

Sweden's international adoption activities – lessons learned and the way forward

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1 Sweden's human rights commitments - especially the rights of the child in adoption

1.1 Introduction

This chapter describes Sweden's human rights commitments of particular relevance to intercountry adoption activities.

1.2 United Nations (UN)

The international framework for the protection of human rights is based on the 1948 UN Universal Declaration of Human Rights. It was followed in 1966 by two international covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. They constitute what is usually referred to as the basic framework for human rights.¹ Since then, a number of international conventions have been developed within the UN to protect vulnerable individuals in areas where there has been a particular need for protection. Sweden has acceded to a majority of the core UN human rights conventions and regularly reports to relevant UN mechanisms on its national efforts to ensure full respect for human rights.

¹The International Bill of Human Rights.

1.2.1 Monitoring compliance with the conventions

The UN has developed a system to monitor respect for human rights. The UN human rights structure consists of the UN Human Rights Council, the UN High Commissioner for Human Rights and UN committees that review compliance with the conventions.

The United Nations Human Rights Council (UNHRC) is tasked with promoting universal respect for human rights, addressing situations of human rights violations and making recommendations to UN member states. The Council reviews the human rights situation in all countries of the world every four years².

The United Nations High Commissioner for Human Rights is responsible for promoting and protecting human rights. The High Commissioner has an Office (OHCHR), which provides advice and practical assistance to States and works in various ways to promote and ensure respect for human rights.

To monitor compliance with the conventions, there are special committees with independent experts attached to them. One of the tasks of these committees is to regularly examine all the States that have acceded to the Convention. The committees often have a special rapporteur attached to them. The Rapporteur is an independent expert appointed by the UN Human Rights Council to examine and report on the situation in a country or on a specific human rights issue.

1.2.2 The 1948 UN Universal Declaration of Human Rights

After the Second World War, there was a strong desire to create a common agreement at international level on universal and indivisible rights so that abuses similar to those that took place during the war could not happen in the future. On December 10, 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. The Declaration defines what fundamental human rights are and expresses the common will and aspiration of the UN Member States to work for human rights, justice and equality in all countries of the world. The Universal Declaration of Human Rights is not legally binding on the states that sign it, but it represents a moral commitment for

²Universal Periodic Review (UPR).

States and forms the basis of international efforts to monitor human rights in the world's states. Based on the Universal Declaration, legally binding conventions have been formulated and adopted by the UN General Assembly.

The Universal Declaration consists of 30 articles that collectively express the fundamental and universal rights and freedoms. The articles address both what everyone is entitled to, such as freedom and education, and what everyone is entitled to be free from, such as slavery and torture. Article 7 states that everyone is equal before the law and is entitled to equal protection of the law without discrimination of any kind. Article 12 states that no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor or reputation. Everyone has the right to the protection of the law against such interference and attacks. Article 25 states, *inter alia*, that mothers and children are entitled to special care and assistance and that all children, whether born in or out of wedlock, shall enjoy the same social protection.

1.2.3 1959 Declaration of the Rights of the Child

Children's rights were highlighted within the League of Nations as early as 1924 through a Declaration of Five Fundamental Principles for the Protection and Welfare of Children.³To further strengthen children's rights, the UN adopted a Declaration of Ten Principles in 1959. The Declaration contained important statements of principle, but was not binding on States under international law.⁴All UN Member States endorsed the Declaration. The child was not defined in terms of age and there was no monitoring or sanction system.⁵In *Save the Children's* translation, it read as follows

1. The child shall enjoy all the rights set forth in this Declaration. These rights shall be secured to every child without exception and without discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or

³Geneva Declaration of the Rights of the Child of 1924, September 26, 1924, League of Nations O.J. Spec. Supp. 21, at 43 (1924).

⁴ Adopted by UN General Assembly Resolution 14/1386 of November 20, 1959.

⁽⁵⁾E. Englundh (2010), *The UN Convention on the Rights of the Child: history, theory and practice*, p. 23 f.

the social origin, property, birth or other status of the child or his or her family.

2. The child shall enjoy special protection and shall be given, by law or other means, opportunities for healthy and normal physical, mental, moral, spiritual and social development in conditions of freedom and dignity.
3. From birth, the child should have the right to a name and a nationality.
4. The child should enjoy social security. He or she shall have the right to grow up and develop in healthy conditions. To this end, both the child and its mother shall be afforded special protection and care, including appropriate pre- and post-natal care. The child shall have the right to adequate food, housing, rest, leisure and medical care.
5. A child who is physically, mentally or socially disadvantaged shall be given the special treatment, education and care required by his or her particular condition.
6. The child needs love and understanding for the full and harmonious development of his personality. He shall, if possible, be brought up in all circumstances in a spirit of affection and in an environment of moral and social security. A child shall not be separated from his mother during his early years except in exceptional circumstances. Society and its institutions shall have a duty to provide special care for children without families and those without adequate means of subsistence. State benefits or other assistance for the maintenance of children in large families should be sought.
7. The child shall have the right to education, which shall be free and compulsory at least at the elementary stage. The child shall receive an education which promotes his or her general knowledge and enables him or her, in conditions of equality, to develop his or her faculties, personal judgment and sense of moral and social responsibility and to become a useful member of society. The best interests of the child shall be the guiding principle for those responsible for his or her upbringing and education: this responsibility rests primarily with the parents. The child shall enjoy adequate opportunities for play and recreation, including

be directed to serve the general aims of education. Society and its institutions shall strive to realize this right.

8. In all circumstances, the child should be among the first to receive protection and rescue.
9. The child shall be protected from all forms of neglect, cruelty and exploitation. He or she shall not be trafficked in any form. The child shall not be allowed to engage in gainful employment before the appropriate minimum age. He shall in no circumstances be required or permitted to engage in any activity or employment which is likely to be detrimental to his health, education and training or to impair his physical, spiritual and moral development.
10. The child shall be protected against all influences likely to produce racial, religious or other prejudice. He shall be brought up in a spirit of understanding, tolerance, friendship between peoples, peace and universal brotherhood, and in the full realization that his abilities and talents should be placed at the service of his fellow men.

1.2.4 UN Covenant on Civil and Political Rights

The UN International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966. Sweden signed the Convention in 1967 and it entered into force on March 23, 1976 after 35 countries had acceded to the agreement. Member states undertake to respect the fundamental rights of their citizens, such as life, liberty and security of the person, the rule of law, freedom of expression and democratic government. The implementation of the Convention is monitored by the UN Human Rights Committee (HR Committee), which regularly assesses the situation in member countries.

Article 17 states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor or reputation. Everyone has the right to the protection of the law against such interference and attacks.

According to Article 24(1), every child shall have the right to such protection by his or her family, society and State, without discrimination of any kind as to race, color, sex, language, religion, national or social origin, property or birth, as is consistent with the child's status as

minor requires. Every child must be registered immediately after birth and given a name and the right to acquire a nationality. Furthermore, Article 26 states that everyone is equal before the law and has the right to equal protection of the law without discrimination of any kind. It also states that the law shall prohibit any discrimination and guarantee everyone equal and effective protection against any form of discrimination.

According to Article 27, members of ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language.

1.2.5 Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the UN General Assembly in 1979. It is one of the nine core UN conventions and, after the Convention on the Rights of the Child, the one most countries have signed. CEDAW was developed because the general instruments were not considered strong enough to protect women's rights and prevent gender discrimination. CEDAW contains 30 articles, the first 16 of which consist of definitions and rights. They state, among other things, that States Parties shall take measures to eliminate discrimination against women in the political and public life of the country, to eliminate discrimination against women in the labor market, and to address patterns of behavior that are stereotypical and that portray one sex as superior or inferior to the other.

Article 16(f) states that, on the basis of equality of opportunity, States shall ensure equality of rights and obligations in respect of, inter alia, adoption. However, the best interests of the child shall always be a primary consideration⁶.

⁶SOU 2020:63 *The Convention on the Rights of the Child and Swedish law*, p. 862.

1.2.6 Declaration of Social and Legal Principles relating to the Protection and Care of Children, in particular with regard to National and International Placement in foster care and adoption (1986 Declaration)

In 1986, the UN General Assembly adopted a Declaration of Social and Legal Principles relating to the Protection and Care of Children, in particular with regard to National and Intercountry Placement in Foster Care and Adoption (1986 Declaration). One of the main intentions was to reduce the problem of the sale of children and child trafficking. The Declaration emphasizes that the child must be cared for primarily by his or her own parents and encourages States to give high priority to the welfare of the family and children. The Declaration provides that intercountry adoption should be considered as an alternative solution for the child only if the child cannot be placed in a foster⁷ or adoptive family or cannot be taken into care in the country of origin. Furthermore, it emphasizes that the best interests of the child should be the primary consideration, meaning that the interests of the child have absolute priority and take precedence over all other interests, be they economic, political, governmental or those of the adoptive parents. It states that the placement of a child should not lead to undue financial gain for the intermediaries and encourages States to establish guidelines and adopt laws prohibiting abduction and all other acts of illegal placement of children.

The Declaration was the first international legal instrument promoting the principle of subsidiarity and calling on States to take active measures to address illegal adoption practices. However, it does not contain specific measures aimed at reducing child trafficking and is not legally binding⁸.

1.2.7 UN Convention on the Rights of the Child (UNCRC)

The Convention on the Rights of the Child was adopted by the UN General Assembly on November 20, 1989. Sweden ratified the Convention in 1990. 196 countries have ratified the Convention, making it the most important convention on human rights.

⁷ Number of family homes.

⁽⁸⁾ E. Loibl (2019), *The Transnational Illegal Adoption Market. A Criminological Study of the German and Dutch Intercountry Adoption Systems*, pp. 134 f.

The Convention entered into force in Sweden on September 2, 1990. The Swedish Parliament's decision to ratify the Convention on the Rights of the Child was based on the Government's proposal to approve the UN Convention on the Rights of the Child.

The bill described the articles of the Convention and their relationship to Swedish legislation. The conclusion was that Swedish law and practice were in general conformity with the provisions of the Convention. The Government therefore considered that no legislative changes were needed for Sweden to ratify the Convention.¹⁰ The Convention on the Rights of the Child was incorporated into Swedish law on January 1, 2020, when the Act (2018:1197) on the United Nations Convention on the Rights of the Child entered into force.¹¹

The Convention is accompanied by three optional protocols adopted after the Convention was adopted. The fact that the protocols are optional means that the states that have ratified the Convention are not obliged to ratify them. The optional protocols aim to clarify and develop various parts of the Convention in different ways and are only binding under international law for the states that have ratified them. As in the case of other human rights conventions, it is possible in some cases to use the optional protocols to further understand the Convention on the Rights of the Child.¹² The first two additional protocols to the Convention on the Rights of the Child were adopted by the UN General Assembly on 25 May 2000. These are the Optional Protocol on the Rights of the Child on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. Sweden has ratified both additional protocols, which entered into force in Sweden on March 20, 2003 and February 19, 2007 respectively. The Third Optional Protocol on an individual complaints mechanism was adopted by the UN General Assembly on December 19, 2011 and entered into force on April 14, 2014, but has neither been signed nor ratified by Sweden.⁽¹³⁾ A proposal is currently being prepared within the Government Offices of Sweden that Sweden should ratify the Third Optional Protocol

⁹ SOU 2020:63 p. 91.

¹⁰ Prop. 1989/90:107 on the approval of the UN Convention on the Rights of the Child.

¹¹ Prop. 2017/18:186 *Incorporation of the UN Convention on the Rights of the Child*.

¹² Ds 2019:23 *Guidance on the interpretation and application of the UN Convention on the Rights of the Child*, p. 41.

¹³ SOU 2020:63 p. 99 f.

¹⁴ SOU 2023:40 *Improved possibilities for children to claim their rights under the Convention on the Rights of the Child*.

Structure of the Convention

The CRC consists of a preamble and 54 articles divided into three parts. The preamble recalls, among other things, that children have the right to special care and assistance. It emphasizes that, in order to achieve the full and harmonious development of his or her personality, the child should grow up in a family environment of happiness, love and understanding. It also recalls the provisions of the 1986 Declaration.

Part I, Articles 1-41, deals with the rights of children under the Convention and consists of so-called 'substantive articles'. These articles deal with the child's right to have his or her basic rights and needs met. The rights are indivisible and interdependent. The different rights are civil and political rights, economic, social and cultural rights, and protection from abuse and exploitation. Civil and political rights include, for example, the right to be registered at birth, the right to a name and a nationality, freedom of opinion and expression, and the prohibition of torture or other inhuman treatment. Examples of economic, social and cultural rights include the right to education, health care, social security, play and recreation. Protection from abuse and exploitation includes protection from physical and psychological violence, neglect, sexual abuse and participation in war.

Part II, Articles 42-45, addresses provisions on disseminating knowledge of the Convention to both children and adults, provisions on the reporting procedure and the composition of the Committee on the Rights of the Child.

The provisions of Part III, Articles 46 to 54, deal, inter alia, with the signing of the Convention, ratification, the possibility and procedure for States Parties to propose amendments to the UN Secretary-General, denunciation and the equal validity of the original texts.

The four basic principles

Since the Convention's inception, some provisions have been established as basic principles for both the interpretation and application of the Convention.¹⁵ The principles are general, which means that they should

¹⁵SOU 2020:63 p. 98.

guide assessments in all areas covered by the Convention. The principles are that every child, without distinction, has human rights (Article 2) to ensure the life and survival of the child (Article 6), that all decision-makers shall give primary consideration to what is considered to be in the best interests of the child in all decisions or actions concerning children (Article 3) and finally that the child shall be able to express his or her views in all matters relating to it (Article 12).

Protection against discrimination

Through Article 2, a State shall respect and ensure to every child within its jurisdiction the rights set forth in the CRC without discrimination of any kind. Furthermore, a State shall take all appropriate measures to ensure that the child is protected from all forms of discrimination based on the status, actions, opinions or beliefs of a member of the family. Similar wording is found in the basic human rights framework.

Best interests of the child

The best interests of the child in Article 3 is an overarching principle and is the cornerstone of the Convention on the Rights of the Child. According to the Committee on the Rights of the Child, the principle of the best interests of the child consists of three parts: a substantive right, a principle of legal interpretation and an approach to decision-making.¹⁶ The principle's approach means that when an individual child or a group of children will be affected by a decision, the decision-making process must include an evaluation of the positive and negative consequences for the child or children. It must also justify how the best interests of the child have been taken into account in the decision, i.e. what has been considered to be in the best interests of the child, what criteria it is based on and how the child's interest has been weighed against other interests. This applies to both general policy issues and individual cases.

The article does not provide any guidance on what is meant by the best interests of the child. The best interests of the child is thus a broad and open concept. The wording can be said to allow for flexibility. At the same time, the

¹⁶Ombudsman for Children. Swedish translation of the *Committee on the Rights of the Child's General Comment No. 14 (2013) on the right of the child to have the best interests of the child a primary consideration*. CRC/C/GC/14, p. 6.

the Committee has stated that flexibility can be used for manipulation. The Committee on the Rights of the Child has pointed out that the best interests of the child can be applied in an adaptable manner based on an individual child's situation, circumstances and needs. However, the other provisions of the Convention can be said to set a minimum level of what is good for a child in different situations. Like all other provisions of the Convention, Article 3(1) must be seen in the light of the other provisions of the Convention. The Committee on the Rights of the Child has emphasized that the meaning of the best interests of the child must be determined on a case-by-case basis in the light of the specific situation and circumstances of the individual child or children concerned. However, the Committee has emphasized that an adult's personal assessment of a child's (or children's) best interests cannot take precedence over the rights under the Convention; no right can be restricted by a discretionary interpretation of the child's best interests. Thus, an assessment of a child's best interests cannot lead to a solution that contradicts any of the other provisions of the Convention¹⁷.

The assessment of the best interests of the child should be carried out uniquely in each case, based on the specific circumstances of the individual child, group of children or children in general. These circumstances relate to individual characteristics of the child or children, such as age, gender, maturity and experience. They may also relate to belonging to a minority group, or having a physical, sensory or intellectual disability. Circumstances may also relate to the social and cultural context in which the child or children find themselves, such as the presence or absence of parents, whether the child lives with them, the quality of relationships between the child and his/her family or caregivers, the living environment from a safety perspective, whether family, relatives and caregivers have access to good alternative resources, and so on¹⁸.

The best interests of the child shall always be a primary consideration, but need not always be decisive.¹⁹ If other interests are allowed to prevail, the decision-making authority must be able to demonstrate that the relevant interests in the individual case have been weighed. In the case of adoptions, the Convention goes even further and requires States to ensure that the best interests of the child are a primary consideration, see further Article 21 below.

¹⁷ SOU 2020:63 *The Convention on the Rights of the Child and Swedish law*, p. 189 f.

¹⁸ Ombudsman for Children. Swedish translation of *the Committee on the Rights of the Child's General Comment No. 14 (2013) on the right of the child to have his or her best interests taken into account in the first place*, p. 48.

¹⁹ SOU 2020:63 p. 99.

The child's right to life, survival and development

Article 6 guarantees a child the fundamental right to life, which is also expressed as a universal human right in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Furthermore, the survival and development of a child shall be ensured to the maximum extent of a State's ability. Since a child's existence is a precondition for the enjoyment of the other rights in the Convention, Article 6 takes on a natural priority and thus becomes fundamental to the whole implementation of the Convention.

The child's right to life and development means that the child has a right to be cared for and protected, that the child has a right to love and security and that the child has a right to a stable and lasting relationship with his or her parents.²⁰ The preamble to the Convention on the Rights of the Child states that the family is the fundamental unit of society and the natural environment for the development of children. In order for the child to achieve the full and harmonious development of his or her personality, the child should grow up

in a family environment characterized by happiness, love and understanding. Article 18 concerns the division of responsibilities between the child's parents and the State and must be read in conjunction with Article 5 on the rights and duties of parents and families, Article 3(2) on the State's obligation to ensure the protection and care of the child, and Article 27 on the parents' responsibility for the child's material well-being. In turn, the State must provide parents with appropriate support and assistance and when the parents are unable to fulfill their obligations, the state must step in and ensure that the rights and needs of the child are met.

The child's right to express their views

According to Article 12, a State shall ensure to a child who is capable of forming an opinion the right to express it freely in all matters affecting him or her. The views of the child shall be taken into account in accordance with his or her age and maturity. In order to ensure this right, the child shall in particular be given the opportunity to be heard in all judicial and administrative proceedings. This may be done directly or through a representative or an appropriate body. The child shall be heard in a manner consistent with national procedural rules.

²⁰SOU 2000:77 *Omhändertagen - Samhällets ansvar för utsatta barn och unga* p. 57.

When a child is to be adopted, the Committee on the Rights of the Child considers it essential that the child be consulted. The Committee urges all States Parties to always, where possible, inform the child of the effects of adoption or other placement and to ensure through legislation that the child is able to express his or her views.²¹ At the same time, the Committee on the Rights of the Child has stated that a child has the right to refrain from exercising his or her right; expressing views is a choice for the child, not an obligation. States Parties must ensure that the child receives all the information and advice necessary to make the decision that is in the best interests of the child.²²

The child's right to a name, identity and knowledge of their origin

According to Article 7, the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know who his or her parents are and to have their care. These rights should be understood as part of a child's right to survival and development. For example, the Committee on the Rights of the Child recommends that, as a first step towards ensuring the rights to survival and development, a State should take all necessary measures to ensure that all children are registered at birth. According to the Committee, this can be achieved through a universal, well-managed registration system that is free and accessible to all. To be effective, the system must be flexible and responsive to families' circumstances, for example by providing mobile registration units where needed²³

Some States have submitted declarations and reservations on Article 7, in particular to ensure the anonymity of genetic parents in the case of adoption or donors in the case of artificial insemination. The Committee on the Rights of the Child has stressed the importance of a State recognizing different forms of family formation and that the concept of parent should therefore be interpreted broadly. According to the Committee, the concept includes biological/genetic parents, adoptive parents, foster parents and members of the extended family

²¹Ombudsman for Children. Swedish translation of the General Comment of the Committee on the Rights of the Child No 12 (2009) *The right of the child to be heard* (CRC/C/GC/12) p. 55 and 56.

²²Ombudsman for Children. Swedish translation of the General Comment of the Committee on the Rights of the Child No 12 (2009) *The right of the child to be heard* (CRC/C/GC/12) p. 16.

²³Ombudsman for Children. Swedish translation of the Committee on the Rights of the Child's General Comment No 7 (2005) *Implementation of the rights of the child in early childhood* (CRC/C/GC/7) p. 25.

according to local custom. In this context, it would be reasonable to assume that parents include both the genetic parents, as this may be important for medical and other reasons, and the parents at birth²⁴.

The right to know the parents is not absolute. The wording of the Article indicates that a child should have this right as far as possible. This wording was questioned by several countries' delegates, as it was considered that it could give rise to an arbitrary interpretation of the Article. One way of ensuring this right as far as possible is for a child to be registered at birth and for a State to ensure that the information on the origin of the child held by the authorities is preserved, in particular as regards information on the identity of the parents and medical history. For this to be possible, there must be information to preserve. There are situations where it is impossible to ensure that a child will know his or her parents, for example where the identity of the child's parents is unknown. It may also be that the mother does not know who the father is or cannot be induced to tell who the father is.²⁵

The child's right to be cared for by their parents

Article 7 provides that the child has the right to be cared for by his or her parents as far as possible. This Article is closely linked to Article 9 which requires States Parties to ensure that a child is not separated from his or her parents against their will except in cases where the competent authorities, subject to judicial review, in accordance with applicable law and procedures, find that such separation is necessary for the best interests of the child. Such a decision may be necessary in a particular case, for example in the case of abuse or neglect of the child by the parents or where the parents are living apart and a decision has to be made as to where the child should live. States Parties shall respect the right of the child who is separated from one or both parents to maintain on a regular basis a personal relationship and direct contact with both parents, except where this is contrary to the best interests of the child.

²⁴ SOU 2020:63 p. 358.

