reference, ISS/IRC considers it important to supplement them with **a number of guidelines to ensure that the ethics and principles are respected in practice**. They are the product of exchanges of views with professionals from all over the world. They reflect and complement the principles enshrined in the 1989 Convention on the Rights of the Child (CRC) and the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption (THC). ISS/IRC hopes to be able to enhance them with future publications.*

We hope this paper will be of use to you in your practice and that your contributions will help us to supplement and improve upon it. Please write and share with us your experience, indicating your points of agreement or disagreement. We would be grateful to have brought to our attention other documents published for the same purpose.

*Geneva, November 1999
General Secretariat of ISS
International Resource Centre for the Protection of Children in Adoption*

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ETHICS & PRINCIPLES

I. Adoption: a social and legal protective measure for children

- a) **Adoption is not an arrangement between individuals.** It is a social and legal protective measure for children. It should be considered and authorized with this sole aim in view. The State bears the responsibility to ensure it is so.
- b) **It should be made available to all children whose personal and family situation warrants it, without prejudice** against their social situation, physical features, ethnicity, culture, physical or mental health disorders.

CRC* art. 2 / THC* preamb., art. 1-a and b

II. Best interests and fundamental rights of the child

Any protective measure taken for a child shall be governed by the child's best interests and by respect for his/her fundamental rights.

CRC art. 3 / THC preamb. para. 4, art. 1-a

This signifies that:

- a) **It is the child who must be the starting point in the process leading up to adoption.** This process is initiated because the child's situation warrants it, not because others have expressed the wish to adopt the child or are in quest of a child.
- b) The handling of any child's case cannot be left to the birth parents, to unqualified protagonists or those of doubtful ethics, or to prospective adoptive parents. It must be carried out by **services competent in the protection of children**, which as far as possible, should be pluridisciplinary and subject to accreditation and periodic inspection by the competent national authorities. Direct adoption from one family to another must be banned, except under extraordinary circumstances supervised by child protection services.
- c) Professionals engaged in adoption proceedings should be guided as **a priority**, in the perception of their work and in their practice, by **the needs of the child**. While they must be careful to listen to and respect the wishes of prospective adoptive parents and the demands of birth parents, whatever their particularities may be, they are not required to accord them priority, but rather to consider the extent to which they correspond to the best interests of the child. Professionals must be aware that adoption in the best interests of the child is one that fosters the creation of an environment or family relationships that satisfy all parties.

* **CRC** : The 1989 United Nations Convention on the Rights of the Child

* **THC** : The 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption.

The texts of those Conventions are available on the International Social Service's web site, http://www.iss-ssi.org/Resource_Centre/Resource_Center_EN/Int_Conventions/int_conventions.html

* **Competent** : in this paper, it means governmental or private bodies whose official responsibility is to carry out the tasks implied by the child protection.

- d) Since time is essential in a child's development, professionals should **act as quickly as possible** without jeopardizing overall respect for procedures. They should cut as much as possible the periods of waiting, uncertainty or transition that children live through.
- e) The child, in a manner appropriate to his/her age and degree of maturity, must be kept informed and consulted about any life plan for him/her.

The above applies equally to internal and intercountry adoption.

CRC art. 21.a, art. 12 / THC art. 29, art. 4-d, art. 21.2

III. Adoption must be embodied in a global policy on the child and the family, composed of an array of measures

One can envisage a desirable hierarchy of life environments that can be offered a child:

- family solutions (prevention of abandonment and keeping the child in his/her family, returning the child to his/her family of origin, foster care, internal or inter-country adoption) must take precedence over long-term institutionalisation.
- Permanent solutions (keeping or reintegrating the child in his/her family of origin, adoption) must take precedence over temporary solutions that perpetuate themselves.
- Temporary solutions (foster care, placement in an institution) must give priority to the reintegration of the child in his/her family of origin, or else to the search for a permanent solution.
- National solutions (family reintegration, internal adoption) must take precedence over international solutions (inter-country adoption).

Nonetheless, the important thing is not to apply this range of measures mechanically or rigidly. Every child is different; his/her history and his/her personal and family situation are special. His/her protection must be understood:

- in conjunction with the child's and the family's own particular characteristics;
- in choosing the one measure or those that best meet the interest of the child in question (for example, in certain cases, normally temporary measures could prove to be appropriate in the long run);
- as a dynamic process where the available protective environments must be seen to complement each other in the way they are used, in striving to ensure co-ordination and continuity between them in the best interest of the child and the family.