²⁵ SOU 2020:63 p. 359.

Article 16 states that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family life, home or correspondence, nor to unlawful attacks on his or her honor and reputation. The child has the right to the protection of the law against such interference or attacks. Article 16 applies to all children without discrimination. The child's right to privacy shall be protected in all situations, including in the family and in care.

The child's right to maintain his or her identity

According to Article 8, the child has the right to maintain his or her identity, including citizenship, name and family relations as recognized by law, without unlawful interference. If a child is unlawfully deprived of some or all of his or her identity, States Parties shall provide appropriate assistance and protection with a view to re-establishing the child's identity. The article has its origins in the experiences of the opposition in Argentina during the military dictatorship. Children of the opposition were taken away from their parents and adopted by pro-regime families. Article 8 aims to prevent this type of child abduction²⁶

The Committee on the Rights of the Child has not developed a general comment in relation to Article 8 and the concept of "identity". However, in a general comment on the best interests of the child, the Committee has stated that a child's identity includes characteristics such as gender, sexual orientation, national origin, religion and beliefs, cultural identity and personality.²⁷ (The article states that a State shall respect the right of a child to maintain his or her identity without unlawful interference. In the light of Article 3 on the best interests of the child, there could be occasions when it is justified to lawfully deprive a child of parts of his or her identity, for example in the context of adoption or in the case of a child in need of protection)

The obligation to restore the child's identity applies regardless of whether a child has been deprived of part or all of his or her identity. This means that if a child is deprived of only his or her name for any reason, a State must provide appropriate support and protection in order to restore the child's name.

²⁶Office of the United Nations High Commissioner for Human Rights (2007), *Legislative History of the Convention on the Rights of the Child Volume I*, p. 133 f.

²⁷Ombudsman for Children. Swedish translation of the *Committee on the Rights of the Child's General Comment No. 14 (2013) on the right of the child to have the best interests of the child a primary consideration (CRC/C/GC/14)*, p. 55.

²⁸SOU 2020:63 p. 388.

The same applies if a child is deprived of his or her nationality, family relations or any other part of his or her identity. What is meant by appropriate support and protection in order to quickly re-establish a child's identity is not clear from the article or from the travaux préparatoires to the Convention. The wording leaves it to the discretion of each State to determine the support and protection to be provided, with the only limitation that the support and protection must be appropriate to the purpose and sufficiently effective to ensure that the restoration is rapid. However, what is meant by 'prompt' is not defined by the Convention either. The Committee on the Rights of the Child has stated that where a child's identity documents have been illegally obtained for the child, and the child requests the restoration of his or her identity documents, a State should take action including by issuing corrected documents ²⁹.

The child's right to protection, support and alternative care

According to Article 19, society has a duty to take measures to protect children from physical and mental abuse by their caregivers. This is to be achieved by the State taking all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), guardian(s) or any other person.

According to Article 20 of the CRC, a child who is temporarily or permanently deprived of his or her family environment, or who cannot be allowed to remain in that environment for his or her own good, has the right to special protection and assistance by the State. States Parties shall ensure, in accordance with their national law, alternative care for such a child. Such care may include, inter alia, placement in family homes, kafalah in Islamic law³⁰, adoption or, if necessary, placement in appropriate institutions for the care of children. When considering solutions, due account shall be taken of the desirability of continuity in a child's upbringing and of the child's ethnic, religious, cultural and linguistic background. A child belonging to an indigenous or national

²⁹ SOU 2020:63 p. 389.

³⁰ A permanent form of foster care.

minorities also have the right to their own cultural life (see Article 30). Furthermore, a child has the right to maintain contact with his or her parents unless this is contrary to the best interests of the child (compare Article 9). The Committee on the Rights of the Child has expressed that the principle of family unity should be taken into account in a placement, for example siblings should not be separated. Age should also be taken into account. The Committee underlines that placement should always be assessed on a case-by-case basis and that tailor-made solutions are needed based on the child's needs and actual situation³¹.

The rights of the child in adoption

In addition to the provisions of Article 20, children who are adopted are further protected by Article 21, which states that States Parties which recognize or permit adoption shall ensure that the utmost importance is attached to what is considered to be the best interests of the child. Furthermore, it is clear from the travaux préparatoires to Article 21 of the Convention that it was important that the wording clearly referred to the best interests of the child and not the parents. No other *i n t e r e s t s* may be given greater weight than the best interests of the child in an adoption.³² According to the Committee on the Rights of the Child, an individual assessment of the best interests of the child must be carried out in each case, based on the specific circumstances of the individual child. According to the Committee on the Rights of the Child, the best interests of the child shall be a primary consideration in adoption decisions.³³ The wording differs from that of Article 3 (the fundamental principle of the best interests of the child). Article 3 states that in all actions concerning children, the best interests of the child shall be a primary consideration. Article 3 implies that interests other than those of the child may also be taken into account.

States Parties shall ensure that the adoption of a child is authorized only by competent authorities who, in accordance with applicable law and procedures and on the basis of all relevant and reliable information, decide that the adoption is permissible having regard to the child's status in relation to parents, relatives and legal guardians and that, where required, the persons concerned have given informed consent to the adoption on the basis of such

³¹Ombudsman for Children. Swedish translation of the Committee on the Rights of the Child's General Comment No. 6 on *the treatment of unaccompanied and separated children outside their country of origin* (CRC/C/GC/6) p. 40.

³² SOU 2020:63 p. 868.

³³Ombudsman for Children. Swedish translation of the Committee on the Rights of the Child's General Comment No. 14 (2013) on *the right of the child to have the best interests of the child a primary consideration* (CRC/C/GC/14), p. 38 and 48.

advice that may be needed. What is to be regarded as a competent authority is not explicitly stated in the Convention. However, for an authority to be competent, it is reasonable to assume that it should be regulated which authorities or organizations have the task of examining adoption decisions⁽³⁴⁾.

Article 21(a) also states that the persons concerned must have given their informed consent to the adoption, if required and on the basis of such advice as may be necessary. The persons concerned are not specified, but it should be obvious that parents, guardians and the child are concerned. This means that the child's consent may also be required. The article does not specify any age limits for when a child can give consent. However, the Committee on the Rights of the Child has emphasized in its dialogue with various states the importance of requiring the consent of children over 12 years of age for an adoption to take place³⁵.

What it means for consent to be informed is not explained in detail in the Article or in the travaux préparatoires to the Convention. The doctrine makes it clear that the concept was introduced to ensure that the consent was given voluntarily and that the person giving consent understands the consequences of the adoption.³⁶ Nor does the Article make it clear what advice may be needed. However, it does state that informed consent may be given on the basis of such counseling if required. This should imply that the counseling should contain information leading to the fact that the person giving consent has understood the consequences of an adoption. Article 16 of the 1986 Declaration³⁷ states that sufficient time and adequate counseling should be given to the child's own parents, the prospective adoptive parents and, where appropriate, the child, in order to enable decisions to be made about the child's future at the earliest possible stage.

Unlike the other articles of the Convention, Article 21 applies only to those States which recognize and permit adoption. The original proposal aimed to introduce an obligation to facilitate adoption where appropriate, but several Islamic States opposed this wording because under Islamic law it is not possible to

³⁴ SOU 2020:63 p. 869.

³⁵ SOU 2020:63 p. 870 f.

³⁶ J. Tobin (2019), *The UN Convention on the Rights of the Child. A Commentary*, p. 794 f.

³⁷ UN Declaration of Social and Legal Principles relating to the Protection and Care of Children, especially with regard to national and international foster care and adoption. ³⁸ SOU 2020:63 p. 871.

adoption.³⁹ Islamic law has instead developed kafalah, which is a permanent form of foster care.⁴⁰

Intercountry adoption may be considered as an alternative form of care if the child cannot be cared for by other appropriate means in his or her country of origin. Article 21 should also be read in relation to Article 20(3) which states that a child deprived of his or her family environment shall be placed in a child care institution only if necessary. What is in the best interests of an individual child, some form of placement in the child's country of origin, including placement in an institution, or intercountry adoption must be assessed on the basis of a variety of factors, such as age, language, culture and family circumstances.⁴¹ The existence of a hierarchy is also evident from Article 17 of the 1986 Declaration, which contains similar wording. The possibility of taking the child into care in his or her own country must be considered first.⁴²

An important principle is to prevent intercountry adoption from leading to undue financial gain for the persons involved in it. States Parties shall, where appropriate, enter into such bilateral and multilateral agreements as may be necessary to ensure that adoptions are carried out through competent authorities and bodies. It should also be mentioned that Article 35 requires States to take all appropriate national, bilateral and multilateral measures to prevent the abduction and sale of or traffic in children for any purpose and in any form, see below. The same is mentioned in the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography. Similar wording is also found in Article 20 of the 1986 Declaration, which, according to the travaux préparatoires of the Convention on the Rights of the Child, was one of the starting points for Article 21.

Rights of children with disabilities

Article 23 recognizes that a child with a physical or mental disability should enjoy a full and decent life. This should be done in conditions that ensure dignity, promote self-confidence and enable the child's active participation

³⁹ J. Tobin (2019), p. 766.

⁴⁰ SOU 2020:63 p. 828.

⁴¹ J. Tobin (2019), p. 796.

⁴² SOU 2020:63 p. 871 f.

⁴³ SOU 2020:63 p. 873.

in society. The article also recognizes the right to special care for a child with a disability. Furthermore, a State shall ensure, within its available resources, that the child and those responsible for his or her care receive support aimed at ensuring that the child has effective access to services in a manner that contributes to the child's fullest possible integration into society and individual development.⁴⁴In relation to Article 6, Article 23 requires a State to provide a child with disabilities and the child's parents or others responsible for the child's care with support that promotes the child's survival and development.⁴⁵The Committee on the Rights of the Child has stated that children with disabilities are best cared for in their own home environment, provided that the family receives adequate assistance in all areas.⁴⁶

Rights of children belonging to minorities and indigenous peoples

In States where there are ethnic, religious or linguistic minorities or persons belonging to an indigenous people, a child belonging to such a minority or indigenous people shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language (Article 30).

The right to have a cultural life of one's own should also be seen in the light of Article 7 on the right to a name and Article 8 on the right to maintain one's identity. The Committee on the Rights of the Child emphasizes that a State should ensure that children belonging to an indigenous people can have traditional names chosen by their parents in accordance with their cultural traditions, and the right to maintain their identity.⁴⁷

Protection against child trafficking

Article 35 requires States Parties to take all appropriate national, bilateral and multilateral measures to prevent the abduction and sale of or trafficking in children for any purpose or in any form.

States Parties shall protect the child from all other forms of exploitation

⁴⁴ SOU 2020:63 p. 920.

⁴⁵ SOU 2020:63 p. 922.

⁴⁶ SOU 2020:63 p. 932.

⁴⁷ SOU 2020:63 p. 1174.

exploitation which may harm the child in any way (Article 36. The article covers abductions both within a country and between countries. An abduction need not involve any remuneration or have a commercial motive⁴⁸.

It is not clear from the Article what is meant by the sale or trafficking of children. Article 2 of the Protocol to the CRC on the sale of children, child prostitution and child pornography defines the sale of children as "any act or transaction whereby a child is transferred from one person or group of persons to another for payment or other consideration". It follows from the Protocol that the improper inducement of consent to the adoption of a child in violation of applicable international legal instruments on adoption is covered. This shall apply regardless of whether the offence is committed within a country or is transnational, and regardless of whether it is committed in an organized manner or by an individual,⁴⁹see further below.

Right to rehabilitation and social reintegration

Article 39 requires States Parties to take all appropriate measures to promote the physical and psychological rehabilitation and social reintegration of a child who has been subjected to any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflict. Such rehabilitation and reintegration shall take place in an environment that promotes the child's health, self-respect and dignity.

The scope of application of the Article is not limited to the victimizer, but includes public and private actors as well as individuals. It can be a public official, family member, stranger or another child. There is also no geographical limitation. The abuse does not have to have been committed in Sweden; the article is also applicable to a child who is in Sweden but has been abused abroad⁽⁵⁰⁾.

The concept of rehabilitation covers measures to promote a child's physical and psychological recovery or recuperation. Through Article

⁴⁸ SOU 2020:63 p. 1356.

⁴⁹ SOU 2020:63 p. 1357.

⁵⁰ SOU 2020:63 p. 1524.

In addition, under Article 24, a child has the right to access health care and rehabilitation, regardless of the reason for the need.⁵¹

Optional Protocol on the sale of children, child pornography and child prostitution

The Protocol begins with a preamble explaining the background and purpose of the Protocol. The preamble states, inter alia, that the States Parties to the Protocol have been seriously concerned by the widespread and increasing international trafficking in children for the purpose of sale, child prostitution and child pornography and that they have taken into account that, in order to better achieve the aims of the Convention on the Rights of the Child and the implementation of its provisions, in particular Articles 1, 11, 21 and 32 to 36, it is appropriate to expand the measures that States Parties should take to ensure the protection of children from sale, child prostitution and child pornography. Furthermore, it is clear that the Protocol aims at a comprehensive approach and consequently a comprehensive response to the problems of sale of children, child prostitution and child pornography.

Article 1 requires States to prohibit the sale of children, child prostitution and child pornography in accordance with the provisions of the Protocol. Article 2 defines certain terms used in the Protocol. It states that for the purposes of the Protocol

- a) 'sale of a child' means any act or transaction whereby a child is transferred by one person or group of persons to another in return for payment or other consideration
- b) 'child prostitution' means the use of a child in sexual acts for payment or any other form of remuneration
- c) 'child pornography' means any representation, of any kind, of a child engaged in real or simulated gratuitous sexual activities or any representation of the sexual organs of a child for primarily sexual purposes

Article 9(3) requires States to take all feasible measures to ensure that all appropriate assistance is provided to victims of the crimes referred to in the Protocol, including full reintegration into society and full physical and psychological recovery. States shall also ensure, in accordance with Article 9(4), that all child victims of the crimes

⁵¹SOU 2020:63 p. 1524.

specified in the Protocol have access to appropriate procedures to seek, on a non-discriminatory basis, compensation for damage from those legally responsible.

According to the Committee on the Rights of the Child, the prohibition of the sale of children covers not only sexual exploitation, but also the transfer of organs, forced labor and situations where adoption constitutes the sale of children⁵².

1.2.8 UN Convention against Transnational Organized Crime and the Palermo Protocol

In December 2000, the UN Convention against Transnational Organized Crime (UNTOC) and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) were opened for signature. A bill proposing that Sweden approve the UN Convention against Transnational Organized Crime was submitted to the Riksdag in June 2003.⁵³ The Riksdag adopted the Government's proposal and the Convention entered into force on 29 September 2003.

The Palermo Protocol entered into force in Sweden on December 25, 2003. According to Article 2, the purpose of the Palermo Protocol is to prevent and combat trafficking in persons, especially women and children, to protect and assist the victims of such trafficking with full respect for their human rights, and to promote cooperation among States to achieve these aims. Through the drafting of the Palermo Protocol, a legally binding definition of trafficking in human beings has been agreed at the global level for the first time. Article 3(a) defines such trafficking by listing various acts (recruitment, transportation, transfer, harbouring or receipt) committed by certain means (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or abuse of power or of a person's position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person) for the purpose of exploitation (at least the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery

⁵²The Committee on the Rights of the Child. *Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. CRC/C/156, Distr.: General September 10, 2019, III. A. 14. ⁵³Prop. 2002/03:146 Sweden's accession to the United Nations Convention against Transnational Organized Crime.

or practices similar to slavery, servitude or the removal of organs). As regards trafficking in children, Article 3(c) specifically states that the recruitment, transportation, transfer, harbouring and receipt of children for the purpose of exploitation shall be considered trafficking in human beings, even if none of the means set out in Article 3(a) have been used. Article 3(d) defines a child as a person below the age of 18.

According to Article 10(1), law enforcement, immigration and other relevant authorities of the States shall cooperate with each other, as appropriate, by exchanging information in accordance with their national law. This information shall be used to determine whether persons crossing or attempting to cross a national border with travel documents belonging to other persons, or without travel documents, are perpetrators or victims of trafficking in human beings and the types of travel documents that persons have used or attempted to use to cross a national border for the purpose of trafficking in human beings.

1.2.9 2030 Agenda

On September 25, 2015, the UN General Assembly adopted the 2030 Agenda for Sustainable Development. The Agenda commits all UN member states to work towards achieving a socially, environmentally and economically sustainable world by 2030. The Agenda contains 17 goals and 169 targets, known in Sweden as the Global Goals. These replace the previous Millennium Development Goals, but are more comprehensive. The goals of the 2030 Agenda are universal and are to be applied in all countries that share responsibility for their implementation. They are also integrated and indivisible. The 2030 Agenda makes clear that sustainable development is essential for a shared future and that all three dimensions of sustainable development - economic, environmental and social - must work together. The Agenda facilitates and supports cross-sectoral work at all levels of society, which is a prerequisite for sustainable development.

The rights of the child in the adoption process are directly linked to several goals and targets of the Agenda, such as Goal 1 on eradicating poverty, Goal 10 on reducing inequalities and Target 16.2 on protecting children from abuse, exploitation, trafficking and violence.

Ensuring compliance with the rights of the child is part of the process of meeting the SDGs and, by extension, implementing the 2030 Agenda.

1.3 Council of Europe

The Council of Europe was established after the Second World War to ensure respect for human rights and fundamental freedoms. Within the framework of the Council of Europe, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) was drafted, as well as two conventions on child adoption: the 1967 Council of Europe Convention on the Adoption of Children and the 2008 Council of Europe Convention on the Adoption of Children.

1.3.1 European Convention for the Protection of human rights and fundamental freedoms

The European Convention was opened for signature on November 4, 1950 and entered into force on September 3, 1953. Sweden signed the Convention on November 28, 1950 and ratified it just over a year later, on February 4, 1952. On January 1, 1995, the European Convention was incorporated by a special law: the Act (1994:1219) on the European Convention for the Protection of Human Rights and Fundamental Freedoms.⁵⁴ The European Convention can thus be applied directly by Swedish courts and authorities. A rule has also been introduced into the Instrument of Government to the effect that laws or regulations may not be enacted in contravention of the provisions of the ECHR (Chapter 2, Section 19 of the Instrument of Government). The Convention can thus in practice be equated with the Constitution, which means that it differs from other conventions that Sweden has ratified, such as the Convention on the Rights of the Child. The Convention thus has a special status and importance in Swedish law.

What also distinguishes the ECHR from other international conventions (e.g. the Convention on the Rights of the Child) is that individuals have been given the right to appeal to a common court, the European Court of Justice.

⁵⁴Prop. 1993/94:117 *Incorporation of the European Convention and other rights and freedoms.*

Court, which has the power to give judgments binding on the respondent State under international law. Anyone who considers that his or her rights under the Convention have been violated may therefore apply to the European Court of Human Rights for a ruling after national remedies have been exhausted.

The right to family life

Article 8 states that everyone has the right to respect for his private and family life. However, in certain exceptional cases it may be permissible, or even necessary, to restrict this right. These exceptions fall under paragraph 2 of the Article and include situations which are both supported by national law and necessary in view of certain stated aspects of a democratic society.

Several judgments of the European Court of Human Rights show that the relationship between the child and the family of origin is central to the family life that Article 8 is intended to protect. Family ties other than parenthood may constitute the family life of children. Siblings are usually part of a child's family life⁵⁵ and grandparents may also be included in some cases⁵⁶

Article 8 has been held to confer special rights on adopted persons.⁵⁷ The Council of Europe also has two specific conventions on this issue: the 1967 Council of Europe Convention on the Adoption of Children and the 2008 Council of Europe Convention on the Adoption of Children, see below. Countries have been condemned by the European Court of Human Rights for violating Article 8 of the ECHR when they have not taken sufficient account of the adoptee's right to his or her origin.⁵⁸ The Court has ruled that the right to information about one's origin is part of the right to privacy under Article 8 of the ECHR. In cases where two rights are in conflict, a balance must be struck between them. For example, the mother's right to anonymity versus the child's right to information about his or her origin. A country may not categorically accommodate one of the rights holders at the expense of the other, but a balance must be struck.

⁵⁵Olsson v Sweden (no. 1) no. 57324/08 of May 13, 2014 and Moustaqim v Belgium no. 12313/86 of February 18, 1991.

⁵⁶Vermeire v. Belgium No 12849/87 of November 29, 1991, Marckx v. Belgium No 6833/74 of June 13, 1979, Bronda v. Italy 40/1997/824/1030 of June 9, 1998 and Scozzari and Giunta v. Italy Nos 39221/98 and 41963/98 of July 13, 2000.

⁵⁷European Union Agency for Fundamental Rights (FRA) and Council of Europe (2015), *Handbook on European law relating to the rights of the child*, p. 109 et seq.

⁵⁸Godelli v Italy no. 333783/09 of September 25, 2012.

Prohibition of discrimination

Article 14 states that the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

1.3.2 1967 and 2008 Council of Europe Conventions on adoption

In 1967, the Member States of the Council of Europe agreed on a Convention on the adoption of children. Sweden ratified the Convention in the same year.⁵⁹ The Convention was created in order to unify the rules on adoption at a time when there were major differences in the approach to and procedure for adoption. The Convention regulates the handling of adoption cases by the authorities but also contains substantive adoption rules. For an adoption to be valid, it must have been granted by a judicial or administrative authority. The Convention also deals with the consents required for an adoption to take place (Article 5). The consent of the parents must be obtained in the case of a child of a marriage, and that of the mother in the case of a child born out of wedlock. If the child has no parents capable of giving consent, the consent of the person or body exercising parental authority in their place is required. In certain special cases, consent may be omitted or refusal of consent may be disregarded. The mother's consent to adoption may not be given until a certain period, not less than six weeks, has elapsed after the birth of the child. If no such period is prescribed by law, sufficient time shall have elapsed since the birth of the child to enable the mother, in the opinion of the adoption authority, to r e c o v e r sufficiently from the birth. Measures shall be taken to prevent any undue advantage being taken of a child given up for adoption (Article 15). Following the introduction in 2003 of rules allowing two registered partners to adopt a child jointly, and for one registered partner to adopt the child of the other registered partner, Sweden withdrew from the Convention in the same year.

Given that many of the provisions of the 1967 Council of Europe Convention on adoption were considered obsolete and in conflict with

⁵⁹Prop. 1968:114 with a proposal for an Act on the amended wording of Chapter 4, 5 § Parental Code, etc.

With the case law developed by the European Court of Human Rights, work began in 2003 to develop a new convention on the adoption of children. The 2008 Council of Europe Convention on Adoption was adopted by the Council of Europe on November 27, 2008. The aim of this Convention is basically the same as that of the 1967 Convention, namely to harmonize the substantive law of the Member States by prescribing minimum rules. Changes in the Convention compared to the 1967 Council of Europe Convention on Adoption include requiring the father's consent to the adoption even when the child is born out of wedlock and requiring the child's consent if the child has reached sufficient maturity to understand the subject matter. States may also apply the provisions of the Convention in relation to registered partners and heterosexual and homosexual cohabitants.

The two Conventions have had little impact as they only regulated intercountry adoptions in European countries (and not at global level). They were mainly ratified by traditional receiving States⁶⁰.

1.4 The Hague Conference on Private International Law (HCCH)

The Hague Conference on Private International Law (HCCH) is an intergovernmental organization working for the gradual unification of the rules of private international law in the participating countries.⁶¹ The HCCH is governed and financed by its members.⁶²

The HCCH's mission is to provide internationally agreed solutions through the negotiation, adoption and implementation of international treaties, the Hague Conventions, and instruments that can guide States in developing their own legislative solutions. Since its inception, over 50 conventions and instruments have been adopted through the HCCH.

The HCCH has a secretariat, the Permanent Bureau, based at The Hague. The Permanent Bureau consists of a Secretary-General and four secretaries, as well as some thirty officials who prepare and organize meetings and carry out the necessary studies on the subjects

⁶⁰ E. Loibl (2019), p. 133 f.

⁶¹ Article 1 Statute of the Hague Conference on Private International Law.

⁶² Currently 91 Member States.

⁶³Unlike the UN, the HCCH has no system for monitoring compliance with the conventions. However, the Permanent Bureau carries out extensive work to support the effective implementation of HCCH conventions and instruments, including through the publication of explanatory reports, guides to good practice and other materials. It also provides training and technical assistance.

1.4.1 1965 Hague Convention

In the 1950s and 60s, European working groups were set up to discuss adoption legislation. In 1957, the UN Technical Assistance Administration and the International Social Service (ISS) convened a conference of experts on intercountry adoption to develop a set of basic principles. In the 1960s, the European Seminar on Inter Country Adoption was held in Leysin, Switzerland, which used these principles to develop and disseminate a charter that became the basic framework/standard for intercountry adoption. Among the topics discussed at the Leynar seminar was the drafting of the first multilateral private international agreement on intercountry adoption to address urgent issues of court procedures for adoption. This culminated in the 1965 Hague Convention on Jurisdiction, Applicable Law and the Recognition of Decisions Relating to Adoption.⁶⁴The treaty regulated rules of jurisdiction, choice of law and mutual recognition of adoption decisions. It also stipulated that an adoption should only be granted if it is preceded by a thorough examination of the best interests of the child. The Convention dealt primarily with the international legal aspects of intercountry adoption, but did not provide any practical guidelines on the procedures to be followed in this respect. This was probably the reason why it was only ratified by three States (Austria, the United Kingdom and Switzerland)⁶⁵.

The Convention meant that either the country of nationality of the adoptive parents or the country where they lived had jurisdiction to decide on the adoption. This was to ensure the legal status of the child in

⁶³ Articles 5 and 6 of the Statute of the Hague Conference on Private International Law.

⁶⁴The Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoption, 15 November 1965.

⁶⁵E. Loibl (2019), p. 133 f. and M. Jänterä-Jareborg (1994), *Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*. Nordic Journal of Law 63:185-203, p. 186.

the country where the child was expected to grow up. The court in that country would apply its national law to the adoption. The child's national law would also have a bearing on the child's adoptability⁶⁶.

In 1965, the Government appointed a committee to review the regulation of international adoptions. The provisions of the Act (1904:26 p. 1) on certain international legal relationships concerning marriage and guardianship were considered to be partly outdated and lacked regulation of the competence of Swedish authorities in international adoption cases and provisions on the legal effects of international adoptions.⁶⁷In 1969, the committee issued its final report⁶⁸proposing a law on international legal relationships concerning adoption, which proposal presupposed Sweden's accession to the 1965 Hague Convention.⁶⁹However, Sweden did not ratify the Convention.

1.4.2 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption

In the late 1980s, it was recognized that the number of intercountry adoptions had increased dramatically in many countries since the late 1960s and that this raised many complex issues. There was a need for legally binding rules and a system of cooperation between countries. In 1988, when the number of intercountry adoptions peaked at over 19 000 and it was clear that previous international legal instruments were insufficient to eliminate abuses, the Permanent Bureau of the Hague Conference proposed the preparation of a draft Convention on the adoption of children from abroad.⁷⁰The result was the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993 Hague Convention), adopted in The Hague on 29 May 1993.

The Convention contains rules to ensure that the best interests of the child are taken into account in intercountry adoptions, provisions on cooperation between States and rules that adoptions carried out

⁽⁶⁶⁾ K. Lee (2021), *The Global Orphan Adoption System: South Korea's Impact on It's Origin and Development*, p. 39.

⁽⁶⁷⁾ SOU 1969:11 *International Adoption Law*, p. 37.

⁽⁶⁸⁾ SOU 1969:11.

⁽⁶⁹⁾ O. Hellberg (1977), *International adoptions - current problems against a legal-historical background*. SvJT 1977, p. 728 ff.

⁽⁷⁰⁾ E. Loibl (2019), p. 131 f.

in accordance with the Convention shall be recognized by the other Contracting States. The aim is to ensure that intercountry adoptions take place within a system of cooperation between the States Parties to the Convention and that responsibility for adoptions is shared between the country of origin and the country of destination. The Convention is the most significant attempt to address illegal and commercial practices in the intercountry adoption system.⁷¹ A Member State is only formally obliged to apply the provisions of the Convention in relation to other Member States. However, in November 2000, a so-called Special Commission adopted a recommendation that Member States should apply, as far as practicable, the standards and guarantees contained in the Convention in relation to adoptions from non-Convention States.⁷²

The Convention is based on progressive implementation.⁷³ A country does not have to meet all the criteria in order to ratify the Convention. However, an indispensable requirement is to designate a Central Authority that can issue a so-called Hague Certificate⁽⁷⁴⁾ (Article 23 Certificate).⁷⁵

The Convention is based on mutual trust

The Convention is a reciprocal convention, which means that both the receiving country and the country of origin must have ratified and implemented the Convention in order to ensure that the requirements of the Convention are met.⁷⁶ This means that receiving countries must assess whether the country of origin meets the requirements of the Convention when cooperating, for example that the country of origin has a functioning child protection system. It follows from Article 1 of the Convention that there is no obligation to cooperate with all acceding countries.⁷⁷

Competent authorities in the country of origin are responsible for verifying the child's identity, adoptability and ensuring that the necessary consent to an adoption has been given freely, fully and informed, without financial inducement and in the required form, and that

⁷¹ E. Loibl (2019), p. 131 f.

⁷² SOU 2003:49 *Adoption - at what cost?* p. 124.

⁷³ HCCH (2008), *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention Guide No.1*, p. 40 f.

⁷⁴ A certificate that an adoption has been made in accordance with the 1993 Hague Convention. It is the country, where the adoption decision is taken, that should issue the certificate.

⁷⁵ Meeting with HCCH in The Hague 2023-10-02.

⁷⁶ Meeting with former HCCH Secretary General Hans van Loon in The Hague 2023-10-02.

⁷⁷ Meeting with HCCH in The Hague on 2023-10-02.

the principle of subsidiarity is respected. The authorities of the receiving State are obliged to examine the suitability of the prospective adoptive parents to adopt internationally, to provide them with appropriate advice and to ensure that the child is allowed to enter and settle permanently in the receiving country.

Based on the idea of mutual trust, adoptions certified by the competent authority of the country of origin as having been made in accordance with the Convention are automatically recognized in the receiving country (Article 23). This system replaced the traditional two-step process, whereby the adoption procedure in the country of origin was in principle repeated in the receiving country. The two-step procedure was often perceived as cumbersome, as the adoptive parents had to go through two legal adoption procedures. However, the double process provided some protection in the adoption system, as the courts in the receiving countries also had to assess whether the adoption was in the best interests of the child⁷⁸.

Despite the idea of mutual trust, receiving countries are still obliged to make their own assessments of the systems of intercountry adoption in the countries of origin and the reliability of the information provided about the children. There are countries of origin that have ratified the Convention but are either unwilling or unable to implement it adequately. The authorities of the receiving States cannot therefore necessarily rely on their foreign counterparts to properly fulfill their duties and responsibilities and to ensure that the proposed children are available for intercountry adoption. This is why the guidance to the Convention emphasizes a shared responsibility

In order for the Convention to fulfill its objectives for the best interests of the child, Contracting States must not only take on their own specific responsibilities, but also share some others. In essence, receiving States and States of origin must share responsibility for making the Convention work as intended, and they must work together to ensure the effective regulation of adoptions.⁷⁹

This also means that receiving countries must take proactive measures when systematic abuses occur, by trying to eliminate them, if necessary by suspending or refusing adoptions from a country of origin. This shared responsibility means

⁷⁸ E. Loibl (2019), p. 171 f.

⁷⁹ HCCH (2012), *Accreditation and adoption accredited bodies. General principles and guide to good practice Guide no 2*, p. 113.

also that the receiving State shall refuse to recognize an adoption if the adoption is manifestly incompatible with the public policy of that State, having regard to the best interests of the child (Article 24).

According to former MIA and MFoF staff, the division of responsibilities is a good idea, but at the same time it allows everything to look good on the surface without being so. A good dialog between the countries is therefore needed⁸⁰.

Conditions for adoption

First of all, it must be established by the authorities of the country of origin that the child is eligible for adoption (Article 4(a)). In line with the Convention on the Rights of the Child, the 1993 Hague Convention also obliges States of origin, in accordance with the so-called principle of subsidiarity, to consider first of all the possibilities of finding a suitable family in the country of origin for children who cannot grow up in their family of origin, before considering intercountry adoption. It must then be established that the adoption is in the best interests of the child and that the persons, authorities and institutions required by the law of the country of origin to give their consent to the adoption have been properly informed and advised and that the mother's consent (if necessary) has been given after the birth of the child (Article 4(b) and (c)). It is also important that the child, taking into account his or her age and maturity, has been informed and advised of the implications of the adoption and that the child's wishes have been taken into account (Article 4(d)).

An adoption may only take place if the competent authorities of the receiving State have established that the prospective adoptive parents are fit and proper to adopt and that they have received such counseling as may be necessary, and have established that the child is or will be authorized to enter and permanently reside in that State (Article 5).

⁸⁰Meeting with former employees of MIA and MFoF 2023-02-15.

Informed and voluntary consent

According to Article 4(c) of the 1993 Hague Convention, an adoption may only take place if the competent authorities of the State of origin have ensured that

- the persons, institutions and authorities who are to give their consent to the adoption have received the necessary advice and have been duly informed of the implications of their consent, in particular whether or not the adoption will lead to the termination of the legal relationship between the child and his or her family of origin,
- such persons, institutions and authorities have voluntarily given their consent in the prescribed legal form and that consent has been printed or certified in writing,
- the consents have not been obtained by payment or by consideration of any kind and have not been withdrawn; and
- the mother's consent, where required, has been given only after the birth of the child.

Furthermore, it is required that the competent authorities have ensured that

- the child has been counseled and duly informed of the implications of the adoption and of his or her consent to the adoption where such consent is required,
- the child's wishes and opinion have been taken into account,
- the child's consent to the adoption, where such consent is required, has been freely given in the prescribed legal form and has been expressed or evidenced in writing,
- such consent has not been obtained by payment or indemnification of any kind.

According to the HCCH Guide to Good Practice, the requirement to obtain proper consent to adoption is an important element in combating the abduction, sale and trafficking of children. The person obtaining consent should ensure that

- the person giving the consent understands the consequences of their decision,
- the consent has been given voluntarily and has not been obtained through financial or other reward,
- a new mother does not give her consent until some time after the birth of the child,
- the child's consent has been obtained where necessary ⁸¹

The HCCH recognizes that States of origin may often lack the resources to ensure that proper consents are obtained. Since consents are most often obtained at the local level, it is important that States have reliable and ethical personnel to oversee the consent process. States should take steps to monitor the activities of foreign accredited bodies or persons to ensure that no undue pressure is exerted by them, or on their behalf by intermediaries, to obtain consents to adoptions. This is of particular importance in countries where strong adoption is not culturally known. In such contexts, the implications of an intercountry adoption procedure must be carefully studied and, where necessary, reflected in legislation. Receiving States must ensure that the bodies and persons they authorize to carry out adoptions are of the highest ethical and moral quality⁸²

Subsidiarity principle

According to the 1993 Hague Convention, the possibility of taking the child into care in the country of origin must always be considered before the option of intercountry adoption. Raising the child in his/her biological family is the first option to be considered. This is followed by the options of growing up with relatives, growing up in a family in the country of origin (foster or adoptive family) and finally growing up in a family in another country. This is known in this context as the principle of subsidiarity.

With regard to the principle of subsidiarity, the Convention on the Rights of the Child also provides for 'appropriate care in the country of origin' as an alternative, to be considered before intercountry adoption. The intention of

⁸¹ HCCH (2008), p. 77.

⁸² HCCH (2008), pp. 78-79.

The purpose of the 1993 Hague Convention is not to deny or ignore other options for the care of the child, but to emphasize the importance of permanent family care as an alternative to care in the biological family. The idea is that the placement of a child in a family, including intercountry adoption, is the best solution over all other forms of care and is particularly preferable to institutional care. It establishes the fundamental principle that children are not isolated individuals but are born into and belong to a particular environment. Only if this environment cannot provide a minimum of care and education for various reasons should adoption be considered.

The possibility of a materially better future is not in itself sufficient to resort to adoption.⁸³

Article 4(b) places responsibility on the State of origin to ensure that the child's situation has been examined and that it is in the child's best interests to be adopted abroad. The reason for this is that the State of origin is in the best position to determine that there is no domestic option for the child. However, the receiving State is in a position to control this, as it must consent to the adoption procedure proceeding. In practice, however, it is difficult for the receiving State to verify in an individual case whether sufficient efforts have been made to provide the child with a family in the country of origin⁸⁴.

The prohibition of undue financial gain

No person shall make any undue financial or other gain in connection with intercountry adoption activities. Only costs and expenses, including reasonable professional fees to persons involved in the adoption, may be charged or paid. The management, administration and employees of the associations involved in an adoption shall not receive remuneration which is excessive in relation to the services rendered (Article 32). Central Authorities shall take all appropriate measures to prevent undue financial or other gain in connection with an adoption and to prevent practices contrary to the purposes of the Convention (Article 8). According to the HCCH Guidance, undue financial gain may arise in the following situations

⁸³ SOU 2003:49 p. 124.

⁸⁴ SOU 2003:49 p. 124 f.

- When the salary of the accredited body's representative in the country of origin is too high compared to the average salary of workers in that country doing the same type of work outside the adoption context.
- The administrative costs of the accredited body are too high in relation to the services provided.
- The donations and contributions required from the prospective parents are used for personal purposes.⁸⁵

Both states are responsible for ensuring that the adoption is in the best interests of the child

According to Article 17, a decision in the State of origin to surrender a child to the care of prospective adoptive parents may only be taken if

- a) the central authority of that State has ensured that the prospective adoptive parents consent,
- b) the Central Authority of the receiving State has approved such a decision provided that the law of that State or the Central Authority of the State of origin requires such approval,
- c) the Central Authorities of both States have agreed that the adoption procedure may proceed; and
- d) it has been established in accordance with Article 5 that the prospective adoptive parents are competent and suitable to adopt and that the child is or will be authorized to enter and habitually reside in the receiving State.

The article expresses the joint responsibility for ensuring that the adoption is in the best interests of the child. Both the country of origin and the receiving country must give the green light before the child leaves the country.⁸⁶ If the receiving country discovers ambiguities in the documentation, for example two different dates of birth for the child, the country of origin must investigate the reasons for this.⁸⁷ Article 17(c) is of central importance for the possibilities of indirect maintain the adoption prerequisites of Swedish law even when the actual adoption decision is to be made in another convention country (nor-

⁸⁵ HCCH (2012), p. 75 ff.

⁸⁶ Meeting with former HCCH Secretary General Hans van Loon in The Hague 2023-10-02.

⁸⁷ Meeting with HCCH in The Hague on 2023-10-02.

country of origin of the child). If, for example, the law of the latter country does not require the consent of a child who has reached the age of 12 and the biological parents to the adoption, the Swedish social welfare authority may require such consent before giving its own consent under Article 17(c) to the adoption procedure proceeding. The travaux préparatoires seem to assume that this possibility will be used⁸⁸.

The child's right to his or her origin

According to Article 30, the relevant authorities shall ensure that the information on the child's origin held by the authorities is preserved, in particular as regards information on the identity of the parents and medical history. The authorities shall also ensure that the child or his or her representative has access to such information, under appropriate guidance, to the extent permitted by the law of the State.

Right to post-adoption advice, assistance and support

Article 9 requires Central Authorities to promote adoption counseling and post-adoption assistance and support. According to the HCCH, States must make every effort to fulfill this obligation, which includes meeting the needs of both adopted persons and their families.⁸⁹

⁸⁸ Prop. 1996/97:91 *International adoption issues* p. 66 ff.

⁸⁹HCCH (2008), p. 125.

2 The concept of irregularities in international adoptions

2.1 The concept of irregularities is central to the Adoption Commission's mission

The Adoption Commission is tasked with clarifying the existence of any irregularities in Sweden's international adoption activities. The Commission therefore needs to define the concept of irregularities, i.e. what actions we consider to be irregular.

The inquiry's terms of reference state that irregularities can be of various kinds, ranging from a so-called illegal adoption, i.e. an adoption that is the result of abuse such as abduction, sale, trafficking and other illegal activities, to various forms of unethical or inappropriate behavior by different participants in the process. The line between illegal adoption and other irregularities can, according to the Directives, be difficult to draw. According to the directives, when analysing the responsibilities of the various actors, the Adoption Commission must take into account the regulations and organization in force at the time, as well as the attitudes and norms that existed in society at the time.

2.2 Previous definitions and descriptions of irregularities¹

2.2.1 HCCH uses the terms illegal adoption and illicit practices

In 2023, the Hague Conference on Private International Law (HCCH) published a comprehensive document to support States Parties in identifying, preventing and addressing irregularities.² In that document, the HCCH uses the overarching concepts of "illegal adoption" and "illicit practices". Illegal adoption refers to an adoption achieved through abuses such as abduction, child trafficking and other illegal activities against children that are usually prohibited by law. Illicit practices are those that lead to situations where a child is adopted without respect for the rights of the child or for the safeguards of the 1993 Hague Convention.³ This includes actions that are prohibited by law, but also various forms of unethical or immoral behavior. Examples include the sale or trafficking of children, pressuring or deceiving the biological parents about the nature of the adoption or the consequences of their consent, fabricating documents to make it appear that the child is an orphan, or making the child available for intercountry adoption without regard to appropriate domestic solutions⁴

The concept of illegal adoption can be said to be somewhat misleading as all adoptions have to be approved by a court and thus become legal. However, the adoption process may contain illegal elements up to and including the court decision. Nigel Cantwell⁵ defines illegal adoptions as adoptions which, although legalized by the competent judicial or administrative authority, are the result of illegal actions⁶

¹ All translations from English to Swedish in this section are those of the Adoption Commission.

² HCCH (2023). *Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption*.

³ HCCH (2023), p. 24.

⁴ HCCH (2012), Discussion Paper: Co-operation between Central Authorities to develop a common approach to preventing and addressing illicit practices in intercountry adoption cases.

⁵ Nigel Cantwell is a consultant in the field of children's human rights and has worked for UNICEF and the International Social Service (ISS), among others.

⁶ ^N Cantwell (2017), *The sale of children and illegal adoption*, p. 10.

2.2.2 UN Special Rapporteurs have described various forms of illegal adoptions

In 2017, the UN Special Rapporteur on the sale and sexual exploitation of children presented a report on illegal adoptions and how to prevent and combat them.⁷The report describes a range of illegal adoptions that have occurred and continue to occur. The most common practices are the kidnapping of babies (for example, by falsely informing parents that their child was stillborn or died shortly after birth), obtaining the consent of the biological parents through misrepresentation or coercion, payment for the child, and bribes paid to intermediaries involved in the adoption process. Part of these practices is the falsification of documents and the circumvention of rules. The documents that are falsified can include birth certificates, medical records, mother's identification documents, DNA test results and documents showing transfer of custody or declaration of abandonment.⁸For example, by exaggerating the child's medical needs, the child may be classified as available for intercountry adoption when in practice the child could be adopted domestically.⁹The report also describes that legal loopholes have been used to circumvent the adoption process under the 1993 Hague Convention. For example, the UN Committee on the Rights of the Child has noted that foreign parents have been granted custody of the child and then carried out a national adoption in their home country to circumvent the adoption process in Uganda.¹⁰There have also been cases where kafalah care has been converted into a national adoption once the child has been brought to the receiving country.¹¹

⁷Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017.

⁸Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session 27 February-24 March 2017, p. 28. ⁹Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017, pp. 34 and 50. ¹⁰See also UNICEF (2014), *Study on Legal Guardianship and Adoption practices in Uganda*. Study report 2014 and The African child Policy forum (ACPF), (2012), *Intercountry Adoption. An African Perspective*, p. 15.