CRC art. 18, 19,20, 21/ THC preamble.

IV. Subsidiarity of internal adoption to keeping or returning the child to his/her family of origin / Priority to preventing abandonment

Priority must go to allowing children to be raised in their own family, i.e., staying with the birth parents or the extended family (avoiding relinquishment); being reunited with the immediate or extended family (children at the pre-abandonment stage). Governments and civil society must do their utmost to ensure that families of origin have the possibility and are encouraged, to care for their children.

This requires the formulation of policies and programmes that take human development and equity into account, resulting among other things, in:

- psychosocial support services and/or financial support for mothers or families in difficulty;
- social dialogue with the extended family, especially the grandparents, so that they help in preventing abandonment;
- sensitization to the importance of the father's role, training for parenthood;

- awareness of the needs and rights of the child;
- conscious and responsible sex education and family planning;
- promotion and upholding of women's rights;
- fair incomes, access to employment;
- a reduction of world economic imbalances.

CRC art. 18 / THC preamb. para. 2

V. Search for alternatives

When the birth family does not meet the conditions that ensure the psychosocial development as well as the physical and emotional integrity of the child, competent child protection bodies must seek for adequate alternatives. **Poverty alone should not be a criterion for severing a child's bonds with his/her birth family.** But attention should be given not to use poverty as a criterion to refuse a child the alternative of a substitute family which respects his/her rights and integrity.

CRC art. 20 para. 2

VI. Priority for an alternative family

The family is the best environment for a child's development: **offering a child a substitute family should, other than exceptional and justified cases, prevail over his/her placement or long-term residence in an institution.** It is the responsibility of the competent* authorities to ensure that whenever a child enters an institution, his/her personal and family situation is investigated rapidly and suitable family protective measures are sought.

CRC art. 20-3 / THC preamb. para. 1

VII. Priority for a permanent solution

To flourish, a child needs stability in his/her contacts with the adults around him/her: **permanent solutions must prevail** over provisional arrangements for an undetermined period of time.

THC preamb. para. 3

VIII. Subsidiarity of intercountry adoption

Intercountry adoption is subsidiary to internal adoption. As a priority, a child must be placed for adoption in his/her own country or in a cultural, linguistic and religious environment akin to his/her community of origin. A decision in favour of intercountry adoption should be taken only after an unsuccessful search has been conducted for a satisfactory solution in the child's country of origin. In the interest of the child, the competent* authorities shall see to it that **such a search is carried out without undue delay.**

CRC art. 21-b / THC preamb. para. 3, art. 4-b

IX. Adoptability of the child

Adoption is a personalized life plan for a child. Such a plan can be decided upon only after a preliminary psycho-medico-social study of the child and his/her birth family. The conclusion that it is impossible for the birth family to care for the child, and the assessment of the child's capacity to benefit from a family environment, **determine his/her psychosocial**

adoptability. This is supplemented by his/her **legal adoptability**, which forms the basis for severance of the filiation links with birth parents, in the ways specified by the law of the State. **The adoptability of the child must be determined before starting adoption proceedings.**

THC art. 4, art. 16-1

X. Prospective parents' eligibility to adopt

Adoption aims at offering a child who has lived through traumatic experiences (the incapacity or impossibility of the birth family to care for him/her being one of them) and who may have little in common with the society about to receive him/her, the family best suited to meet his/her needs. **The adoptive family must therefore be recognized ahead of time as being apt** and able to ensure, in a lasting and satisfactory manner, the protection and respect of a child with such a background and characteristics. A psycho-medico-social and legal family study should therefore be undertaken **before adoption proceedings are started.** It will help to confirm or disqualify the **family's adoptive capacity which must be officially certified.**

In the case of internal adoption, adoption by nationals of the child's country of origin resident in a receiving country, or intra-family adoption, the adoptive capacity of the adopters must equally well be examined and certified. The child's best interest is at stake. For nationals of the country of origin permanently resident in a receiving country, the extent of their integration in that country must be considered a factor to facilitate the child's future integration.

THC art. 5, art. 15

XI. Pre-placement preparation

The child, the adoptive family, and the birth parents should be prepared for adoption.