¹¹Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017, p. 49.

In September 2022, a unique joint statement by several UN Special Rapporteurs¹² was issued calling on States to prevent illegal intercountry adoptions. The statement identifies both the rights violated by irregular adoptions and the obligations of States to take measures to prevent and redress irregular adoptions. The statement states that illegal adoptions are facilitated by a variety of unlawful acts or practices¹³, such as the abduction and sale of children or trafficking in children, enforced disappearances and wrongful removal of children in the context of enforced disappearances, as well as fraudulent conduct in the determination of the child's adoptability, falsification of official documents, lack of proper consent of biological parents, coercion and undue financial gain by intermediaries and corruption. These practices are due to deficiencies in child protection systems that are exploited by criminal networks, often with the involvement of state officials or as a result of permissive state policies¹⁴.

2.2.3 Dutch investigation divided irregularities into illegal and unethical conduct

In recent years, several countries have investigated irregularities in intercountry adoption, including Belgium,¹⁵ Chile,¹⁶ Denmark,¹⁷ France¹⁸ and Switzerland.¹⁹ There are also ongoing investigations in South Korea and Norway. These studies have used different concepts

¹²The UN Committee on the Rights of the Child (CRC), the Committee on Enforced Disappearances (CED), the Special Rapporteur on the Promotion of Truth, Justice and Reparation, the Special Rapporteur on the Sale and Sexual Exploitation of Children, the Special Rapporteur on Trafficking in Persons especially Women and Children, and the Working Group on Enforced or Involuntary Disappearances.

¹³ Illegal acts or illicit practices.

¹⁴United Nations Human Rights Treaty Bodies. *Joint statement on illegal intercountry adoptions*. Published on September 28, 2022 and Committee on Enforced Disappearances. *Joint statement on illegal intercountry adoption*. CED/C/9. December 5, 2022.

¹⁵ Belgian Inquiry (2021), Panel of experts on intercountry adoption. *Final Report, August 14, 2021*.

¹⁶Second Chamber of Parliament Chile (2019), *Report of the Special Commission to Investigate the Conduct of State Bodies in relation to Irregularities in the Adoption and Enrollment Processes of Minors and the Control of their Travel Abroad*.

¹⁷Ankestyrelsen (2024), *Mistanke om ulovlige forhold i adoptioner fra Chile til Danmark 19/8-1988, 2021 og Adoptionsformidlingen fra Sydkorea til Danmark i 19/0 erne og 1980 erne*. ¹⁸Gouvernement (2023), *Mission interministérielle relative aux pratiques illicites dans l'adoption internationale en France*.

¹⁹SHAW (Zurich University of Applied Sciences), (2023), *Evidence of illegal adoptions of children from ten countries of origin in Switzerland, 19/0s to 1990s. Inventory of documents in the Swiss Federal Archives*.

to describe irregularities in international adoptions. The Dutch commission that published its report in 2023, the so-called Joustra commission, paid a lot of attention to defining what they considered to be irregularities.²⁰ The decision establishing the commission used the term "abuses" without further definition. The explanatory memorandum to the decision to set up the inquiry also mentions 'illegal adoption'. The Joustra Inquiry considered that it is clear that an act or omission that was contrary to agreed laws and regulations at the time should be considered as "abuse".²¹ However, it was considered more complicated when acts or omissions were not explicitly prohibited by national or international laws and regulations in force at the time, but could be ethically questionable. The Joustra inquiry ended up understanding "abuses" as follows:

Acts or omissions that are contrary to applicable national and international laws and regulations, as well as acts or omissions that are not formally contrary to applicable national and international laws and regulations but are ethically questionable.

The inquiry thus took into account both the legislation applicable at the time of the adoption and society's view of adoption at the time. By historicizing the irregularities in this way, i.e. understanding history in relation to the conditions that prevailed at the time, the inquiry believed that they could avoid pitfalls such as hindsight without, for that matter, viewing what happened in too mild a perspective.²² The inquiry emphasized that they did not make any statements about legal guilt and legal responsibility.²³

As examples of illegal behavior, they stated²⁴

- corruption,
- falsification of documents,

²⁰Committee on the Investigation of Intercountry Adoption. 2023.

²¹This may be a violation of international law, the law of the State of origin or Dutch law. As an example, it is stated that it is contrary to the Convention on the Rights of the Child to intentionally make it impossible or more difficult to trace the origin of the adopted person.

⁽²²⁾ Y. Balk, G. Frerks and B. de Graaf (2022), *Investigating Historical Abuses An Applied History Perspective on Intercountry Adoption in the Netherlands, 1950s-Present*, Journal of Applied History).

²³Committee on the Investigation of Intercountry Adoption (2021), Report (*unofficial translation*). Government of the Netherlands, p. 13 f.

²⁴Committee on the Investigation of Intercountry Adoption (2021), *Consideration, Analysis, Conclusions, Recommendations and Summary*, p. 15.

- obtaining consent for consideration or under duress,
- trafficking in children,
- kidnapping,
- baby farms (places where women get pregnant or stay to give birth, and then give up their newborn child for international adoption); and
- concealment of the child's identity.

As examples of unethical behavior, they cited

- obtaining consent under false pretences or under moral pressure,
- exploitation of poverty or other social or cultural circumstances such as war, natural disasters and social taboos,
- lack of archiving, and
- lack of documentation and lack of transparency in documentation.

2.3 Adoption Commission definition of irregularities

2.3.1 Illegal adoptions and unethical practices

There is no legal definition of the concept of irregularities, but the concept is defined in different ways based on the circumstances of the specific activity. What is common, however, is that the concept of irregularities includes a variety of undesirable behaviors that have different consequences.

Internationally, the terms illegal adoption and illicit practices are used. In accordance with this terminology, we have defined *irregularities* based on the concepts of illegal adoptions and unethical practices. By an illegal adoption, we mean an adoption that involves practices that are contrary to laws and regulations. Some of these actions may be criminal. By unethical practices we mean practices that lead to situations where a child is adopted without

respect for the rights of the child and the rights of the parents of origin or for the safeguards resulting from the 1993 Hague Convention.

The terms do not express a gradation of seriousness: both describe conduct which may be considered irregular and which may have equally serious consequences for the child and the parents. Moreover, different types of conduct often interact with each other and unethical conduct may become a breeding ground for illegal conduct.

2.3.2 Examples of illegal adoptions

Lack of consent from the child's legal guardian

Consent may be missing or given by a person who is not the child's legal guardian, such as a grandmother or a neighbor. There may also be so-called 'acting mothers' who give consent to adoption.

Child abduction

Child abduction can occur by kidnapping a child (human trafficking) or falsely informing parents that their child was stillborn or died shortly after birth.²⁵ Another example is the taking of a child from an orphanage where it has been left for temporary care, for example because the mother needs to work. Children can also be abducted when they are lost or otherwise separated from their parents.

Falsification of the child's documents

Falsification means altering a document so that it contains false information.²⁶ It can be done by manipulating or deliberately omitting information about the child. Documents that are falsified can include birth certificates, medical documents, parental identification documents, DNA test results and documents showing transfer of custody or abandonment²⁷

²⁵ HCCH (2023), p. 23.

²⁶ HCCH (2023), p. 23.

²⁷ HCCH (2023), p. 84.

The child's date of birth may be changed in order to make the child adoptable. The child may be described as an orphan even though it has a living parent (paper orphan) or as abandoned even though it is not. Adoptive mothers may have the child's birth certificate issued with their name as the biological mother (so-called cushion adoptions) or adoptive fathers may wrongly confirm the paternity of the child.

Trafficking in children

Child trafficking is any act or transaction by which a child is transferred from one person or group of persons to another in exchange for payment or other consideration.²⁸ Child trafficking in intercountry adoptions often involves a chain of different actors, such as lawyers, doctors, midwives, social workers, orphanage staff, nuns and high-ranking officials working together to facilitate the adoption. In some cases, these actors have received large sums of money, but these do not have to be large amounts for trafficking to occur. Even in smaller cases, a chain of intermediaries can emerge, creating a self-reinforcing system of mutual interests.

Another form of child trafficking is so-called 'baby farms' or 'baby factories', where a pregnant woman - voluntarily, under duress or for payment - stays in a special accommodation during her pregnancy, where she then gives birth to her child, which is put up for adoption.

2.3.3 Examples of unethical behavior

Poor administration and documentation

Adoptees seeking to trace their origins are often informed that their documents have been destroyed in floods, fires or by pest infestation. The absence of information and documents in adoption files may be due to a lack of administration or archiving procedures in the country of origin. It may also be due to the fact that authorities, orphanages or adoption organizations have not requested information or have not documented the information

²⁸Article 2 of the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography. See also HCCH (2023), p. 25.

exist. In some cases, lack of documentation may also be a deliberate act to cover up an illegal adoption. It can therefore be difficult or almost impossible to determine whether documentation gaps are due to illegal or unethical conduct. Whether the lack of documentation is due to carelessness, lack of resources or deliberate concealment of information, the consequence is that it makes it difficult for the adoptee to trace his or her origins. It also makes it difficult for receiving countries to ensure that the adoption is in the best interests of the child.

Obtaining consent under moral pressure or false pretences

Consent to adoption must be voluntary and informed. Even if there is consent, it may have been given under such conditions that it is questionable whether the consent is genuine. For example, the consent may have been given without the parents being sufficiently informed about the implications of the adoption. Parents may receive documents that they cannot read and/or understand due to illiteracy, lack of an interpreter, lack of education or because the document is written in a language they do not understand.²⁹Cultural differences in the understanding of what an adoption entails may also be exploited to persuade parents to give their children up for intercountry adoption. For example, parents may believe that the adoptive parents will provide care and education for the child and that the child will eventually return home. Consent can also be obtained through misleading information or pressure. For example, parents may be informed that the child has a disease that can only be treated in another country. Parents may be asked to pay for treatment for the child that they do not have to pay if they give the child up for adoption. For example, staff in maternity homes may persuade the mother to give the child up for adoption on the grounds that both the child's and the mother's life will be better as a result.

²⁹HCCH (2023), p. 106.

Insufficient efforts to seek a national solution before international adoption

According to both the Convention on the Rights of the Child and the 1993 Hague Convention, it is considered best for a child to grow up in his or her biological family or with relatives. This is followed by the options of growing up in a family in the country of origin and finally growing up in a family in another country. In a context where international adoption has been a profitable market, the principle of subsidiarity may be violated.

Deviations from a legally secure adoption process

One way of deviating from a legally secure adoption process is to transfer custody to the prospective adoptive parents in the child's country of origin, and then to transfer the child to the adoptive parents' home country where the adoption takes place.³⁰ Another example is adoptions carried out without the required authorizations.

Failure to respect the safeguards surrounding the adoption process runs the risk that the adoption will not respect the rights of the child.

2.3.4 Assessment of irregularities over time

The Adoption Commission's mandate extends over a period of time for over 70 years. During that time, knowledge, values and rules on adoption have developed and changed. An important issue has therefore been to take a position on how actions in the past should be valued and assessed. Judging whether an action has been irregular in a historical perspective is a complex task. Some of the things that attract attention today may have been assessed quite differently when they occurred.

The 1997 Sterilization Inquiry was tasked with mapping the application of the previous sterilization laws and considering principles for compensation to the victims. The Sterilization Inquiry placed great emphasis on pro-blematizing retrospective accountability and sought a

³⁰HCCH (2023), p. 46.

³¹Unlike the 1997 Sterilization Inquiry, the Vanvårdsutredningen was not tasked with shedding light on the question of responsibility in a broad sense. On the other hand, the task involved mapping neglect and it was therefore necessary to take a position on what should be regarded as "abuse and neglect". The Vanvårdsutredningen chose to use the rights of the child under the Convention on the Rights of the Child as a starting point when defining what should be regarded as neglect historically.³² They thus started from a contemporary rights perspective.

There are risks with both of these approaches. Judging what is to be considered unlawful from a contemporary rights perspective risks leading to anachronistic moralism, i.e. reversing the sequence of events and applying contemporary values to actions in the past. On the other hand, relying solely on the norms of the historical actors of the time risks belittling the violations that have occurred ³³.

The Dutch Joustra inquiry investigated irregularities in two ways: actions in violation of international law, the law of the country of origin or Dutch law, and actions that did not violate such regulations but were considered ethically irresponsible of the time at the time itself. They thus chose to base themselves on the regulations of the time, but also on the ethics of the time. In practice, however, there turned out to be very little difference in what was considered unethical then compared to today.³⁴

The Adoption Commission is based on the rules and rights in force at the time

As stated above, the question of how past actions should be evaluated and assessed is linked to the purpose of the investigation. If the purpose of the investigation is primarily about accountability, a historicizing assessment is important; the actors can only be held responsible based on the laws and regulations that applied at the time. If, on the other hand, the purpose is primarily about redress for

³¹SOU 2000:20 *The Sterilization Issue in Sweden 1935-19/5 Historical Illumination - Mapping - Interviews*, p. 15 ff.

³² SOU 2009:99 *Vanvård i social barnavård under 1900-talet*, p. 124.

⁽³³⁾ M. Andersson (2016), *Replacing the irreplaceable. State compensation for involuntary sterilization and neglect of children in care*, p. 45 ff.

³⁴Meeting with Georg Frerks and Yannick Balk, former investigators of the Dutch Joustra investigation in The Hague 2023-10-02.

the affected individuals, a contemporary rights perspective helps to make visible the violations that have in fact occurred.

The purpose of the Adoption Commission's mandate is to draw lessons from history and propose how the international adoption business should function in the future. The terms of reference explicitly state that the commission may not consider financial compensation or other redress for individuals who have been affected. This means that the perspective of redress is not as prominent as in the directives for other commissions that have investigated historical irregularities, so-called truth commissions.³⁵ Furthermore, it is stated that the commission shall investigate and clarify how the responsible actors responded to any indications of irregularities and whether they thereby fulfilled their responsibility or role based on the prevailing regulations and organization.³⁶ In accordance with the directives, we have judged illegal actions based on the laws and regulations that applied at the time. From a legal point of view, the actors cannot be considered responsible for violations of rights that occurred before Sweden's international human rights obligations had entered into force. Unethical conduct is therefore also assessed on the basis of the values recognized in international conventions and formulated in Swedish law at the time of the adoption in question. Unlike the Dutch Joustra inquiry, we do not consider that the assessment of what constituted unethical conduct can be influenced by the different perceptions of ethics and morality that the actors had at the time in question. The spirit of the times and views on children and families are important factors in seeking to understand and obtain explanations for the actions of different actors, but they do not affect the assessment of whether an action has been unethical or not. For the sake of clarity, we also want to make it clear that we will not take into account whether the action was performed with good intentions. Even actions that were performed with the aim of doing good can be assessed as unethical.

One risk with our approach, i.e. not starting from a contemporary rights perspective, is that we do not highlight the violations that have actually occurred. However, we have been able to establish that the rights arising from both the Convention on the Rights of the Child and the 1993 Hague Convention have in principle been recognized in Swedish law throughout the period

³⁵Dir. 2020:29 *Settlement of historical violations and abuses against Tornedalians, Quainings and Lantalaïset* and Dir. 2021:103 *Mapping and review of the policy pursued towards the Sami and its consequences for the Sami people*.

³⁶Dir. 2021:95 s. 9.

we examine. It is above all the principle of subsidiarity and the child's right not to be separated from siblings through adoption, which has been clarified and strengthened by the adoption of the Convention on the Rights of the Child in 1989. However, the principle of subsidiarity has been expressed and recognized in practice both internationally and in Sweden since the 1950s. As early as 1978, the government stated that it is generally considered best for a child to remain in his or her own biological family or at least to remain in the home country as a foster or adopted child.³⁷ The principle of subsidiarity was also expressed in the 1986 UN Declaration.³⁸ As regards the child's right not to be separated from siblings in the event of adoption, the child's right to a family is set out in the UN Declaration of Human Rights from 1948. In practice, it is therefore not decisive whether we start from a contemporary or a past rights perspective.

2.4 Circumstances that increase the risk of irregularities

There are a number of factors that can be assumed to increase the risk of irregularities in international adoptions.

2.4.1 Poverty and other cultural or social circumstances

According to the HCCH, poverty, usually in combination with other factors (e.g. lack of or inadequate family support or alternatives to abandonment) can lead to consent to adoption being given solely on the basis of material and/or financial poverty. This can create situations where children are more vulnerable to exploitation⁽³⁹⁾.

According to the UN Special Rapporteur on the sale and sexual exploitation of children, many of the families involved in illegal adoptions have been in an acute situation of vulnerability when their child was put up for adoption, which increases the risk of the adoption not being handled properly. They are often mothers from

³⁷Prop. 1978/79:108 *on the organization of international adoptions, etc.*, p. 9 f.

³⁸Declaration of Social and Legal Principles relating to the Protection and Care of Children, in particular with regard to national and international foster care and adoption.

³⁹HCCH (2023), p. 106.

rural areas, belonging to indigenous peoples and in an economically vulnerable situation. Many have not had access to education, making it difficult for them to exercise their rights and the rights of their children.⁴⁰In many of the countries of origin, children born out of wedlock have not been socially accepted and the mother and child have been stigmatized or rejected. Many mothers have experienced great social pressure to give up their children.

2.4.2 Corruption

Corruption means taking advantage of a public position to obtain undue gain for oneself or others. Corruption does not necessarily involve someone gaining a financial benefit. So-called "friendly corruption" takes place without any demand for compensation or quid pro quo. The widespread occurrence of corruption is a risk factor as public officials are used to demanding and receiving payment for both legal and illegal approvals and services.

2.4.3 Crisis situations

In the context of natural disasters and wars leading to the separation of children from their parents, situations often arise that are misused to carry out intercountry adoptions.⁴¹In 2005, the UN Committee on the Rights of the Child published general comments stating that children should not be adopted during an ongoing crisis.⁴²Since then, there has been a consensus that adoptions should not take place in the immediate aftermath of armed conflicts and natural disasters, including climate-related disasters.⁴³One reason for this is that children are often separated from their families in such situations and may therefore be wrongly assumed to be in need of adoption. The second reason is that adult

⁴⁰Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017.

⁴¹Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017.

⁴²Ombudsman for Children. Swedish translation of the Committee on the Rights of the Child's General Comment No 6. *The treatment of unaccompanied and separated children outside the country of origin*, 2005, p. 91.

⁴³United Nations Human Rights Treaty Bodies. *Joint statement on illegal intercountry adoptions*, p. 10. Published on September 28, 2022 and Committee on Enforced Disappearances. *Joint statement on illegal intercountry adoption*. CED/C/9. December 5, 2022.

capacity is often so affected by the emergency that it is not possible to guarantee that adoptions are carried out in a legally secure manner⁴⁴

2.4.4 Generous fees and donations

Both the Convention on the Rights of the Child and the 1993 Hague Convention state that no undue profit may be made in connection with adoption. However, it is permissible for authorities and orphanages in the children's countries of origin to charge a fee in connection with the adoption. However, there must not be a risk that intercountry adoption activities provide such a large financial benefit that a dependency on income from such activities is created in the country of origin⁽⁴⁵⁾.

According to the HCCH, there should be no grants, donations and/or cooperation projects in connection with an adoption.⁴⁶ However, there is nothing to prevent adoptive parents and other relatives from donating money to orphanages in the child's country of origin after the adoption, for example on the occasion of Christmas, birthdays or funerals.

Generous care fees and donations from adopters and adoption agencies risk creating an incentive to provide children for adoption, increasing the risk of irregularities.⁴⁷ The economic benefits that intercountry adoption may have for the country of origin (compared to a placement in the child's home country) may hinder the development of its social systems for the support and protection of parents and children, thus undermining the principle of subsidiarity.

2.5 Irregularities are difficult to detect afterwards

Although numerous reports show that there have been systematic irregularities in the intercountry adoption process, many adoptees and their families of origin will never be able to find out whether they themselves have been victimized. The families of origin may lack the practical ability to report the abduction of the child and thus seek truth and redress. The mothers who

⁴⁴ N. Cantwell (2017), p. 45.

⁴⁵ Prop. 2003/04:131 *International adoption issues*, p. 41.

⁴⁶ HCCH (2023), p. 51.

⁽⁴⁷⁾ E. Loibl (2019), *The Transnational Illegal Adoption Market. A Criminological Study of the German and Dutch Intercountry Adoption Systems*, pp. 409 f.

wrongly informed of the death of their child will often never know the true circumstances. Even those who have been adopted will in many cases never know whether the information contained in their documents is correct, as it is usually in the meeting with the family of origin that the truth can be revealed⁽⁴⁸⁾.

2.5.1 Illegal adoptions are made legal through the official processes of the adoption and legal system

Once an adoption has been given legal status, it is very difficult to determine afterwards whether there may have been irregularities.⁴⁹ The term "child laundering" is used to describe how illegal adoptions are made legal through the official processes of the adoption and legal system. Professor David M. Smolin⁵⁰ compares the way children are 'laundered' through the adoption system to the way a criminal organization engaged in money laundering obtains funds illegally and then 'launders' them through a legitimate operation.⁵¹ The motive is usually financial, although for some there is an ideological motive based on an overriding desire to save children.⁵² The illegitimate adoption operation goes undetected because it is 'embedded' in a legitimate system. Children obtained through irregular means pass through the public adoption system through the same legal channels as children who have been properly declared available for intercountry adoption. This leads to a confusion of illegal and legal adoptions in the adoption system. Irregularities can only be detected if the child has not been properly screened, for example if the adoption documents contain contradictory information about the child's family status⁵³.

⁽⁴⁸⁾ E. Loibl (2024), *Receiving states obligations in the aftermath of illegal intercountry adoptions as enforced disappearances*. In E. Loibl and D. M. Smolin (eds), *Facing the Past. Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, p. 288 f.

⁴⁹ N. Cantwell (2017), p. 22 f.

⁵⁰ David M. Smolin is Professor of Constitutional Law and Director of the Center for Children, Law and Ethics at Cumberland School of Law, USA.