Adoption will satisfy the interests of all parties, only if adequate preparation permits each person to understand the short- and long-term implications of adoption on his/her life and on the child's life. Moreover, counselling must help the child and the adoptive family to approach their first meeting and the start of life together with more serenity.

THC art. 4-c-1, art 4-d-1, art. 5-b, art. 9-c

XII. Post-adoption support

Access to qualified post-adoption support services should be made **available** to the child, the adoptive parents and siblings, as well as the birth parents, in order to answer questions and unravel or resolve any problem which might arise.

THC art. 9-c

XIII. Right to confidentiality

The child, the birth parents and the adoptive family have the right to confidentiality and to respect for their private lives. **Access to their file will be strictly controlled.** When deemed necessary to the best interests of the child, the publication of personal data will be issued by appropriate means, **to recipients chosen** for their ability or interest in problem solving but will not be made available to a wide and unspecified public through channels such as internet.

CRC art. 16

XIV. Search for origins

Children have the right, if they feel the need and when age and maturity permit, to know their history, especially information relating to their birth mother and father, and siblings, wherever possible. **It is essential to have this information gathered and preserved. A qualified psychosocial assistance is necessary for processing the search for origins.** Specialized professional services should be set up or reinforced to encompass this process.

This right may be difficult to respect in the present social context of certain States. However, given the growing number of searches for origins by young and adult adoptees, each State must do its utmost to improve the exercise of this right.

CRC art. 8 / THC art. 30

XV. Profit – Abuse – Trafficking – Sale

The protection of children in a vulnerable position must not be a source of material or other profit. Any abuse, trading or trafficking in this field flouts the rights of the individual human and, as such, must be combated and severely prosecuted.

CRC art. 21-d, art. 35 / THC preamb. para. 4, art. 1-b, art. 11-a, art. 32

XVI. Armed conflict – Natural disasters

Intercountry adoption is not a step to consider in countries where armed conflict prevails or among victims of natural disasters. It may only be contemplated after a sufficient period (two years are generally recommended) to allow the competent bodies to ensure that no member of the child's family or community is still living and wishing to care for the child. Meanwhile, priority must be given to put the child in a safe location, to "in situ" assistance measures to enable the child to remain in his/her community, and in his/her country or region if possible.

CRC art. 22, art. 38 / THC recommendation 24 October 1994



GUIDELINES TO ENSURE THAT ETHICS AND PRINCIPLES ARE RESPECTED IN PRACTICE

These guidelines provide a frame of reference. But ISS/IRC is aware that their application will run into numerous obstacles. Nonetheless, it is hoped that they will facilitate progress towards practices which accord greater respect to children. Moreover, we recommend that their application be adapted to circumstances and in the best interests of each particular child.

Certain States of origin may find it difficult to make available the necessary human and material resources. Receiving States* must assist them in order to develop capacities for assuming these responsibilities.*

Both receiving States and States of origin are responsible for the exercise of the rights of the child in adoption. Only genuine cooperation between the two can make it possible to provide greater protection of children.

I. Adoptability of the Child

ADOPTABILITY

1. Determination of a child's **adoptability is a matter for both the child and his/her birth family**: mother, father, and extended family, sometimes the community.
2. A child's adoptability must be established **before** a particular matching is considered.
3. Adoptability is more than a mere legal concept. **Psychological, social, medical and legal factors must be taken into account.** Adoptability establishes that:
 - 3-1 A child is in need of an adoptive family, since he/she cannot be kept in or reunited with his/her birth family.
 - 3-2 A child is psychologically and medically fit to benefit from adoption. Due to earlier experiences, some children may lose the ability/desire to develop a new bond of emotional dependency, or they may show clear limitations in adjusting to a family environment. However, **the great majority of children are capable of reaping the benefits from a permanent family environment.** Some children, because they may present more serious challenges (physical and/or mental handicaps, serious psychological traumas, illnesses, etc.) will need an adoptive family setting with special characteristics to make physical, emotional or psychic recovery possible. But **families willing and able to provide them a suitable human environment do exist.** It is essential to ensure that there is no discrimination and that the utmost is done to provide these children with access to the benefits of adoption.
 - 3-3 A child is legally adoptable.

**The State of origin : the term used in the THC (art. 2-1). The State where the child is habitually resident before being considered for adoption.*

**The receiving State : the term used in the THC (art. 2-1). The State where the child has been, is being or is to be moved either after his or her adoption in the State of origin, or for the purposes of such an adoption in the receiving State or in the State of origin.*

STUDY OF THE CHILD AND HIS/HER BIRTH FAMILY

4. Adoptability must be established through **psycho-medico-social studies of the child and the birth family.**

4-1 No time should be lost before undertaking and carrying out the study of a child's adoptability. **The child's situation should be investigated as soon as he/she enters an institution** (hospital, maternity clinic, temporary or long-term child care institution). This to avoid the harmful effects of keeping children in an institution without proper consideration. It will help, also, to clarify transitory or dubious situations that can harm a child's development.

4-2 A life book should be created as soon as a child enters an institution, to record his/her experience, to collect the history and details of the child's lifespan in the interests of the child and his/her future adoptive family. This book will form part of the file to be handed over later to the family with whom the child is placed.

4-3 Child protection and family professionals will be responsible for carrying out the psychosocial studies.

5. The child study must be as thorough as possible, since the child's future, that of his/her birth family, and of the prospective substitute family will depend upon it.

As far as possible, **the study, which is confidential, should cover:**

5-1 The identity of the child, his/her parents and extended family; if the child's parents are unknown, a search should be made to trace them and discuss the child's future with them

5-2 The situation of the child's birth family - immediate family (parents and siblings), and extended family (grandparents, etc.) -: socio-economic situation, nature of relationships between relatives, relationships with the social environment, main difficulties, positive factors, etc.

5-3 The child's past, in as much detail as possible, about the stages of his/her **personal and family history**, ethnic and religious upbringing

5-4 The reasons for the child's ties with the birth family to be weakened or severed, for the abandonment decree, or the adoption consent

5-5 The stages of the child's physical, motor, intellectual, and socio-emotional development

5-6 His/her state of health; medical history (including available information about the mother's pregnancy and delivery, vaccinations, etc.) and that of the birth family

5-7 His/her physical and general appearance, personality and behaviour

5-8 The child's present situation, with all available information about his/her present environment, way of life, habits, ability to be self-reliant according to his/her age, relations with other children and adults around him/her, his/her pace, etc.

6. It must be made certain that a child's relinquished status is not the result of abuse, trafficking, sale or kidnapping.

6-1 The child's origin must be carefully established.

6-2 When the child seems legally adoptable because of **parental consent**, it must be checked that consent is/was freely given, without pressure, without material compensation, or otherwise. The social services must:

- counsel and assist the parents of the child to consider other alternatives than adoption;
- inform the parents and ensure they have a proper understanding of the consequences of adoption, which might become intercountry adoption;

- make sure the parents have grasped clearly the implications for the child, themselves and the future of their legal bond, and their social and personal attachment to the child;
- ensure the parents are informed of the possibility of a future contact in the event of a search for origins by the then full-grown child;
- collect the parents' possible wishes in regard to the profile of the substitute family, that such wishes may be respected as far as possible in the interests of the child.

6-3 Parental consent (and especially that of the mother) **must not be given before birth or during the first weeks of the child's life**. The mother and the father must be given the opportunity to form an attachment with the child and to avail themselves of a period of reflection after the birth of the child. Throughout pregnancy and during the reflection period, it is very important to provide psychosocial and economic support services to the parents to reduce the risk of abandonment or, - in that eventuality - to help them part with the child with dignity and respect.

LIFE PLAN FOR THE CHILD

7. The studies should result in a life plan for the child, drawn up by a **team** of child protection professionals, pluridisciplinary as far as possible. A life plan is: the most appropriate protective social measure (or series of measures) for the child - one of which may be adoption.

8. The life plan for the future must be **built around the interests of the child**.

8-1 Every child is unique, and duly considered as such in the plan.

8-2 The child's birth mother and father should participate in the definition of the plan, as far as possible.

8-3 The child, too, should participate, in the drawing up, carrying out and eventual reassessment of the plan, in a manner appropriate to his/her age and degree of maturity.

8-4 The plan will take care that blood (or possibly love) brothers and sisters are not separated, especially when they know one another; if, under extraordinary circumstances, separation should occur, provision must be made for them to remain in contact.