⁽⁵¹⁾ D. M. Smolin (2006), *Child laundering: how the intercountry adoption system legitimizes and incentivizes the practices of buying, trafficking, kidnapping and stealing children*. *The Wayne Law Review*. Vol. 52:113, 2006: 113-200.

⁵² D. M. Smolin (2010), *Child Laundering and the Hague Convention on Intercountry Adoption: The Future and Past of Intercountry Adoption*. Samford University.

⁽⁵³⁾ E. Loibl (2019), p. 68.

Criminologist Elvira Loibl⁵⁴ has investigated the illegal dimension of the intercountry adoption business.⁵⁵ In her study she describes that children can be laundered either by circumventing the intercountry adoption system or by allowing the child to pass through the adoption system.

Circumventing the international adoption system

One way to circumvent the international adoption system is by having a child's birth certificate falsified. Adoptive mothers may have the child's birth certificate issued with their name as the biological mother or an adoptive father may falsely confirm the paternity of the child. Sometimes this has been arranged before the birth of the children through pressure and/or payments to the pregnant woman.

Another way to circumvent the system is to transfer custody to the prospective adoptive parents in the child's country of origin, then transfer the child to the adoptive parents' home country where the adoption takes place⁵⁶

Allowing the child to pass through the adoption system

The second way of laundering an illegally obtained child is to let the child pass through the adoption system. Again, the child's birth certificate and other documents may be falsified to cover up the irregularity. In some cases, mothers have been told that their newborn child was stillborn or died shortly after birth.⁵⁷ The child may also be taken or bought from its home and then temporarily moved to an orphanage as a kind of interim placement. The child becomes a 'paper orphan'. Far from all these children are adopted, but may remain and be further exploited in and by the orphanage⁵⁸.

⁵⁴Elvira Loibl is an Assistant Professor at the Department of Criminal Law and Criminology at Maastricht University.

⁵⁵ E. Loibl (2019), p. 41 ff.

⁵⁶See Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session February 27-March 24, 2017 and K.n E Cheney (2021), *Closing New Loopholes: Protecting Children in Uganda's International Adoption Practices*. *Childhood* Vol. 28(4), 2021: 555-569.

⁵⁷ E. Loibl (2019), p. 41 ff.

⁽⁵⁸⁾ K. Van Doore (2016), *Paper orphans: Exploring child trafficking for the purpose of orphanages*. The International Journal of Children's Rights.

As a final step in the 'washing process', the adoption decision is taken by a court as a fully legal adoption procedure. All traces of wrongdoing will in most cases be erased by the time the child arrives in the receiving country and the adoptive parents, adoption organizations and authorities can deny any knowledge of wrongdoing abroad⁵⁹.

The laundering process is usually facilitated by individuals and organizations from both the public and private sectors who should act as the child's representatives in the adoption system, rather than pre-empting the interests of others. The foreign representatives and partners of adoption agencies in the receiving countries play a particularly crucial role in the demand-supply nexus. They are often involved in the most crucial phase, which starts with the abandonment or relinquishment of the child by the parents and ends with the court-supervised adoption. They are important cogs in the system as their working methods, integrity and understanding of the best interests of the child have a significant influence on the adoption process⁽⁶⁰⁾.

2.6 Other reasons why irregularities in adoptions go unnoticed

2.6.1 Illegal adoptions are seen as a humanitarian rather than a criminal act

One factor contributing to the invisibility of illegal adoptions may be the perception that the victim has nevertheless benefited from the adoption through the advantages in terms of standard of living and education that they have access to in the receiving country. This attitude contributes to the downplaying of adoption irregularities by the responsible actors⁶¹ and can lead to the various actors not investigating the information that comes to light, but seeing the action as humanitarian rather than criminal. Sophie Withaeckx⁶² describes how the responsible actors often distance themselves from information about irregularities in international

⁵⁹ E. Loibl (2019), p. 41 ff.

⁶⁰ E. Loibl (2019), p. 409 f.

⁶¹ See for example D. M. Smolin (2024), *Introduction* and S. Withaeckx (2024), *The Baby and the bathwater: resisting adoption reform*. From E. Loibl and D. M. Smolin (editors), *Facing the Past Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, p. 37 f. and 268.

⁶² Sophie Withaeckx is Assistant Professor of Philosophy at Maastricht University.

international adoptions because it is not consistent with their understanding of international adoption as something that only happens out of good intentions.⁶³

2.6.2 Fear of harming and stigmatizing adopted people

The fear of harming and stigmatizing adoptees also contributes to a reluctance to see and name irregularities in international adoption. In a letter to the Adoption Commission, the Adoption Center has stated that adoption is an identity and that the word "irregular" thus calls into question the existence of the adoptee. If an adoption is described as irregular, the adoptee's entire identity becomes irregular.⁶⁴ Other adoptees, however, express the view that adoption does not define who they are, but is rather one of several circumstances in life and a family legal status. Some adoptees are concerned that the Adoption Commission's report will lead to all adoptees being seen as victims of crime. Others feel relieved by the acknowledgement that irregularities have occurred.

⁽⁶³⁾ S Withaecx (2024), *The Baby and the bathwater: resisting adoption reform*. In E. Loibl and D. M. Smolin (eds), *Facing the Past. Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, p. 268.

⁶⁴ AC. Letter *Adoption is an identity*. Read out and submitted to the Adoption Commission.

3 Regulation, organization and processes over time

3.1 The mission

According to the terms of reference, the regulations, organization and processes within Sweden's international adoption activities, as well as the development and consequences of these, are to be mapped and analyzed. The assignment also includes investigating and clarifying what responsibility and role the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have and have had in Sweden's international adoption activities.

In this section, we provide a chronological review of Swedish intercountry adoption activities, how they have been regulated and organized over time, the roles and responsibilities of different actors, and how key processes such as authorization and supervision have been designed and developed over time.

3.2 Until the 1960s, adoption is mainly about national adoptions

3.2.1 1917 Adoption Act

Conditions and legal effects of adoption

The first provisions on adoption were introduced in Sweden in 1918 by the Adoption Act (1917:378) (abbreviated as the 1917 Adoption Act). One purpose of the Act was to reduce the number of foster children and to give orphans a more secure social and legal foothold in life¹.

⁽¹⁾ S. Matwejeff (2004), *Svenskfödda adopterades sökprocess*. Licentiate thesis Linköping University, p. 9.

Adoption also allowed biological parents to adopt their own child born out of wedlock in order to give the child certain rights of inheritance and maintenance, among other things. Many of the principles laid down in the Adoption Act 1917 concerning the conditions for adoption are still valid law, although some adjustments have been made to suit the times.

Only those over the age of 25 could adopt. An adoption under the Adoption Act created a legal relationship between an adopted child and the adoptive parents (but not their relatives), while the adopted child retained a family law relationship with his or her original family, so-called weak adoption. The original parents had some maintenance responsibility for the child if the adoptive parents could not provide it. The adoptive child had maintenance obligations towards both the adoptive parents and the original parents. The adoptive child's right to inherit from the adoptive parents was limited. If the adoptive parents had biological children, the adoptive child could only be adopted if there were special reasons. The adoption had to be "in the best interests of the child" for the court to grant an adoption application. It was possible to revoke the adoption. Already under the Adoption Act of 1917, the consent of the person aged 12 or over who was to be adopted was considered an indispensable requirement for adoption to be granted. The requirement of consent was absolute, which meant that children who could not consent because of their mental state could not be adopted. This rule remained unchanged until July 1, 1981, when the provision in the Parental Code was amended so that adoption could be carried out without the consent of a person who is prevented from giving consent because of mental illness, retarded mental development or some other similar condition ⁽²⁾.

In the case of adoption of a minor, the consent of the child's guardian or custodian was required. The non-custodial parent would be consulted if possible³.

²Ds Ju 1980:8 *Samtycke och tillstånd till adoption*, prop. 1980/81:112 om *samtycke och tillstånd till adoption*, p. 1.

³In NJA 1966 p. 112, the adoption of a child had taken place with the consent of the guardian to whom custody had been transferred. The child's parents were not heard. Although the parents' consent to the adoption was not required but only needed to be heard "where it can be done", the adoption decision was set aside on appeal by the mother. According to the Supreme Court, there had been no obstacle to hearing the parents in the case.

Adoption could only be granted if it was found to be "in the best interests of the child"⁴ and the applicant had brought up or wanted to bring up the child. This provision was clarified from July 1, 1981, by stating that adoption could also be granted if, in view of the personal relationship between the adopter and the adopted child, there were special reasons for the adoption⁵.

In order for the court to decide whether the adoption was in the best interests of the child, the right to hear the prosecutor and request the opinion of the child welfare board was granted.

There was also a provision requiring the court to ascertain whether consideration had been given or promised by any party. The fact that consideration had been given or promised at the time of the adoption did not constitute an absolute bar to the adoption application being granted. However, any consideration would be taken into account in the suitability assessment to be made. The provision was inspired by the Danish law on children born out of wedlock of 1908 and the experience gained in Denmark prior to the drafting of that law. That experience had shown that, in the case of the adoption of a minor child, compensation was often paid by the child's biological parents to the adopter or adopters. In many cases, the purpose of the compensation was to make it financially possible for the adopter or adopters to adopt the child. At the same time, the system of compensation for adoption entailed a risk that certain persons would adopt children for the sake of compensation, and that the children would then not receive the care and upbringing they ought to receive.⁶ The drafting committee strongly emphasized that care must be taken to prevent adoptions from being effected on the basis of a calculation on the part of the adopter to gain financial advantage. If such a calculation played a decisive role, the adoption could risk not meeting the requirement of providing the child with a good parental home. The drafting committee emphasized that, from this point of view, consideration in adoption could pose a great danger⁷.

⁴The wording of the provision on when adoption can be granted has subsequently been changed, first to the adoption being in the child's best interests and then in 2018 to the adoption being in the child's best interests.

⁵ Ds Ju 1980:8; prop. 1980/81:112, p. 1.

⁶ NJA II 1917, p. 491 f.

⁽⁷⁾ E. Stenbeck. *Adoption for consideration*. Svensk Juristtidning. 1923, p. 261.

3.2.2 International adoptions were already regulated to some extent in the 1917 Adoption Act

International adoptions were already regulated to some extent in the 1917 Adoption Act. Foreign citizens could only be adopted in Sweden if the adoption was valid in the country to which the citizen belonged. Furthermore, Swedish citizens could only adopt in another country if Kungl. Maj:t with regard to a particular country or for an individual case allowed it to happen. The provisions on the requirement of validity in the country of origin were introduced to prevent legal problems arising from an adoption becoming valid in one country but not in another⁸.

The provisions on international adoption were transferred in 1950 from the Adoption Act to the Act (1904:26 p. 1) on certain international legal relations concerning marriage and guardianship (also called the 1904 Act). Other provisions on adoption were moved to chap. 4 of the Parental Code adopted in 1949.

3.2.3 The adoption process from 1917

The role of the courts

The Adoption Act was enacted to enable children placed in foster care to establish legal ties with their foster parents. It was thus a question of adopting a known child who was adopted after having lived with the prospective adoptive parents for some time.

When the Adoption Act was introduced, it was the court that had to decide whether the adoption was "in the best interests of the child". From the outset, the court had the opportunity to hear the prosecutor and the child welfare board to obtain information. It was the prospective adoptive parents who had to apply to the court to adopt the child. From 1923, it became compulsory to consult the child welfare board in the applicant's home municipality. The purpose of the opinion was to clarify whether the adoption was in the best interests of the child in today's terminology. The significance and value of the opinion was largely based on a comparison between the biological parents and the adoptive parents.⁹At the same time, the law was tightened up so that payment for adoption was completely prohibited. The Legislative Council found it offensive that "parental power

⁸The provision was removed by the Act (1971:796) on international legal relations concerning adoption.

⁽⁹⁾C. Lindgren (2006), *A real family. Adoption, parenting and the best interests of the child 191/-19/5*, p. 102.

¹⁰If child support was to be paid, it would be in the form of a lump sum to be handed over to the child welfare authorities.¹¹

The tasks of the child welfare committees initially concern national adoptions

The assessment of the suitability of the adoption by the child welfare boards was not standardized but was made by the respective child welfare board.

The first guide to adoption in Sweden was published in 1955 by the Board of the General Children's House in consultation with the Medical Board, the National Board of Health and Welfare and child welfare experts.¹² It dealt with the purpose of adoption, how cases should be investigated and adjudicated, who were suitable adoptive families and which children should be matched with which parents. The guide discussed various aspects of adoption mediation and outlined the applicable rules. The issue of adoption of foreign children, except from the Nordic countries, took up only a small part of the guidance and the starting point was that caution should be exercised and that Swedish authorities should base their assessment on the circumstances in the child's home country.¹³ The municipality (child welfare board) was responsible, among other things, for conducting a foster home assessment and submitting an opinion to the court in accordance with the rules of the Parental Code. The opinion should, according to the National Children's Home's guidelines, be thorough and contain information about the financial and living conditions of the adopter and the biological parents. The most important thing, however, was that the child welfare committee formed an opinion on the applicant's "personal suitability to care for and bring up the child".¹⁴ The publication and dissemination of the guidance was an attempt to create common starting points

¹⁰ NJA II 1923, p. 496 ff.

¹¹ The background to the amendment was a letter from the Child Welfare Bureau of the Swedish Poor Relief Association in Stockholm to the King. Maj:t with a request for an amendment to the Adoption Act. The Child Welfare Agency had noted that there was a very high level of payment for adoption. For example, there were newspaper advertisements in which prospective adopters offered to take children in return for SEK 3,000 to 5,000. E. Stenbeck (1923), p. 261.

¹² Public Children's Home (1955) *Adoption. A guide for authorities, officials and trustees, who have to deal with questions concerning adoption.*

¹³ Public Children's Home (1955), p. 34.

¹⁴ Allmänna Barnhuset (1955), p. 78 ff.

for the activities that were carried out in various parts of the country in different forms¹⁵

3.2.4 Development of the Adoption Institute up to the 1960s

After its introduction in 1917, the institution of adoption acquired great social importance. It is estimated that around 50 000 adoptions took place between 1918 and 1950.¹⁶The purpose of adoption in most cases was to permanently integrate the child into the adoptive family, although the regulations did not reflect such an approach.

The original interpretation of the 1917 Adoption Act required that the parent's consent be given to certain specified adoptive relationships and with full knowledge of the adopter's person.¹⁷In practice, however, there appeared to be a desire to make adoption possible without the parents knowing the name of the adopter.¹⁸In 1940, the Supreme Court also ruled that consent was required under section 6 of the Adoption Act when the mother of a child born out of wedlock declared that the family selected by the child welfare officer and approved by the child welfare board could adopt the child.

These so-called 'in blank' adoptions involved the child's biological parents giving their consent to the adoption without having information about the adopter's name or place of residence. Despite some disadvantages, the procedure was considered to have significant advantages. One of the advantages was that the adoptive parents' sense of security was increased by the fact that the child's family did not know their identity. This allowed the child to be firmly integrated into the adopter's own family, which provided security for the adoptive parents. Such security was considered to create better conditions for the adoptive parents to treat the child as their own, which in turn promoted the child's "happy development". The disadvantages were considered to include the fact that the procedure made it easier for the adoptive parents not to tell the child about the adoption.²⁰This entailed a risk that a child adopted at an early age would not be able to know his or her origin. According to the

(15) C. Lindgren with reference to Lundström 1993 p. 66-73, 118-138. (Tvångsomhändertagande av barn ...) Report in social work, 61 Stockholm University.

¹⁶ SOU 1954:6 *Ärvdabalk*, p. 165.

¹⁷ NJA II 1932, pp. 439 and 441.

¹⁸ Svensk Juristtidning 1942, p. 143.

¹⁹ NJA 1940, p. 690.

(20) A. Singer (2000), *Parenting in legal terms*, p. 408.

experts, such an omission was not acceptable, as the child was considered to have an ethical right to know its origins. Nor could it be assumed that contact with the biological parents always meant something negative. On the contrary, according to the experts on the Code of Succession, keeping the child's origins secret could result in both the child and the biological parents losing "the value of the family connection".²¹ However, both the biological parents and the child could, as the child grew older, obtain this information from the population register, the child welfare board or from the court documents in the adoption case.²²

In view of the fact that the purpose of adoption was in practice to link the child permanently to the adoptive parents, it was considered urgent in the early 1950s to reform the legal effects of adoption in order to bring it into line with reality. Such a reform also appeared to be justified in the light of the fact that under the 1917 Adoption Act, adoption was initially deliberately given limited legal effects.

Weak adoption was therefore replaced in 1959 by so-called strong adoption through amendments to the Inheritance Code and the Parental Code. An adopted child was given the same status vis-à-vis the adoptive parents as a biological child. At the same time, the maintenance obligation between the adopted child and the original parents was abolished.

3.3 Intercountry adoption activities are established in the 1960s and 1970s

3.3.1 Two government inquiries in the 1960s lay the foundation for Sweden's international adoption activities

Introduction

In the 1950s, the number of children adopted from Sweden began to fall. This was due to an increase in the use of contraception, a more tolerant attitude towards abortion and improved social legislation that allowed single mothers to care for their children. The number of Swedish children available for adoption decreased and adoption of children born in Sweden eventually ceased.

²¹ SOU 1954:6, p. 167.

²² SOU 1954:6, p. 207 ff.

²³Interest in adopting children from other countries grew and more and more foreign children came to Sweden as prospective adoptive parents came into contact with children in other countries who were adopted.

However, Swedish legislation was not designed to give Swedish authorities jurisdiction in international adoption cases. The legal effects of intercountry adoptions were unclear.²⁴Sometimes it was also difficult to meet the requirement of validity in the country of origin, for example when the country of origin did not have an adoption procedure or when it was difficult to clarify the country's regulations. Nor was it the case that everyone who applied to Kungl. Maj:t for permission to adopt a child from abroad.

Many prospective adoptive parents sought advice and assistance from the National Board of Health and Welfare and the Ministry of Foreign Affairs, among others, in connection with the adoption of a child from another country.

As early as 1963, the issue of international adoption was raised in an interpellation in the first chamber of the Riksdag. A member of the right-wing party criticized how Swedish authorities had made negative statements about international adoptions and that there was a "racial mindset" behind it. The member argued that adoption could be seen as a way of providing aid; that there was already a good attitude towards aid to developing countries and that international adoptions should also be facilitated.

The Minister of Justice rejected the idea that race should be allowed to influence adoption and said that there was a positive view on the part of the authorities. However, he agreed that international adoption was expensive and administratively cumbersome and that unified legislation would facilitate it⁽²⁵⁾.

Government sets up two commissions on international adoption

The Government then initiated two inquiries to clarify the conditions for the adoption of foreign children and to submit proposals for the regulation and organization of Swedish international adoption activities. A central question was whether the Swedish state should contribute to promoting foreign adoptions or not.

²³ S. Matwejeff (2004), p. 11.

²⁴ SOU 1969:11 *International Adoption Law*, p. 37.

⁽²⁵⁾ C. Lindgren (2006), p. 165 with reference to FKP 1963:2, pp. 4-5, FKP 1963:26, pp. 5 ff.

The Committee on the Adoption of Foreign Children was set up in 1964 with the task of clarifying the difficulties and obstacles to foreign adoption and looking in particular at conditions in countries that did not object in principle to the adoption of children to Sweden. The committee was to be in contact with authorities in these countries in order to investigate the difficulties that existed in adoption cases and the possibilities of eliminating these difficulties. The committee was also to analyze the conditions of the child welfare boards and the need for instructions for assessing the suitability of adoptive parents in foreign adoptions. In 1967 the committee presented its final report. It included a survey of the conditions for adoption from some 20 countries in Africa, Asia, Europe and South America. The National Board of Health and Welfare had already concluded agreements with child welfare authorities in Greece and South Korea in 1965-1966. The report recommended that the National Board of Health and Welfare and the Ministry for Foreign Affairs should monitor developments in certain countries in order to assess future conditions for adoption and initiate new cooperation when possible. The National Board of Health and Welfare was proposed as a central service body with the task of handling cases concerning international adoption. However, the agency would not be required to be actively involved in searching for children for adoption in countries where there were no permanent contact bodies for adoption. The report stressed the importance of a thorough initial investigation of applicants by the municipalities, so that applicants who had received a child for adoption would not run the risk of not being approved as adoptive parents at the final examination. It was therefore of particular importance to provide advice and guidance for the municipalities' assessment. It was proposed that the National Board of Health and Welfare be given responsibility for drawing up instructions and advice for the municipal child welfare committees, but also for individual applicants. The National Board of Health and Welfare was also to monitor the adaptation of children in Sweden through the child care consultants employed by the county administrative boards who, among other things, supervised municipal child care under the Child Care Act⁽²⁶⁾.

A separate commission was set up in 1965 to review the regulation of international adoptions. The committee's final report in 1969 contained proposals for an Act on international relations in respect of adoption and a decree concerning the application of the Convention on the Protection of

²⁶SOU 1967:57 *Adoption of foreign children*, pp. 15 and 73 ff.

the competent authority, the applicable law and the recognition of adoption decisions²⁷

Sweden ratifies the 1967 Council of Europe Convention on the Adoption of Children

Sweden ratified the Council of Europe Convention on the Adoption of Children in 1967.²⁸ The Convention was drawn up with the aim of making the rules on adoption more uniform in Europe at a time when there were major differences in the approach to and procedures for adoption in different countries. The Convention regulates the authorities' handling of adoption cases but also contains substantive adoption rules. For example, the Convention deals with the consents required for adoption to take place²⁹ and states that only spouses may adopt jointly. The Convention also contains requirements for satisfactory investigation of the adopter's circumstances and provisions on the legal effects of adoptions.

The ratification led to an amendment in 1968 of the then Chapter 4. 5 § FB so that it was clear from the legal text that the mother's consent was to be obtained after she had recovered sufficiently from the birth. According to the National Board of Health and Welfare, this Convention rule did not correspond to any established practice in Sweden. It was not uncommon for the mother to give her consent while she was in a hospital maternity ward, and it also happened that consent was given before the child was born³⁰.