8-5 Adoption will only be selected as the life plan when keeping or reuniting the child **in the immediate birth family, or extended family**, prove impossible or contrary to the interests of the child, despite all efforts.

8-6 Adoption should be selected as the appropriate step only if it appears to **fit the child's personal characteristics** (see 3.2).

8-7 Intercountry adoption of a child should be considered only i) if the child could not benefit from adoption by a family in his/her country of origin despite efforts to that effect, and ii) when it appears appropriate to the child's personal characteristics (i.e., ability to adapt to: a different family, social, ethnic, cultural, linguistic, educational environment; different physical features; etc.)

8-8 Except in very special cases, **adoption must prevail over indefinite institutionalization** of children for whom it proves impossible to reunite with their birth family, **without prejudice** for ethnic aspects, physical characteristics, age, physical or mental health disorders.

8-9 If adoption is chosen as the life plan for the child, **his/her legal adoptability must be clearly established and certified**.

CHILD REPORT FOR ADOPTION PURPOSES

9. **A report on the child is prepared on the basis of the above-mentioned studies.** This report is passed to the entities responsible for matching and for the adoption decision. **It must present as complete a picture of the child and his/her birth family as possible so as to help the competent bodies achieve matching in the interests of the child and the family that will adopt him/her.**

Moreover, thanks to the information contained in the file they receive, the adoptive parents will better know and understand the child and his/her past, as well as be better equipped to answer questions the child might ask about his/her life story and to receive and accompany him/her throughout life.

As far as possible, the report will contain:

- 9-1 The reasons why adoption is the proposed measure. In the case of intercountry adoption, a particular justification will be added;
 - 9-2 A synthesis of the psychosocial information gathered during the child and birth family study;
 - 9-3 The medical file on the child's history, state of health, and his/her birth family's antecedents;
 - 9-4 The legal file dealing with his/her adoptability;
 - 9-5 A description of his/her present environment, habits, relationships, behaviour;
 - 9-6 An assessment of the positive factors and risks in the child's personality, experience and characteristics which have a bearing on the development of a satisfactory adoptive relationship;
 - 9-7 Guidelines for the type of family (family composition, character, age, etc.) likely to meet the child's needs and to facilitate his/her bonding with it and the surrounding society;
 - 9-8 Any further information that can help matching in the interests of the child and the adoptive family;
 - 9-9 Photographs, or possibly a video of the child.
10. **Information about the child's origins must be preserved by one of the bodies responsible for adoption.** If the adopted child feels the need later and when his/her age and degree of maturity permit, he/she could receive this information with appropriate psychosocial support services, taking into consideration the rights of the birth family and the law of the State concerned.

The possible renewal of contact with the birth family must take place within a specialized psychosocial framework, as much for the birth family as for the adopted child. It should only be continued if both parties accept to do so and appear able to assume the consequences. ISS/IRC recommends that contact be considered only when the adoptee is no longer an adolescent. Any steps taken must preserve the confidentiality due to each person involved.

II. Adoptive Eligibility and Suitability of Parents

11. **Opinion of ISS:** Adoption must be a meeting of the child's needs and the wishes of the adoptive parents. This does not mean that adoption has to meet the various wishes of the prospective adoptive parents (hereafter referred to as PAPs) but that PAPs must desire a child and wish for the specific child placed in their care. However, **adoption is a right of the child** in need of permanent substitute parental care. **Adults do not have a right to be**

entrusted with the care of a child simply because they want one. The right to equality between people is too often used to justify recognition of anyone's right to adopt.

The child in need of adoption is a child who has suffered serious deprivation. His/her history, situation as an adopted child, and sometimes even his/her physical features, make the child initially a different person in the environment of the State or the community envisaged for his/her placement. The receiving family should not add to the child's differences or deficiencies. They should:

- provide or revalorize the maternal or paternal representation that he/she has lacked or suffered from;
- ensure an environment that will ease his/her social inclusion;
- enable him/her to face up to the particular difficulties of the adoptive family relationship.

For these reasons ISS/IRC considers that, except for justified special cases, a couple, comprising a man and a woman, of an age in keeping with that of the child, offers a more appropriate environment for the development of the child than a single person, a couple of the same sex or a couple with certain characteristics (an advanced age of one or both partners, a serious health problem, etc) that constitute an obstacle in adapting to the needs of the child or a risk as to how long parental protection would be forthcoming.