Sweden withdrew from the Convention in 2003 following the decision to allow same-sex couples to adopt.³¹ Sweden has since acceded to the 2008 European Convention on the Adoption of Children.

²⁷ SOU 1969:11.

²⁸ Prop. 1968:114 with a proposal for an Act on the amended wording of Chapter 4. 5 § Parental Code, etc.

²⁹ Article 5.

³⁰ Prop. 1968:114, p. 11 f.

³¹ Bill 2001/02:123 *Partnership and adoption*.

3.3.2 The National Board of Health and Welfare initially has a central role in international adoption activities

Until the mid-1960s, a relatively small number of intercountry adoptions had taken place in Sweden. A study carried out by Allmänna Barnhuset on behalf of the National Board of Health and Welfare in the early 1970s showed that the number of completed intercountry adoptions from 1950-1965 amounted to just over 750 children.³² It was difficult, both for legal and other reasons, to carry out an intercountry adoption on one's own. From the mid-1950s, Swedes could get some help from international agencies, mainly the International Social Service (ISS) in Geneva. ISS was particularly helpful with the adoption of children from Greece. Until 1965, the National Board of Health and Welfare had the task of acting as an intermediary between applicants and ISS. Between 1955 and 1964, the National Board of Health and Welfare and ISS cooperated in more than 100 adoption cases.³³ The National Board of Health and Welfare was the consultative body for the first guide to adoption for authorities and elected officials, published by the National Children's House in 1955.³⁴

Shortly after the first committee on international adoptions was set up in 1964, cooperation with Greece and South Korea was formalized by Sweden, via the National Board of Health and Welfare, concluding agreements with the Metera children's home in Greece in 1965 and the Child Placement Service in South Korea in 1966. According to the agreements, applications for adoption were to be made to the National Board of Health and Welfare, and the country of origin was responsible for indicating which child could be considered for adoption. Among other things, the agreements established routines for the application procedure, mediation, the adoption procedure, and how the child's journey to Sweden would be carried out.³⁵ The investigation of the applicant continued to be carried out by the child welfare board in the applicant's home municipality.

The 1967 report of the inquiry into the adoption of foreign children highlighted the need for a central body that could mediate contact between the applicant and the child, to which applicants could turn for advice and information. From 1965, while the inquiry was still in progress, the National Board of Health and Welfare undertook to actively assist Swedes who wished to adopt abroad. This involved

⁽³²⁾ C. Lindgren (2010) *International adoption in Sweden. Policy and practice from the sixties to the nineties*; Swedish Intercountry Adoption Authority MIA, p. 23.

⁽³³⁾ C. Lindgren (2010), pp. 24-25 and SOU, pp. 72-73.

⁽³⁴⁾ Allmänna Barnhuset (1955).

⁽³⁵⁾ C. Lindgren (2010), pp. 30-31 and SOU 1967:57, pp. 101 ff.

This meant that the National Board of Health and Welfare was given a role as an intermediary between adoption applicants and the contacts established abroad.

3.3.3 Child welfare committees assess parents' suitability

Since the introduction of the Adoption Act, Sweden's municipalities have played an important role in the adoption process by investigating and assessing prospective adoptive parents.

However, it was not until 1955 that the National Children's Home issued guidance on how to investigate the suitability of an adoption.³⁶The guidance mainly concerned national adoptions. A new and revised edition of the guidance from the National Children's Home was published in 1969. The starting point was adoption of Swedish children, despite the fact that the scope of international adoptions had increased by then. International adoption was highlighted in an account of the procedure in an adoption case and the National Board of Health and Welfare's agreements with Greece and South Korea.³⁷It was also briefly stated that spouses wishing to adopt should in the first instance contact the child welfare committee in their home municipality for a statement on whether they were considered suitable to adopt children from abroad. Regardless of the adoption procedure, whether through an organization or privately, it was pointed out that the child welfare board would be consulted on the matter.

In 1974, the National Board of Health and Welfare published for the first time a handbook with advice and instructions for child welfare boards. The handbook can be seen as a continuation of the policy work on international adoptions that began with the 1967 report on the adoption of foreign children. The handbook describes, in particular, how the child welfare committee should conduct the investigation of applicants who want to become adoptive parents. It also discusses the importance of informing prospective adoptive parents that problems may arise, for example, that the child may have certain illnesses, be physically and emotionally undernourished and show signs of delayed maturity. The Handbook highlights the difficulties of adaptation for the children, including due to their different appearance from other children, and that prospective adoptive parents need to be informed and helped to cope with this⁽³⁸⁾.

³⁶ Allmänna Barnhuset (1955).

³⁷ Allmänna Barnhuset (1969) *Adoption*, p. 89 ff.

³⁸ National Board of Health and Welfare (1974) *Adoption of foreign children. Handling of international adoption cases by child welfare boards*, p. 7 ff.

As in the previous system, the adoption process involved several steps whereby persons wishing to adopt first had to apply for prior approval from the Child Welfare Board, which would assess whether the applicants were suitable to receive a foster or adopted child. A decision to refuse consent to adoption could be appealed to the administrative court. Once permission was granted, the search for a child was initiated, which could be done by the applicants turning to the National Board of Health and Welfare or private contacts abroad. Once a child had been identified for adoption, the prospective adoptive parents applied for a foster care permit before the child could be brought to Sweden. The application for adoption was then submitted to the district court for consideration. The Child Welfare Board would give its opinion on the application with a summary assessment and recommendation for approval or rejection. The handbook emphasized that the first assessment was the most important.³⁹

3.3.4 Non-profit associations for adoption are formed in 1969

An increasing interest in international adoption emerged in the 1960s and the National Board of Health and Welfare's placement activities were not sufficient to meet the growing demand. In 1969, two adoption associations were formed: the Adoption Center (AC) and the Indian-Swedish Association. The purpose of the AC was to promote the adoption of children who could not be taken care of by their original parents, to raise awareness and promote a positive attitude towards international adoption and to provide assistance. The AC merged with the Indo-Swedish Association in 1972⁴⁰.

The associations came to function as a complement to the National Board of Health and Welfare's mediation activities.⁴¹ In 1970, AC applied for permission to mediate foster children for adoption purposes in accordance with the requirements of the Child Welfare Act. According to section 54 of the 1960 Child Welfare Act (1960:97), an individual or association was not allowed to conduct mediation activities concerning foster children without permission from the National Board of Health and Welfare.

Violations were subject to penalties. The National Board of Health and Welfare was reluctant to grant a brokerage license, but at the same time had to deal with the growing interest in international adoptions and was in favor of

³⁹ National Board of Health and Welfare (1974), pp. 4-5.

⁴⁰ C. Lindgren (2010) pp. 32-35.

⁽⁴¹⁾ C. Lindgren (2010), p. 23. pp. 32-33.

The solution was that a cooperation agreement was concluded between the Board for International Adoptions (NIA) and AC in 1973. The agreement regulated cooperation in mediation activities and responsibility for contacts in countries of origin⁴³.

3.3.5 An advisory board for questions of adoption of foreign children is established in 1971 within the National Board of Health and Welfare

In 1965, the National Board of Health and Welfare had undertaken to actively assist Swedes wishing to adopt abroad. As the central service agency responsible for adoption mediation, the National Board of Health and Welfare was to initiate new collaborations whenever possible, and in 1971 a further agreement on adoption was concluded with the Philippines. There were thus three adoption agreements in force.⁴⁴ However, it was not the responsibility of the National Board of Health and Welfare to place children from countries where there were no permanent contact agencies for adoption. A representative of the National Board of Health and Welfare noted in 1973 that, despite extensive contacts and correspondence with countries in South America, Africa and Asia, the possibility of establishing permanent contact bodies had been limited⁴⁵.

In the light of the above, the King decided on December 30, 1971 to set up an advisory board for matters concerning the adoption of foreign children at the National Board of Health and Welfare. In the advisory The committee comprised representatives of the Ministry of Social Affairs, the Ministry of Justice, the Ministry of Foreign Affairs, the National Board of Health and Welfare, the Adoption Office at the Stockholm Child Welfare Board and AC. The chairman was a member of parliament⁴⁶.

In connection with the establishment of the Council, it was made clear that the task of the National Board of Health and Welfare was to facilitate the adoption of foreign children by gathering and disseminating information to the public and authorities, preparing advice and instructions, and exchanging experiences with authorities, institutions and persons in other countries⁴⁷.

⁴² Ds S 1978:6 *International adoptions. Guidelines and organizational proposals*, p. 28.

⁴³ NIA 1974-08-21, Cooperation agreement and memorandum on cooperation between the Board for International Adoption Issues and the Adoption Center Association, Bil § 7 NIA minutes 1974-09-16.

⁴⁴ Advisory Board of the National Board of Health and Welfare on Adoption of Foreign Children (1973a), *International Adoptions, a report of the Advisory Board of the National Board of Health and Welfare on Adoption of Foreign Children*, p. 5.

⁴⁵ The Advisory Board of the National Board of Health and Welfare on Adoption of Foreign Children (1973b). *Documentation from Conference on international adoption issues summer 19/3*, pp. 15-16.

⁴⁶ Adoption Board, Minutes of the meeting of the Advisory Board for issues concerning adoption of foreign children on April 4, 1973.

⁴⁷Advisory Board of the National Board of Health and Welfare on the Adoption of Foreign Children (1973a).

The National Board of Health and Welfare was also given the task of proposing, in consultation with the newly established board, forms for handling international adoption cases and appropriate forms of cooperation. The task included the question of which body should mediate adoptions and how cooperation with other countries should be organized. The Advisory Board proposed that a central board with overall responsibility for intercountry adoptions to Sweden should be set up to ensure public control over intercountry adoption activities with a view to safeguarding the best interests of the children. The Advisory Board also produced proposals for a new organization of adoption activities and draft advice and instructions to the child welfare boards concerning the handling of international adoption cases (which resulted in the National Board of Health and Welfare's handbook). On the basis of this proposal, the Advisory Board was disbanded on June 30, 1973.⁴⁸

3.3.6 1972 simplifies the legal process for international adoptions

The reports of 1965 and 1969 resulted in the Act (1971:796) on international legal relations concerning adoption, which came into force on January 1, 1972. The purpose of the Act was to remove the difficulties which the previous regulations had caused in connection with the adoption of foreign children and otherwise to achieve up-to-date legislation on international legal relations concerning adoption.⁴⁹ At the same time, the rules on international adoption which had been transferred from the Adoption Act to the 1904 Act in 1950 were repealed.

The requirement that the adoption should be valid in the State of which the adopter or the adopted child is a national had, according to the report, caused considerable practical difficulties and sometimes directly prevented adoption. In cases where the adoption institution had no equivalent in the child's country of origin, it had been necessary to make the child a Swedish citizen in order for the adoption to be carried out in Sweden. The prospective adoptive parents had then been appointed guardians of the child and subsequently applied for Swedish citizenship for the child.

The preparatory works state:

⁴⁸ NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

⁴⁹ Prop. 1971:113 *King. Maj:ts proposition med förslag till lag om internationella rättsförhållanden rörande adoption*, p. 1.

The Committee would point out that the adoption of children from developing countries has become increasingly common in recent times. Whether or not the adoption in such a case is valid in the child's country of origin should, according to the Committee, as a rule be irrelevant, provided that the child is in Sweden or in another country where the adoption is recognized. It need not be assumed that the child will return to his or her country of origin other than in exceptional cases⁵⁰.

By removing the requirement that the adoption should be valid in the State of which the adopter or the adopted child was a national, adoptions from more countries could be carried out in Sweden. In the preparatory works to the Act, it was noted that in a significant number of the foreign adoptions carried out in 1969, the adoption had taken place in the child's home country. There were therefore strong reasons why foreign adoptions should, as far as possible, be respected and take effect in Sweden, in order, among other things, to avoid "legal limbo". However, since it could not be assumed that the decision had been preceded by careful consideration of the child's best interests, the cases still needed to be examined in Sweden, preferably by a court. In the Bill, the Government stated that it could, however, be considered to allow the National Board of Health and Welfare to examine the question of approval of foreign adoption decisions⁵¹.

Initially, the decisions were approved by Kungl. From 1975 until 1976, the Ministry of Justice was responsible for approving the decisions. In 1977, the National Board of Health and Welfare took over, followed by the NIA, MIA and MFoF.

3.3.7 The National Board for Intercountry Adoption (NIA) is established in 1973

NIA mission and organization

On July 1, 1973, the National Board for International Adoption (NIA) was established within the National Board of Health and Welfare. The NIA was initially given temporary instructions which were valid until June 30, 1974. In connection with the establishment of the NIA, a temporary cooperation agreement was also concluded between the NIA and AC.

On July 1, 1974, the mission of the NIA was made permanent. The NIA was to facilitate the adoption of foreign children in Sweden in an appropriate manner. This included following international developments in the field, collecting

⁵⁰ Prop. 1971:113 s. 11.

⁵¹ Prop. 1971:113 s. 31-34.

information about the possibilities for adoption of foreign children, mediate applications for adoption of foreign children, negotiate agreements with organizations and authorities in other countries and submit proposals for such agreements to the National Board of Health and Welfare, and inform and provide support to authorities, organizations and individuals.⁵²In connection with the NIA's assignment being made permanent, the cooperation agreement with the AC was also established. Cooperation in mediation cases between the NIA and the AC was regulated in a memorandum on procedures for cooperation. This memorandum was later updated on a few occasions⁵³.

The NIA board consisted of nine members, with a chairman who was a Member of Parliament and representatives of the Ministry of Social Affairs, the Ministry of Justice, the Ministry of Foreign Affairs, the National Board of Health and Welfare, the Swedish Association of Local Authorities, the Adoption Bureau of the Stockholm Child Welfare Board and two representatives of the AC. The NIA was also instructed to appoint a working committee of three members to be responsible for the work of mediating applications for the adoption of foreign children through the selection of applicants with a preliminary decision pursuant to 47 § st. 3 of the Child Welfare Act (1960:97). The working committee adopted the name *Förmedlingsutskottet* (FU) and included one representative from NIA, one from AC and one from the adoption agency at the Stockholm Child Welfare Board. The FU could call on medical and psychological expertise if necessary. There was no right of appeal against the decisions of the Mediation Committee or the NIA⁵⁴.

The NIA had an office with about nine employees.⁵⁵

Cooperation agreement between NIA and Adoption Center

The formal responsibility for the direct placement of adopted children from abroad was gradually transferred from the National Board of Health and Welfare to the NIA. During the first six months, the NIA received applications for adoption, while the Social Child and Youth Welfare Office of the National Board of Health and Welfare continued to mediate adoptions. From January 1, 1974, the NIA took over all mediation from the National Board of Health and Welfare⁵⁶.

⁵²Ministry of Social Affairs 1974-06-07, Instructions for the National Board of Health and Welfare's Board for International Adoption Issues.

⁵³NIA, Annual Report of the Mediation Committee 1974-1975.

⁵⁴Advisory Board of the National Board of Health and Welfare on Adoption of Foreign Children (1973a).

⁵⁵NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

⁵⁶NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

⁵⁷National Archives, Archive description for the Board for International Adoptions, NIA, 1973-1981.

The cooperation between NIA and AC was conducted during the first year of operation as a pilot project where procedures and cooperation between NIA and AC were tested.⁵⁸ Initially, the pilot project covered three of the countries with which AC had contact and was gradually expanded to all AC's partner countries.⁵⁹

Under the cooperation agreement between the NIA and the AC, the NIA would be responsible for all intermediation and the AC's cases would be transferred to the NIA. This solved the problem of AC not having an intermediation license.⁶⁰ Under the cooperation agreement, NIA would be responsible for adoption contacts at official level that could be established with authorities and institutions in foreign countries, while AC would be responsible for the more informal contacts that could be achieved with institutions or persons in such countries. This meant that the NIA would be responsible for handling and contacts with the countries with which Sweden had cooperation agreements, i.e. South Korea, Greece and the Philippines. AC handled the contacts with the 20 or so countries with which the association had established informal cooperation. AC received expressions of interest in adoptions via these contacts and provided information and assistance to adoption applicants. When AC wished to place children through one of their contact agents, AC would make a written request to the NIA Placement Committee (on which AC also sat)⁶¹.

Cooperation within the Intermediation Committee (IC)

Persons wishing to adopt a child from abroad submitted applications to the NIA or to the AC. The applications were handled by the Agency Committee (AC)⁶².

The principle of the FU was that every child had the right to be brought up in the most satisfactory conditions possible and that foreign prospective adoptive children should be treated with the same care as Swedish adoptive children. Adoption placement would therefore be by selection. The FU recommended that the AC present a larger number of applications

⁵⁸ C. Lindgren (2010), pp. 34-35.

⁵⁹ NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

⁶⁰ C. Lindgren (2010), p. 34.

⁶¹ NIA 1974-08-21, Cooperation agreement and memorandum on cooperation between the Board for International Adoption Issues and the Association Adoption Center, Bil § 7 NIA minutes 1974-09-16 and timeline from the Adoption Center.

⁶² NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

documents, preferably twice as many as the number of children to be placed. An initial selection was made at the AC on the basis of the country's requirements, the applicant's preferences and when the application was submitted to the AC. The AC then sent a written application to the NIA Placement Committee. The FI made a selection based on the age and health of the applicants, family composition, wishes for the child and based on the requirements of different countries and information about the child (background, health status, etc.). The JHA then recommended a certain number of applicants for a given country and, in cases where the children were known, the JHA recommended a family. Decisions on which documents to send to which country and which family to propose for which child were made by the FU. In cases where the FU requested supplements, AC was initially responsible for supplements for its applicants and the NIA's office for those who applied via the NIA. This was gradually changed so that the NIA's office handled all supplementary cases. The NIA office and the AC then forwarded the selected applications for final selection in the children's respective home countries. In cases where the JHA concluded that an applicant could not be selected and have a child placed by the AC and the JHA, the applicant was contacted and informed accordingly⁽⁶³⁾.

The experience from the pilot activities was that the FU would find simple routines for uncomplicated cases in order to prioritize complicated cases. The complex issues dealt with by the FI included the applicant's health and age, and the fact that the applicant lived in a vulnerable environment (social isolation or extreme group membership). A closely related issue that the FI discussed on several occasions was the possibility of reviewing the child welfare committees' positive advance decisions for adoption applicants.

Based on its assessment, the FD had found a small number of cases where a positive preliminary decision should not have been given. In some of these cases, the FU found reason to obtain the opinion of medical experts, which later prompted the local boards to reconsider their decision to issue a positive advance decision in some cases after a new investigation. In 1975, the NIA raised the matter with representatives of the Social Affairs Committee, but the proposal was not taken up⁶⁴.

⁶³ NIA, Annual Report of the Mediation Committee 1974-1975.

⁶⁴ NIA, Report of the Intermediary Committee 1974-1975, 1975-76 and 1976-1977. NIA (1980), Report on the activities of the Mediation Committee 1973-1979.

The processing procedures for FU were adapted over time and based on changing requirements and conditions in the countries of origin. In 1975, for example, the notification procedures for applications for children via the NIA were simplified. This meant, among other things, that an application to the NIA would apply to all countries with which the NIA had contact or would have contact.

The role of the National Board of Health and Welfare after the creation of the NIA

After the NIA was established, the National Board of Health and Welfare continued to supervise social services. The National Board of Health and Welfare's supervision was to be advisory and comprehensive, but also included pointing out deviations from applicable statutes. The county administrative boards were to monitor the social services boards' application of the Social Services Act and assist the social services boards with advice in their activities. The county administrative boards had social consultants whose tasks included providing information on adoption issues to individual adoption applicants, to caseworkers in the municipalities and to the social welfare boards.⁶⁵ The NIA was also to consult with the National Board of Health and Welfare regarding information on the handling of adoption cases in the municipalities.

3.4 New organization from 1979: non-profit organizations mediate adoptions and NIA is responsible for authorization and supervision

3.4.1 Problems with private adoptions lead to a review of the organization of adoption activities

Problems with private adoptions and irregularities

The number of intercountry adoptions continued to increase during the 1970s. During the period 1973-1979, when the NIA's mediation committee was active, 700-1,000 children per year came to Sweden and a total of about 5 300 children via NIA and AC. At the same time, the number of applicants increased and significantly exceeded the number of available children. Waiting times for applicants therefore became longer and longer.⁶⁶ In general, it took at least three years

⁶⁵SOU 1996:137 *International Adoption Issues* p. 69. Prop. 1978/79:108 *on the organization of international adoption activities, etc.*

⁶⁶NIA (1980), Report on the activities of the Intermediary Committee 1973-1979.

before an applicant could adopt a child. This in turn led to an increase in the number of adoptions that were not mediated through the NIA and AC. Of the approximately 2,000 children who came to Sweden annually in the latter part of the 1970s, about half came by means other than through the NIA and AC.⁶⁷ This was considered problematic by the Government and the NIA.

In the mid-1970s, problems with child trafficking in the field of adoption were observed both in the children's countries of origin and in Sweden.⁶⁸ There were examples of individual incidents that showed that the adoption activities that took place alongside the NIA and AC were not always carried out properly.⁶⁹ People who chose to adopt on their own could encounter problems and some contacts and intermediaries in the countries of origin did not always have the best interests of the child at heart. There were also financial gains associated with the placement. The NIA's Mediation Committee had no insight into these cases. The demand for guidelines increased while the NIA did not have the organization and resources to meet the increased need for information.⁷⁰

A working group is set up to review the organization

In 1977, a special working group was set up within the Ministry of Social Affairs to review the activities, organization and tasks of the NIA. The working group was also to submit proposals for changes that could help to reduce the problems that existed in intercountry adoption activities. The working group came up with three different organizational proposals. One option was that the state should continue to have responsibility for brokering for countries where there was a cooperation agreement, another was that more non-profit organizations should be linked to the NIA through cooperation agreements in the same way as the AC and a third option was that the state, through the National Board of Health and Welfare, should grant permission to non-profit associations to broker adoptions while the NIA should have an overarching role with responsibility for information, supervision, control and contact-making activities. In its final report, which was published in 1978, the working group recommended the third option, i.e. that non-profit associations should be responsible for adoption brokering and the state for authorization and

⁶⁷ Prop. 1996/97:61 *International adoption issues*, p. 45.

⁶⁸ Prop. 1984/85:16 *on certain questions concerning international adoptions*, p. 6.

⁶⁹ Annual reports of the NIA, Ds S 1978:6 *International adoptions - guidelines and organizational proposals*. Prop. 1978/79:108.

⁷⁰ Prop. 1978/79:108.

supervision. In order to curb private adoptions, the group proposed that prior notification of adoption should be compulsory and that an investigation should be carried out into the contact provided by applicants to find a child. The working group submitted proposals for a new organization in 1978⁷¹.

The new organization aimed to direct unlicensed adoption agencies to organizations under the supervision and control of the State and to provide more opportunities for information and assistance so that the number of individuals seeking children abroad on their own was limited. In 1979, Parliament passed a new law - the International Adoption Assistance Act (1979:552) - which came into force on July 1, 1979. The work of placing foreign children for adoption in Sweden would continue to be carried out in collaboration between public and private organizations, but the NIA was given an overall role with tasks relating to information, supervision and control, and contact-making activities. Direct mediation abroad of applications for children for adoption in Sweden would, however, no longer be a task for the NIA. Non-profit organizations authorized by the NIA would in future handle the practical mediation work in international adoptions⁽⁷²⁾.

3.4.2 Law (1979:552) on international adoption assistance - NIA authorizes non-profit associations

The Intercountry Adoption Assistance Act introduced a procedure whereby the NIA granted authorization to non-profit organizations wishing to provide intercountry adoption assistance. Only a non-profit organization authorized by the NIA could provide adoption assistance. Non-profit organizations would thus in future handle the practical mediation work in international adoptions instead of the NIA.

Authorization under the new law could only be granted to associations whose main purpose was to provide international adoption assistance. International adoption assistance was defined as activities aimed at facilitating contact between the person wishing to adopt a foreign child and the authorities, organizations or individuals in the child's country of origin, as well as otherwise providing

⁷¹ Ds 1978:6 *International adoptions. Guidelines and organizational proposals.*

⁷² Prop. 1978/79:108.

the assistance needed for an adoption to go ahead. One of the requirements for authorization was that the association should provide mediation services in a prudent and professional manner, without profit motive, and with the best interests of the child as the main benchmark. Other requirements were that the association should have statutes, a board and auditors. The authorization should be limited in time and the decision should specify which countries the association could operate in.

Although one purpose of the Act was to support authorized associations in order to limit the number of individuals adopting on their own, it was still possible for individuals with limited contacts abroad to place individual adoptive children without authorization.⁷³ This could be a personal commitment based on trust or friendship between a person abroad and a person in Sweden. Missionaries or expatriate workers were mentioned as examples of such individuals. According to the Government Rapporteur, such contacts without intermediaries should not account for a large proportion of the adoptions that took place alongside the NIA and AC.

3.4.3 NIA organization from 1979

With the new organization for international adoption activities, the NIA received new instructions in 1979. The Board's task was still to facilitate the adoption of foreign children in Sweden. But based on NIA's new role, the Board was now to prepare cases for authorization by the National Board of Health and Welfare, distribute government grants to the authorized organizations and supervise the organizations authorized by the National Board of Health and Welfare. The NIA would also prepare guidance information for assessing the general suitability of a home as an adoptive home and decide on placement cases where the adoption organization or community representative did not want to provide adoption assistance. Several tasks also remained unchanged: monitoring international developments in the field, negotiating agreements with authorities and organizations in other countries and carrying out information activities. However, the NIA would no longer be involved in brokering activities. By

⁷³Under section 54 of the 1960 Child Welfare Act (1960:97), an individual or an association was not permitted to carry out placement activities concerning foster children without the permission of the National Board of Health and Welfare. The provision also applied to the placement of adopted children.

⁷⁴Prop. 1978/79:108 s. 12.

Of the more than 4 000 applications on the NIA's register in October 1979, more than 2 700 were also registered with the AC and transferred there. The remaining 1,300 applications were distributed proportionally among the six organizations authorized in 1979 in relation to each organization's forecast of the number of children arriving in 1980. Approximately 20% of the applicants on the NIA register withdrew their applications during the reorganization period (June 1979-March 1980). These applications were thus never submitted to any authorized organization⁷⁵.

The committee continued to consist of nine members from the Ministry of Social Affairs, the Ministry of Justice, the Ministry for Foreign Affairs, the National Board of Health and Welfare, the Adoption Office at the Stockholm Child Welfare Board and the Swedish Association of Local Authorities. A child psychologist and a pediatrician were also included. The chairman was an official from the Ministry of Social Affairs. The number of employees at the NIA was approximately nine people and the number of full-time equivalents varied between 8.6 and 9.1.

3.4.4 NIA authorization

NIA principles for authorization

In October 1979, the NIA decided on principles for authorization under the Act (1979:552) on international adoption assistance. One condition for authorization was that the association's main task was to provide international adoption assistance. Associations that were aid organizations would therefore not be considered for authorization. Only associations that could provide adoption assistance in an expert and judicious manner should be authorized. The recommendation was that the association should use people with experience of children and young people's issues when preparing placement cases. The association should also have statutes, a board of directors and auditors and operate on a non-profit basis with the best interests of the child as the main benchmark. Authorization would initially be granted for one year at a time. In this way, the NIA and the associations would gain experience of both the activities abroad and

⁷⁵NIA, Annual Report July 1, 1979 to December 31, 1980.

brokering activities. Thereafter, the NIA would decide on a case-by-case basis for how long the authorization would be valid.⁷⁶

According to the preparatory works, the NIA would design the authorization in such a way that it would authorize an organization to operate in a particular country or limited part of a country. If deemed appropriate, the authorization could be limited in other ways, for example in terms of partners. It was also stated that the authorized association should notify the NIA of the partners it intended to work with. If there was a risk of competition, two or more organizations should not be authorized for the same country⁷⁷.

Since, according to NIA, intercountry contacts in the context of adoption were of varying stability and scope, it was decided during the first year to divide the concept of adoption contacts into established and non-established contacts. Established contacts were contacts that had previously cooperated with a Swedish organization so that children had come through the contact and where the processing procedure had proved to correspond to legal, practical and ethical requirements in the countries concerned. NIA only granted authorization for countries where cooperation with established contacts existed. However, as new associations would not be able to demonstrate such contacts, an exception was made whereby authorization would be granted if the contact was accepted by authorities in the other country and children had come through the contact. In addition, the association was required to show a preliminary plan for the processing procedure. In order to make this assessment and to avoid a competitive situation, the NIA requested information on each association's contact abroad. Other contacts would be considered as non-established, both new contacts in countries for which the association was already authorized as well as contacts in countries where the association was not authorized. These would be notified to the NIA, which would then assess whether the partner was suitable or not. The NIA would also assess any demarcation problems between associations. Within one year of notification, the association that notified the contact had to apply for authorization or make a new notification.⁷⁸

⁷⁶NIA, Memorandum 1979-10-31, Principles for authorization under the law on international adoption assistance, dnr 9:520/79.

⁷⁷ Prop. 1978/79:108, p. 13 and p. 21.

⁷⁸NIA, Memorandum 1979-10-31, Principles for authorization under the Intercountry Adoption Assistance Act, No. 9:520/79.

The role of the AC is specifically addressed in the government proposal

Since AC was already acting as an intermediary of international adoptions when it was decided to introduce authorization, AC was mentioned several times in the preparatory works for the new law. Among other things, it appears that the Government assumed that AC would be authorized and that AC should be allowed to continue its activities with the established partners the association had. One issue that the Government considered was whether or not an authorized association would need to have its partners abroad approved by the NIA. In a consultation response, the AC stated that it was not possible to consider and approve every single partner with which the authorized organization wished to enter into an agreement.⁷⁹ This was also the Government's conclusion on the matter. The association would notify the NIA of the partner(s) it had abroad, but they did not have to be approved by the agency.

As regards the existing bilateral agreements, the Government advocated that the enforcement of the agreements should be transferred from the NIA to the authorized associations. The Government's view was that AC, in view of the organization's experience and resources, should be considered to take over the NIA's responsibilities for the practical work of mediation.⁸⁰

First authorization decisions - many new adoption organizations

In the second half of 1979 and the calendar year 1980, nine associations applied for authorization, many of them newly formed.

In December 1979, six associations were authorized for a total of 17 countries. AC was the first organization to be accredited and they were accredited for all 17 countries for which they applied. The other five associations (BFA, FFIA, SAW, BV and South Indian Adoptions) received authorization for one country each. A further association, FABV, was authorized in February 1980,

⁷⁹ Prop. 1978/79:108, s. 21.

⁸⁰ Prop. 1978/79:108, s. 21-22.

for Guatemala. Five associations were authorized for India. Of these, four were authorized for the same state⁸¹.

NIA issues general conditions for authorization

In the autumn of 1980, the NIA found that interest in authorization was greater than expected. At a meeting with the authorized organizations, experiences with the new organization were discussed. As many of the associations were small and built around a single cooperation contact, they were vulnerable. The NIA therefore tried to persuade associations to merge, which was done in some cases. However, the NIA found that there was no possibility to reject applications if the criteria of the Act were met⁸².

It appeared that several orphanages, mainly in India, were willing to cooperate with several organizations. The NIA therefore decided to take a more positive approach to the authorization of more than one organization for a country or part of a country. A prerequisite for this was that the association documented that the overseas contact was willing to cooperate with the association⁸³.

On the basis of the first year's experience, the NIA drew up proposals for conditions for authorization in the autumn of 1980. They were adopted by the National Board of Health and Welfare and came into force on 1 January 1981.⁸⁴ The Board then discontinued the provisional division of foreign contacts into established and non-established contacts. The conditions stipulated that, when applying for authorization, the association should state the authority, organization or individual abroad with whom it was cooperating ("cooperation contact"). Before a written agreement was reached with a new cooperation contact, this should be notified to the NIA for consultation. In addition, the regulations contained rules on record-keeping, the necessary competence within the association, how the application for authorization should be formulated, the decision-making procedure in cases concerning international adoption assistance, reporting to the NIA, financial accounting and how the associations should assist adoption applicants.

⁸¹ NIA, Annual Report July 1, 1979-December 31, 1980, p. 9 ff.

⁸² NIA, dnr 9:328/80.

⁸³ NIA, Annual Report July 1, 1979-December 31, 1980, p. 9.

⁸⁴ SOSFS (S) 1980:97.

On 26 November 1981, new conditions for authorization came into force. The only difference with the previous conditions was that the term "authorization to provide international adoption assistance" was defined. Furthermore, it was stipulated that an association should cooperate with another association authorized for the same country. The conditions also stated that the association, when the child arrived in Sweden, should send a copy of all documents concerning the child to the Social Welfare Board⁸⁵.

On February 25, 1982, the conditions were changed to allow associations to provide international adoption assistance also to persons residing abroad, provided that the person met the country's requirements for prospective adoptive parents.⁸⁶

3.4.5 NIA's supervisory activities

Supervision of the authorized organizations

Based on its new supervisory role, the NIA also built up its supervisory activities. The supervision of the authorized organizations was closely linked to the authorization process and the assessment of the organizations. The NIA's own description of its supervision was that in its authorization decisions it referred to the applicable legislation and the general conditions of authorization. In some cases, NIA limited the period of authorization of an organization more strictly than the general authorization period and imposed one or more conditions of authorization (e.g. that the organization should report on an action or correction based on NIA's requirements). On a couple of occasions, NIA revoked or limited the authorization. When there was a need for clarification or discussion to find a solution to a problem, NIA often contacted the organizations or raised the issue at organizational meetings.⁸⁷ On a few occasions, NIA called the board of an organization to a special meeting to discuss the organization's organization and capacity.⁸⁸ Supervision also included annual reviews of the organizations' annual reports and financial statements. In some cases

⁸⁵NIA, Conditions for authorization under the Act (SFS 1979:552 and 1981:580) on international adoption assistance, dnr 69:303/81.

⁸⁶NIA, Protocol No 7 1982-02-25, Conditions for authorization under the Act (SFS 1979:552 and 1981:580) on international adoption assistance, ref. NIA 69: 303/81.

⁸⁷ NIA, Supervision of the authorized adoption organizations, 1995-02-15, dnr 69:45/95.

⁸⁸NIA, Annual Report 1982/83, p. 8.

NIA carried out audits of the organizations' cooperation contacts in the countries of origin, for example in Sri Lanka in 1985.⁸⁹NIA also analyzed the organizations' cost trends from 1980 to 1992.

In order to be continuously informed about the activities of the organizations, the NIA invited the authorized organizations to so-called organization meetings approximately twice a year. At these meetings, the NIA provided information on current requirements for the organizations' activities and the organizations reported on their brokerage activities in different countries. Various issues of principle were also discussed. Initially, it was about private adoptions and ethical principles, for example, but later it became more about the organizations' day-to-day work, financial administration and reporting. On a few occasions, the NIA pointed out that cooperation between the organizations needed to be improved. In addition to the organizational meetings, the NIA invited relevant organizations to meetings to discuss issues related to specific countries, such as Belarus, Colombia, China, Ethiopia, India, Kyrgyzstan, Russia, Sri Lanka, South Africa, South Korea, Philippines, Ukraine and Vietnam⁹⁰.

The NIA also organized meetings and conferences on specific themes. For example, in 1981 the NIA organized a conference with social workers and representatives from the adoption organizations. As a result of the meeting, the organizations formed a working group to address certain ethical issues⁹¹.

Community representatives participate in the intermediary activities of the organizations

When the new intercountry adoption organization was launched in 1979, the aim was to ensure continued public involvement and control in the placement process.⁹²This was done by appointing so-called community representatives who would represent the public interest in the association's work on intercountry adoption assistance, i.e. in the association's selection and matching of parents to proposed children. The community representatives should have specific experience in child and youth care in the state or municipality.⁹³Through the involvement of community

⁸⁹ NIA, Annual Report 1984/85, p. 7.

⁹⁰ Review of NIA annual reports and accounts 1979-2004.

⁹¹ NIA, Annual Report 1981/82, p. 8.

⁹² NIA, Annual Report 1979/80, p. 13.

⁹³Section 5 of the Act (1979:552) on International Adoption Assistance.

representatives, there would be a guarantee that the best interests of the child would be represented in the organizations, which would also represent the interests of the prospective adoptive parents.⁹⁴ When an authorized association decided on intercountry adoption assistance, at least one community representative would participate. If an association decided to refuse adoption assistance in an individual case or if the association wanted to provide adoption assistance despite the objection of a community representative, the matter would be referred to the NIA for a decision.⁹⁵ This was changed in 1985 when organizations were given the right to decide themselves not to provide adoption assistance. Cases where the community representative dissented would still be referred to the NIA.⁹⁶

Two community representatives were appointed in each authorized organization - an officer from the NIA office and the social welfare officer of the county where the organization was based. In 1981 the NIA adopted a special memorandum on the role and tasks of the community representatives, as well as a memorandum to the authorized bodies containing guidance on the handling of intercountry adoption assistance cases.⁹⁷ The community representatives were informed of the cases decided by the NIA.⁹⁸ They wrote an annual report on their involvement in the intercountry adoption assistance work.⁹⁹

Decisions on adoption assistance cases and handling of complaints from individuals

Another part of the supervision was the role of the NIA in deciding cases where an authorized organization decided not to provide adoption assistance to an applicant and cases where a community representative and organization disagreed on the decision to provide adoption assistance. This applied until 1997. Thereafter, applicants who had been refused adoption assistance by an organization could appeal and have the case reviewed by the supervisory authority.

In its annual reports for 1979-2000, the NIA reports on the number of cases referred to the NIA for decision. However, the reporting has changed over time, making it difficult to compare between years. Usually 5-15 cases have been handled annually by the NIA. For some

⁹⁴ NIA, Annual Report 1993/94, p. 11.

⁹⁵ Section 8 of the Act (1979:552) on International Adoption Assistance.

⁹⁶ NIA, Annual Report 1985/86, p. 8.

⁹⁷ NIA, Annual Report 1979/80, pp. 13 and 16 and Annual Report 1981/82, p. 8.

⁹⁸ NIA, Annual Report 1981/82, p. 9.

⁹⁹ NIA, Annual Report 1999.

years (1984, 1992 and 1999), no or only a few cases were handled, while in 1982 the number of cases amounted to 90. The most common reason for referring a case to the NIA for decision was the advanced age or illness of the applicants. In some cases the NIA agreed with the organization, in other cases it reversed the organization's decision and asked the organization to provide adoption assistance.

Inspection missions

The NIA's annual reports for 1979-1992 show that travel was not primarily seen as a tool of supervision. Travel was accounted for as a separate item and was included as part of the Agency's work on treaty discussions with individual countries, visits to foreign authorities or to foreign contacts of organizations applying for authorization, preparation for assessment of authorization applications, monitoring of the business environment and participation in international conferences. During the period 1979-2004, the NIA made approximately 50 trips.

3.4.6 The social committees receive partly new tasks with the organizational change in 1979

The bill that preceded the new organization in 1979 and the Act on International Adoption Assistance emphasized the importance of the authorized associations not mediating applications from persons who had not received an advance decision on the general suitability of the home.

The new Social Services Act (SoL), which came into force on January 1, 1982, removed the rules on prior approval for the reception of foster children (who are later adopted), and instead, special rules were introduced for the adoption of a foreign child, which meant that the consent of the social welfare committee had to be obtained before the child left his or her home country. This meant that there was no need for a new authorization from the social welfare board once the child had arrived in

¹⁰⁰Prop. 1978/79:108, s. 24.

¹⁰¹The Social Services Act also stipulated that the Social Welfare Board was to help ensure that adopted children received good care and education and otherwise favorable conditions for growing up. The board was also to provide guardians with advice, support and other help they needed. Appeals against rejection decisions were to be made to the county court.

The 1982 NIA Handbook for Social Welfare Boards on Intercountry Adoptions emphasized in its introduction that the report on the prospective adoptive parents should primarily serve as a basis for a decision on consent, but that the report should also serve as a presentation of the family to the child's guardians in another country. The report also had the function of providing education and information to the prospective adoptive parents. The NIA emphasized that the Social Welfare Board must see itself as the representative of the (unknown) child rather than the applicants' wishes to adopt a child, which must be made clear to the applicants. The Social Welfare Board would also write a follow-up report approximately six months after the child's arrival in the home, regardless of whether the adoption took place in the child's country of origin or whether the adoption was decided in a Swedish court. The report would be sent to the child's representative in the country of origin. The NIA points out in the handbook that relatively close contact with the adoptive parents is required during the initial period. The Board must also, if and when appropriate, actively monitor the adoption of the child, as the child has no legal link to his/her adoptive family until the adoption process is completed. The social services boards would keep documents relating to the origin and background of the child.¹⁰²Where the adoptive parents had used an authorized adoption agency, the agency was responsible for sending copies of the documents to the social services board.¹⁰³In the case of a private adoption, the social services investigator would request copies of the documents the parents had about the child to be placed in the relevant file.¹⁰⁴

¹⁰¹ Prop. 1979/80:1 on social services, pp. 9 and 320.

¹⁰² State Board for International Adoptions (1982) *International adoptions. Handbook for social welfare boards*, pp. 9 and 50 ff.

¹⁰³ NIA. *International Adoptions. Handbook for Adoption Organizations*. 1983, p. 18.

¹⁰⁴ NIA, *International adoptions. Handbook for social welfare boards*. 1986, p. 62.

3.4.7 1981 NIA becomes a separate authority

In 1981, the National Board of Health and Welfare was reorganized and in connection with this, the NIA became a separate authority on 1 July 1981 - the National Board for International Adoption (NIA).

The tasks set out in the instructions were largely the same as before. However, the Board took over some of the National Board of Health and Welfare's previous tasks and certain clarifications were made in the instructions. The Board was to decide on authorization under section 2 of the Intercountry Adoption Assistance Act and perform the tasks otherwise incumbent on the supervisory authority under the Act, fulfil the tasks set out in the Ordinance on the Review of Foreign Adoption Decisions, distribute government grants to authorized associations, negotiate with authorities and organizations in other countries on agreements within the Board's area of activity and conclude such agreements.

The NIA, in consultation with the National Board of Health and Welfare, was to draw up the special instructions needed to assess the suitability of homes to receive a child for adoption. The instructions also regulated the Board's handling of cases.¹⁰⁵ Rules of procedure with routines for the activities were established in September 1982.¹⁰⁶

The Board continued to have nine members appointed for three years. Until 1985, the Board consisted of representatives of the Ministry of Social Affairs, the Ministry of Foreign Affairs, the National Board of Health and Welfare, the Association of Swedish Municipalities, the Family Court of the City of Stockholm and the Stockholm Social Services Administration, and two doctors. The chairman was a member of parliament. From 1985, the Board was expanded to eleven members and its composition was changed.

Six of the members were politicians (Members of Parliament and, for a period, a municipal councillor) and were specifically intended to represent the interests of the public. The other members were to meet the Board's needs for expertise on various issues¹⁰⁷.

¹⁰⁵Ordinance (1981:681) with instructions for the State Board for International Adoption matters.

¹⁰⁶ NIA, Annual Report January 1, 1981-June 30, 1982.

¹⁰⁷NIA, Annual Report January 1, 1984-June 30, 1985.

The following year's authorization activities

The NIA continued to examine applications for authorization in the following years and in 1981 issued authorizations to two new associations (ISIA and SAICA).¹⁰⁸ There were then eight authorized associations, six of which were operating in India (five in the same State).

In connection with the preparation of authorization cases, the NIA obtained information from Swedish embassies in those countries where the NIA considered that there were doubts about how the country viewed international adoptions, if it was unclear how many associations would be authorized in the same country or where there were doubts about cooperation contacts.