12. It is essential to ascertain whether those with whom a child will be placed for adoption are equipped to assume this responsibility in the best interests of the child. **The adoptive family must be capable, on a lasting and satisfactory basis, of caring for a child who:**
 - is a stranger to them;
 - comes to them with a past prior to them knowing him/her that must be taken into account and respected;
 - has, in most cases, lived through traumatic experiences, i.e., death or incapacity of birth parents to take care of him/her, an insecurity in his/her attachment to adults, prolonged periods of institutionalization, hardships, etc.; all of which give rise to special needs and are a potential source of particular problems;
 - bears, especially for intercountry adoption, a culture, a language, physical features, behaviour, etc., that are different.
13. **The adoptive eligibility** and suitability of parents **must be determined before** a specific matching is considered.
14. Adoptive eligibility and suitability of parents cannot be reduced to a mere legal, economic or religious concept. **Consideration must be given to ethical, psychological, social and medical factors** and established on the basis of a thorough psycho-medico-social and legal study of applicants. The study must be carried out by professionals in child and family protection.
15. **The study**, which is **confidential**, must gather information, as far as possible, concerning:
 - 15-1 The composition of the family;
 - 15-2 The civil, legal and judicial status of the PAPs;
 - 15-3 The PAPs' level of education, professional status, economic situation, place of residence, and social, ethno-cultural and linguistic identity.An advanced education, economic comfort or high social standing of PAPs are not, in themselves, sufficient guarantees for the interests of the child. A family of modest means can be very satisfactory for the child.

It is essential to assess the adoptive family's psycho-emotional capacity to raise the child who may be placed in their care, as well as their ethics about the rights of that child. Information should be collected concerning :

- 15-4 The physical, mental and emotional health of both PAPs;
 - 15-5 The general appearance and personality of both PAPs, their personal history, the aspects of their family history with their own parents and siblings that would help understanding how such relationships could strengthen or inhibit them as parents;
 - 15-6 Their history and relationship as a couple;
 - 15-7 The extent of their integration in their community; their fields of interest and;
 - 15-8 The future possibility and probability of having children of their own;
 - 15-9 Their experience of children, their educative capacity, their ability to cope with difficulties which might create differences between the child and the social or family environment;
 - 15-10 If appropriate, the personality of their own children and their relationship with their parents and their environment, as well as their attitude towards the contemplated adoption;
 - 15-11 The social environment in which the adopted child will be placed (extended family, social circle in which the family moves, community) and the attitude to be expected toward the child, especially if he/she is different from these surroundings; mention of emotional or other kinds of support that PAPs and the child can expect; foreseeable difficulties;
 - 15-12 The PAPs' wish for children and the reasons why each of them wants to adopt a child;
 - 15-13 Their concept and ethics concerning adoption, awareness of difficulties they may encounter at different stages of their life with the adopted child, attitude toward the child's past, his/her history and secrets, his/her differences, the adoption disclosure and the child's search for birth parents;
 - 15-14 The profile of the child they would like to adopt and reasons behind it;
 - 15-15 The PAPs' plans for their future and that of the child they wish to adopt.
16. As a follow-up to the study, **a team** (as far as possible pluridisciplinary: social worker, psychologist, etc.) will decide upon the adoptive eligibility of the PAPs. This team will draft a report for the bodies responsible for matching and the adoption decision. **This report will provide as complete a picture as possible to assist the competent bodies to achieve a matching in the interest of the child, and family that will adopt him/her.**

The report will contain, to the extent possible:

- 16-1 The reasons why the PAPs were considered apt to be entrusted with a child for adoption. In the case of intercountry adoption, justification will take into account particular requirements (e.g., need to cope with the problems arising from physical, ethnic and cultural diversity, the traumatic circumstances related to a possible long period of institutionalization, health problems);
- 16-2 A synthesis of the psycho-medico-social information gathered during the study of the PAPs and their surroundings;
- 16-3 The administrative or judicial file on their identification and civil status, as well as the certification of adoptive eligibility;
- 16-4 Photos of the family;
- 16-5 A description of the PAPs' expectations of adoption, with appropriate comments;
- 16-6 Assessments of i) the positive factors, within the adoptive family and its environment that will ensure an emotionally, morally, educationally and materially satisfactory framework for the child, and ease his/her integration; ii) the limits that risk jeopardizing them in the case of a internal and/or intercountry adoption. The latter calls for a wider range of abilities, given its more complex nature;
- 16-7 Assessment of the family's capacity to care on a long-term basis for a child who does not necessarily correspond to the family's image of him/her;
- 16-8 Guidance on the type of child the family seems best equipped to cope with (behaviour, character, age, particularities, etc.); the family's capacity to care for a sibling group;

- 16-9** Any further information that might help to achieve matching in the interests of the child and the adoptive family.
- 17.** It is very important that **PAPs have access to systematic and thorough preparation for adoption**, preferably **before** the assessment of their adoptive capacity, including:
- 17-1** Ethics about adoption and the rights of the child in a vulnerable position;
 - 17-2** Information about the nature of adoption and the profile of children in need of adoption in different countries of the world;
 - 17-3** Stages, personal rewards and possible pitfalls in the adoptive relationship, and points that help to cope with them;
 - 17-4** Issues to consider in order to ensure a better respect for the child, his/her experience, origins, needs and particularities, rights;
 - 17-5** Special demands of intercountry adoption.

Good counselling helps PAPs to strengthen their resolve in their approach to adoption. It is **also an action in the interest of the child**, since it fosters in PAPs a greater capacity to receive the child and accompany him/her throughout his/her development. Therefore, it is an **action in the interests of the adoptive family as a whole**.

III. Matching

Matching is not the adoption decision. It is a proposal to establish an adoptive relationship between a particular child and a particular family. The adoption decision itself comes later.

- 18.** An adoption in the best interest of the child is one that creates both a situation which respects the biological family and family relationships that satisfy the child and the adoptive family. Matching is therefore a key point in time. It is the convergence of two life plans: that of the child, and that of the family in whose care he/she is to be placed.
- 19.** Matching should be **the proposal of an adoptive family for a child** that fits the life experience, characteristics and needs of that child.
- 20.** Matching should take place **after child protection professionals have established the psycho-medico-social and legal adoptability of the child**.
- 21.** Matching should take place **after child and family protection professionals have established the psycho-medico-social and legal adoptive eligibility of the possible PAPs**.
- 22.** **Matching should be assigned to a team** and not be left to the responsibility of an individual; the team should be composed of **child protection professionals** trained in adoption policies and practices. They should preferably be specialists in psychosocial fields. In the case of intercountry adoption, it is desirable to invite a lawyer to join the team to check that the legal requirements are met and are compatible between the States concerned.
- 23.** Matching should not be left to the initiative of the birth family, other than in duly justified exceptional cases. Whatever the circumstances, it must be supervised by a competent child protection service and take place **after** reception of consent.

24. Matching must not be left to the sole initiative of the staff of child care institutions, or the child's guardian or tutor. Although, as they know the child, these people should be included in, or consulted by the team that makes the proposal, as far as possible.
25. Matching must never be left to the initiative of PAPs choosing a child among others when visiting institutions for children, during visits to families in the State of origin, or from catalogues.
26. Matching must not be left to the initiative of PAPs choosing a child from a catalogue of public advertisements on internet.
27. **Professionals from the State of origin and from the receiving State must be jointly responsible for matching** in the case of intercountry adoption. As far as possible, the proposal should be put forward following consultations between:
 - In the State of origin: a professional who knows the child, and a representative of the central authority (or of the competent authority, or the accredited body)
 - In the receiving State: a professional who knows the chosen family, and a representative of the central authority (or of the competent authority, or the accredited body).
28. *Before* the decision order of adoption is confirmed, it should be submitted for approval to the chosen adoptive family through the good offices of one of the competent bodies involved in adoption procedures in the family's State of residence.
29. *Before* matching is officially confirmed, **it is desirable, both in the interests of the child and of the adoptive family, that the proposal be followed by a face-to-face meeting between the child and the future adoptive family**, and wherever possible, by a brief period of getting to know each other.
30. When bringing the child and the adoptive family together, it is very important that:
 - 30-1 **The child and the future adoptive family first be prepared** for the proposed meeting (photos, exchange of information, information about attitudes or points to be careful about, etc.)
 - 30-2 The meeting be held in privacy and assisted by persons who have been caring for the child.



PROTAGONISTS DIRECTLY INVOLVED IN ADOPTION PROCEDURES

Bodies or persons who play a role in adoption procedures, whatever the importance or level of their participation, are defined here as protagonists.

The 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption refers to the protagonists described below under items 1 to 3. Those considered under items 4 and 5 are not accepted by the Convention.

The ISS clearly prefers the bodies mentioned under items 1 and 2, particularly those whose staff is composed of pluridisciplinary professionals in child protection (social workers, psychologists, jurists), who have benefited from special training in adoption and the rights of the child, and are guided by ethical standards in the best interests of the child.

ISS believes that experience as an adoptive parent is not a sufficient qualification to play a role in adoption procedures. Moreover, while acknowledging the indisputable value of volunteer work, ISS considers that it cannot be recognized as a skill in itself, and does not justify overlooking professional qualifications in child protection.

- 1 - Central authority** in internal and/or intercountry adoption (THC art. 6)
 - Other competent public or judicial authorities (THC art. 7, 8, 9)

- 2 - National accredited bodies** in the receiving State – in the State of origin (THC art. 10, 11, 12). The THC considers their existence as being possible but not compulsory.

- 3. Bodies or persons**, not accredited but who are officially recognized (under the terms of the Hague Convention) to act in adoption procedures (THC art. 22-2). They are not subject to all the demands made upon the accredited bodies (i.e., being not-for-profit).

A State party to the THC may refuse the participation of such protagonists in adoption procedures (at stages that take place on its territory or in other countries concerned) when the procedures concern persons who reside in its State. To do so, it must make a declaration in accordance with the terms of THC art. 22-4.

- 4.** Bodies and persons acting in adoption procedures without being accredited or officially recognized to do so (under the terms of the Hague Convention), without it being against the law or the administrative regulations of the State (their own State or the other concerned), but who are beyond the scope of the THC.

- 5.** Bodies and persons acting in adoption procedures without being accredited or officially recognized to do so (under the terms of the Hague Convention), it being against the law or the administrative regulations of the State (their State or the other involved).

For intercountry adoption, ISS favours the participation of accredited bodies (listed under item 2 above), **especially in the receiving State**, since they provide a firm link case by case between the State of origin and the receiving State, between the child and the adoptive family, between the field and the governmental levels.

However in the interest of the child, ISS insists on the need to:

- **reinforce the criteria for accreditation,**
- **systematise the accreditation methodology,**
- **deepen the training of these bodies on the rights of the child and adoption,**
- **improve their periodic supervision.**

Without underestimating volunteer work, ISS recommends that sufficient material resources be made available to accredited bodies for the hiring of professionally qualified staff, for training in adoption and the rights of the child and for organizing their work in an appropriate manner to ensure the genuine protection of children. A part of the tasks performed by accredited bodies is delegated to them by the State, which should ensure or assist with the provision of adequate resources and qualifications.

IRC/ISS strongly opposes any undue or obviously exaggerated material gain in the context of adoption. Protection of the child in a vulnerable position must not become a source of inappropriate revenue or profit. **ISS considers it essential that the following be proposed rapidly and periodically updated at the national and international level, in both receiving States and States of origin:**

- **a list of the steps involved in adoption procedures, or related to adoption, that could justify a payment;**
- **ranges of emoluments, fees and the cost of services in adoption that could be considered reasonable.**

Other recommended publications

- *The Child's right to grow up in a family – Guidelines for practice on National and Inter-country Adoption and Foster Family Care - ICSW / Adoption Centre / ISS – 1997- c/o Swedish Society for International Social Welfare , Box 1520, s-172 29, Sundbyberg, Sweden. Available in Albanian, Bulgarian, English, Italian, Portuguese, Russian, Spanish, Swedish.*
- *Inter-country Adoption – Innocenti Digest – UNICEF – 1998- c/o UNICEF-ICDC, Piazza SS Annunziata 12, 50122 Florencia, Italy – fax 0039055244817. Available in English, Spanish, and Italian.*

You can also access those documents via the ISS web site:

www.iss-ssi.org/Resource_Centre/Resource_Center_EN/Documents_of_interest/documents_of_interest

- *Web site of the Hague Conference on Private International Law : www.hcch.net*

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