The intermediation activities of SAICA and FABV ceased in 1982. From 1983 onwards, therefore, there were again six authorized associations operating in 22 countries.

On 24 March 1983, new conditions for authorization were laid down, which entered into force on 1 April 1983.¹¹⁰ The new conditions provided that the association's statutes should specify the principles applied to the levying of fees and the requirements for registering an application for adoption assistance with the association. Furthermore, it was stipulated that the association should have a thorough knowledge of the laws and regulations on adoption in countries where it had a cooperation contact. It should also have good cost control in the cases abroad. The reporting obligation to the NIA was slightly extended. A new version of the conditions, which came into force on 25 March 1986, stipulated that the name should indicate that the association was an adoption organization. It also introduced an obligation to inform applicants whose application for adoption assistance had been refused that they could have the decision reviewed by the NIA.

The six authorized associations were all active until March 1988 when ISIA ceased to operate. SAW ceased its activities in March 1989. In November 1991, Aktionsgruppen Skaraborg was authorized for 1992 and 1993 with activities in Poland. ACCA was authorized for Vietnam in 1993/1994. ACCA's activities in Vietnam were subject to

¹⁰⁸ NIA, Annual Report January 1, 1981-June 30, 1982, p. 9 ff.

¹⁰⁹ NIA, Annual Report 1981/1982, p. 5.

¹¹⁰ NIA, Conditions for Authorization under the Intercountry Adoption Assistance Act, 1983-03-29, dnr 69:101/83.

As it was unclear how children became available for adoption in Vietnam, NIA representatives visited Vietnam and had several discussions with ACCA. As a result, ACCA's activities were restricted until further notice¹¹¹.

Grounds for refusal of authorization in the first years

The NIA also rejected some applications for authorization. In one case, the application for authorization was rejected because the applicant did not meet the criteria of having adoption assistance as its main activity. In a few cases, rejections were made because the association was not considered to meet the requirements of working in a professional and judicious manner. Some applicants were granted authorization but were rejected for certain countries. The reasons for rejection were either the general attitude of the country towards adoption or the fact that the association could not demonstrate any cooperation contact in the country concerned. Several applications were rejected on the grounds that there were already several Swedish associations operating in the countries concerned¹¹².

3.4.8 Intermediary approval requirement introduced in 1985 to increase control over private adoptions

The working group that submitted proposals for a new organization in 1978 also proposed that prior notification of adoption should be compulsory and that an investigation should be carried out into the contact provided by applicants to find a child. The aim was to overcome the problems of private adoptions¹¹³.

A requirement for prior notification was introduced from January 1, 1985, when municipal social welfare committees were instructed to examine the reliability of the agency the applicant intended to use to contact a child for adoption. The amendment aimed to make adoptions that took place without the involvement of an authorized association safer. The Social Welfare Board was given the possibility to refuse to give its consent to receive a foreign child

¹¹¹ NIA, Annual Report 1994/95, p. 12.

¹¹² NIA Dnr 60:48/81, NIA Dnr 60:298/81, NIA Dnr 60:184/84, Ministry of Social Affairs S93/4570/J.

¹¹³ Ds 1978:6.

for adoption, if they feared that the child had not become available for adoption in a reliable way.

The amendment also introduced new tasks for the NIA. The Social Welfare Boards were to seek the opinion of the NIA on the reliability of the agency unless it was clearly unnecessary. If the applicants stated that they would use an NIA-authorized agency, the NIA did not need to be consulted. The opinion of the NIA was also not required if the NIA's expertise would obviously not add anything to the investigation, for example in the case of a relative's child. The new task meant an increased caseload for the NIA.

The Social Welfare Board was obliged to specify in its decision on consent the type of mediation to which the decision applied. If a Swedish authorized organization was to provide mediation assistance, the decision was to be formulated in such a way that it applied generally to mediation through all organizations authorized by the NIA. In the case of a private adoption, on the other hand, the name of the intermediary organization was to be stated in the decision.¹¹⁴The NIA's updated handbook for social welfare committees from 1986 states, among other things, which documents the social welfare committee was to attach regarding the applicant's stated intermediary contact as a basis for the NIA's assessment.

3.4.9 A subsidy for the adoption of foreign children is introduced in 1989

In November 1985, an inquiry was set up to investigate the possibility of reducing the costs to the individual in connection with the adoption of children from abroad. The background to the investigation was that the costs of international adoptions had increased and that there was a risk that both financially weak groups would be excluded from the opportunity to adopt and that adopted children would not have siblings. The inquiry considered that the scope for reducing costs was very limited but that certain cost items could be reduced. The inquiry proposed that a grant of SEK 5,000 per child should be introduced.¹¹⁶The referral bodies were in favour of a grant, but most advocated a higher level.

In 1989, a special adoption allowance was introduced by the Act (1988:1463) on allowances for the adoption of foreign children. This allowance

¹¹⁴ Prop. 1984/85:16 *on certain questions concerning international adoptions*, p. 13.

¹¹⁵ NIA (1986) *International adoptions. Handbook for Social Welfare Boards*, p. 22.

¹¹⁶ Ds S 1987:1 *Costs associated with the adoption of foreign children*.

which was introduced was tax-free and would cover 50 percent of the average cost of adoption from the country of origin, or a maximum of SEK 20,000.¹¹⁷

The NIA was also given new tasks following the introduction of the adoption allowance. In addition to the previous tasks, the NIA was to monitor the development of the costs of adoptions of foreign children. The NIA was also required, under the Ordinance (SFS 1988:1464) on grants for the adoption of foreign children, to determine the average cost for different countries of origin on which the grant was to be calculated⁽¹¹⁸⁾.

Since its introduction, the allowance has been continuously increased. In 1991, the maximum amount of adoption allowance was increased to SEK 24 000¹¹⁹.

On July 1, 1997, the adoption allowance was changed to a fixed amount, independent of actual costs.¹²⁰ The reason was that the variation in costs between countries was much smaller than anticipated when the adoption allowance was introduced.¹²¹

In 2001, the adoption subsidy was increased to SEK 40,000, which then corresponded to just under 40 percent of the average total adoption cost. It was not until 2004, when the law was amended, that the grant was limited to adoptions arranged through an authorized adoption agency.¹²² According to the Government, individual adoptions did not entail the same high administrative costs as the use of an authorized association. The Government therefore found it justified to limit the possibility of an adoption grant to adoptions carried out through the authorized associations.

In 2017, the adoption allowance was increased to the current SEK 75,000¹²³.

¹¹⁷ Prop. 1988/89:3 on grants for the adoption of foreign children.

¹¹⁸ Ordinance (1988:1128) with instructions for the State Board for International Adoption matters.

¹¹⁹ Inspektionen för socialförsäkringen (2016), *Rapport 2016:9 Att adoptera - en ekonomisk fråga. A study on adoption subsidies and financial conditions for adoption*, p. 17.

¹²⁰ Adoption allowance was previously called Adoption Cost Allowance by the Social Insurance Agency. The term was changed when the Social Insurance Code entered into force on January 1, 2011. The provisions of the Act were then transferred to Chapter 21 of the Social Insurance Code.

¹²¹ Prop. 1996/97:91, s. 56.

¹²² Prop. 2003/04:131 *International adoption issues*, p. 74 ff.

¹²³ Prop. 2016/17:1 *Budget bill for 2017/ expenditure area 12*.

3.5 Strengthening the child rights perspective in the adoption process 1990-2005

3.5.1 Sweden ratifies the Convention on the Rights of the Child

Six months after the UN General Assembly adopted the Convention on the Rights of the Child, Sweden ratified the Convention by a decision of the Riksdag on June 21, 1990.¹²⁴ The Convention entered into force in Sweden on September 2, 1990. Sweden's commitment to the Convention and its obligation under international law entailed an obligation to realize the rights of the child under the Convention through legislative, administrative and other measures.

In 1996, the Government appointed the Children's Committee, whose task was to clarify how the spirit and meaning of the Convention were expressed in Swedish legislation and practice. In its report, the Committee concluded that Swedish legislation was essentially in line with the undertakings in the Convention. However, it stressed the importance of ensuring that the provisions were actually applied and that the Convention was implemented at all levels of society.¹²⁵ In 1999, Parliament decided to approve the strategy proposed by the Government for implementing the Convention in Sweden.¹²⁶

The Convention on the Rights of the Child was incorporated into Swedish law on January 1, 2020¹²⁷.

3.5.2 Adoption legislation inquiry set up at the request of the NIA

In 1992, the Minister of Social Affairs saw the need for a new review of international adoption activities, the Act on International Adoption Assistance and the provisions of the Social Services Act. The initiative came from the NIA, which in 1991 produced a memorandum on international adoption activities, requesting that the Government commission a review of the activities. The NIA considered that the role of the authority needed to be strengthened, that supervisory responsibility was fragmented and that the Swedish

¹²⁴ Prop. 1989/90:107 *on the acceptance of the Convention on the Rights of the Child*.

¹²⁵ SOU 1997:116 *Best interests of the child paramount*.

¹²⁶ Prop. 1997/98:182 *Strategy to implement the UN Convention on the Rights of the Child in Sweden*. In 2010, the Riksdag adopted a new strategy to strengthen the rights of the child, see Bill 2009/10:232 *Strategy to strengthen the rights of the child in Sweden*.

¹²⁷ Prop. 2017/18:186 *Incorporation of the UN Convention on the Rights of the Child*.

the system was difficult to understand for Swedes and even more so abroad. Furthermore, the NIA considered that support for adoption organizations needed to be strengthened and the conditions for their activities reviewed. In addition, the possibilities of limiting the cost of adoptions needed to be examined.¹²⁸ In the memorandum, the NIA described that the system whereby the social committees controlled the method of mediation in private adoption did not work satisfactorily. It was not uncommon for private adoptions to be carried out with the consent of an authorized agency. It was also the case that social welfare boards gave consent despite the NIA's refusal, or that the social welfare board did not seek the opinion of the NIA - sometimes under pressure from the applicant - even though, according to the law, it should have done so. This pattern had become more common from 1988 and the NIA saw it as a result of the decline in adoptions through adoption agencies, which in turn was due to the fact that several countries, such as South Korea and India, had gained better control over intercountry adoptions and had also become better at caring for their children domestically. This had led to an increased interest among applicants in Sweden to adopt privately instead. The NIA stated that it was important to preserve the possibility of adopting without the involvement of adoption organizations. However, greater control of individual adoptions was needed, and this could be achieved by transferring responsibility for testing the reliability of in the intermediation of individual adoptions to the NIA, which had overall responsibility for intercountry adoption issues¹²⁹

In 1992, the Government appointed an inquiry to review the organization of intercountry adoptions.¹³⁰ One of the tasks was to strengthen the NIA's control in order to maintain an operation with correct intercountry adoptions at a high ethical level in the best interests of the child. The investigator was also to consider the need for legislative changes in the light of the UN Convention on the Rights of the Child and the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. In its final report, the committee proposed that Sweden should ratify the 1993 Hague Convention as soon as possible and incorporate it into Swedish law by means of a special act. Adherence to the Convention would reduce the possibility of individual adoption. It was also proposed that the NIA should examine the

¹²⁸ NIA, Annual Report 1990/91.

¹²⁹ NIA, Activities with international adoption issues, 1991-05-29, dnr 1:178/91.

¹³⁰ SOU 1994:137 *International adoption issues. 1993 Hague Convention etc.*

reliability of individual adoptions instead of the social welfare boards. In turn, the NIA and the adoption organizations would not have the right to appeal the social welfare board's decision on the suitability of the adoptive applicant. The report also proposed changes in the distribution of state subsidies to adoption organizations. The inquiry considered but did not propose mandatory parental training¹³¹.

In 1995, an addition was made to the then Chapter 4. In 1995, an addition was made to the then Chapter 4, Section 6 of the Parental Code stating that when assessing whether it is appropriate for the adoption to take place, account shall be taken of the child's wishes, taking into account the child's age and maturity.¹³²In its consultation response to the inquiry that proposed the amendment to the Act, the NIA had stated that the obligation to clarify the child's position should mean that an investigation should always be obtained from the child's country of origin in the case of international adoptions. The bill referred to this issue being considered in connection with the preparation of the Adoption Legislation Inquiry's report.¹³³However, the issue was not dealt with in that report or in the subsequent preparation.

3.5.3 NIA develops new guidelines for more systematic supervision

New guidelines for supervision

In 1995, the NIA decided to develop guidelines for a more systematic supervision of the authorized adoption organizations. The guidelines were to be used for the authorization of individual organizations and an assessment of the organization's activities would also be made in the context of the authorization decision. In this way, oversight would have a clearer content, with higher quality and certainty, and would better respond to the Board's responsibility for the best interests of the child and as a public interest advocate. The oversight arrangements would be based on the NIA Handbook for Adoption Agencies. They would then be adapted when Sweden ratified the 1993 Hague Convention. Two issues were raised in relation to the examination of the finances of the organizations: whether the organization adequately distinguished between adoption

¹³¹ SOU 1994:137.

¹³² Prop. 1994/95:224 *children's right to be heard*.

¹³³ Prop. 1994/95:224, p. 40 f.

activities and, for example, aid activities, as well as the development of costs during the past authorization period.¹³⁴

Supervision and complaint cases

Supervision cases concerned observations or interventions made by the NIA against an individual organization and the organization's actions in response. The number of enforcement cases ranged from 12 to 27 per year, with the exception of 1995/96 when the NIA dealt with 62 enforcement cases. In 1995-1997, the NIA also reported the number of supervisory cases of a more general nature. In 1995/96, the NIA handled eleven cases and in 1997 six cases. The cases concerned, inter alia, matters of principle such as fee policy, sponsorship and systematic review of organizations' compliance with the Act¹³⁵.

Individual applicants for adoption assistance could also turn to the supervisory authority with complaints about an organization and its adoption agency. From 1994 until 2014, the number of complaints amounted to 2-6 per year. The complaints concerned lack of information, adoption costs, waiting lists, quotas, child decisions that did not correspond to the consent, the organization's processing and treatment. The NIA and MIA investigated the cases and assessed whether the complaints were justified.

From 1999, an additional element was added to the supervision of the authorized organizations. The NIA began to send out an annual survey to families who had received children for adoption through an adoption organization in the previous year. The purpose of the survey was to obtain the families' views on the organizations in order to provide a basis for possible measures on the part of the organizations.

Community representatives are being phased out

The community representatives were phased out in 2000. The reason for this was that, as a result of the legislative changes that made in connection with Sweden's accession to the 1993 Hague Convention would no longer carry out its own assessment of the suitability of adopters. The assessment of suitability remained the responsibility of the

¹³⁴ Document for the NIA meeting of August 22, 1995, p. 7, ref. 69/45/95.

¹³⁵ NIA annual reports 1990-1997. Annual Report 1995/96, p. 9.

social committees with the possibility for the individual to appeal decisions to the courts. This removed the role of community representatives from the organizations and there was no longer any reason to appoint them.¹³⁶

Specific reporting requirement 1995-1997

In 1995-1997, the NIA was given a specific reporting requirement in the regulatory letter to report on the development of intercountry adoption activities in Sweden. This was reported in an appendix to the annual report and contained a brief description of the situation in the countries from which children came to Sweden for adoption. Almost 20 countries were described, including cooperation with the country of origin, current legislation and various types of problems that had arisen (the occurrence of irregularities was also reported). The appendix also gave a separate account of the activities of Swedish adoption organizations, foreign cooperation and travel.¹³⁷ The NIA also produced a memorandum with similar information in 2001.¹³⁸

New operational objective for supervision introduced in 1999

In 1999, the NIA introduced a new operational objective for the field of examination and supervision. The NIA was to ensure that intercountry adoption activities had a high ethical standard, that the rights and interests of the child were paramount and that adoptions in Sweden were carried out in accordance with the legislation in force in the child's country of origin and in Sweden¹³⁹.

¹³⁶ Prop. 2000/01:80, *New Social Services Act*, p. 107.

¹³⁷ NIA, Annex to the NIA Annual Report 1994/95, 1995/96 and 1997 respectively, Developments in the field of adoption in some countries from which children have come to Sweden for adoption.

¹³⁸ NIA, PM April 2001, Historik och redovisning av utvecklingen på adoptionsområdet i några länder, var från barn kommer till Sverige för adoption t.o.m. 2000-12-31, dnr 52:79:135/07.

3.5.4 The Law on International Adoption Intermediation (LIA) enters into force and Sweden accedes to the Hague Convention

In February 1997, following the proposals of the Adoption Legislation Committee, the Government presented its proposal.¹⁴⁰ The Government made the following general assessment:

Adoption activities essentially function well in Sweden. The division of work between the NIA, the National Board of Health and Welfare, the county administrative boards, the municipalities and the adoption organizations should, with some exceptions, remain as it is. The adoption organizations do a commendable job.

Their autonomy and integrity are important to preserve. This means that there is a need for restraint in the regulation of intercountry adoption activities. On the other hand, adoption is such an important element in people's lives that a high degree of legal certainty is required when dealing with adoption cases. There is currently a good balance between these two principles. It is important to maintain this balance.¹⁴¹

On July 1, 1997, the Act on International Adoption Assistance was replaced by the Act (1997:192) on International Adoption Intermediation (LIA) and Sweden acceded to the 1993 Hague Convention by the Act (1997:191) on Sweden's accession to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The concept of adoption assistance had been replaced in the Act by adoption mediation and referred to adoptions carried out through an authorized association. Adoptions carried out through contacts made by individuals themselves were called individual adoptions (formerly private adoptions) and were not included in the concept of adoption mediation.

The NIA became the Central Authority under the Convention. In the bill, the government wrote that the NIA should ensure that the activities with international adoptions had a high ethical level and that the rights and interests of the child came first.¹⁴² However, this was not expressed in the NIA's instructions. In 1997, the NIA formulated its own overarching objective for its activities, which was that the authority should strive to ensure that adoptions were in the best interests of the child and in accordance with the legislation in force in the child's country of origin and in Sweden.

¹⁴⁰ Prop. 1996/97:91 and SOU 1994:137.

¹⁴¹ Prop. 1996/97:91, s. 48.

¹⁴² Prop. 1996/97:91, s. 45.

¹⁴³ NIA, Annual Report 1997, p. 6.

was reformulated by the NIA in 1999 to be consistent with what the Government had said in the Bill¹⁴⁴

The Social Welfare Board continued to be responsible for deciding on the consent to continue the adoption procedure as required by the Convention. However, the new law changed the rules so that the NIA instead of the Social Welfare Board would decide whether the intermediary route for private adoption was acceptable, as the NIA was deemed to be better placed than the Social Welfare Boards to assess intermediary routes in other countries.¹⁴⁵

As before, the new law stipulated that an authorization should be limited in time and the decision on authorization should specify the countries to which the association's activities related. The authorization could also be subject to other conditions, for example regarding the payment of fees and accounting. The Government considered that there were reasons for the accounting principles applied by the associations to be uniform so that the applicants, who were also described in the proposal as consumers, could compare the costs between different organizations.¹⁴⁶ As a basis for the authorization decision, the applicant was to submit a report on its activities in accordance with the requirements of the Act and information on the contacts to be used in the country and information on the costs of adoption through the contact.

The NIA issued new conditions for the authorized associations in connection with the introduction of the new law. The conditions had been drawn up together with the associations¹⁴⁷.

3.5.5 NIA as central authority is given responsibility for examining and approving the intermediary route for individual adoption

The LIA meant that the NIA took over the responsibility of the Social Welfare Board for assessing the acceptability of the agency route for individual adoptions. When the NIA took over the decision, the individual review of the procedure was abolished in cases where the adoption was mediated by an authorized association. Individual adoptions were limited to specific cases where it did not appear necessary to use an adoption agency.

¹⁴⁴ NIA, Annual Report 1999, p. 9.

¹⁴⁵ Prop. 1996/97:91, pp. 49 ff, 59, 78.

¹⁴⁶ Prop. 1996/97:91, s. 55.

¹⁴⁷ NIA Annual Report 1997, p. 9.

organization. This could be because the prospective adoptive parents and the child were related or had a special relationship already before the adoption. Private adoption could also be accepted if the applicants had special ties to a particular country and thus special reasons for wanting to adopt from there, for example if the applicant had lived or worked in a particular country or had originated there and wanted to adopt a child from that country.¹⁴⁸In the Bill, the Government stated the following:

The applicants who are excluded by the proposal from the possibility of adopting individually, and who are referred to an organization, are those who today find a child in a donor country on their own and carry out the adoption without the mediation of an accredited adoption organization. Sweden has largely been spared scandals surrounding adoption activities. The unethical adoptions that have attracted international attention have often involved individual adoptions. There are therefore risks associated with this type of activity. Against this background and taking into account the effects of the Hague Convention, the Government considers it reasonable to restrict individual adoptions in the way proposed here.¹⁴⁹

The NIA argued that the change in the law meant fewer individual adoptions and a higher degree of security in adoptions. According to the NIA, the NIA's decisions in cases of individual adoptions contributed to a positive view of international adoptions in society in general, both in Sweden and in the children's countries of origin¹⁵⁰.

3.5.6 Sweden's ratification of the 1993 Hague Convention changes the role of municipalities

When Sweden ratified and implemented the Hague Convention in 1997, certain changes were made to the municipalities' tasks.

The Social Welfare Board was no longer required to approve the placement route for individual adoptions; this was done instead by the NIA. The period of validity of consent to receive a child for adoption was extended to two years, and an obligation was introduced for applicants to report any changes in circumstances that could be assumed to affect the decision on consent. The social welfare committee could revoke the consent.

¹⁴⁸ Prop. 1996/97:91, p. 62 ff. and 78.

¹⁴⁹ Prop. 1996/97:91, s. 63.

¹⁵⁰ NIA, Annual Report 1997, p. 15.

consent if the conditions for it no longer existed. In order to clarify the requirement for the adoptive parents' knowledge prior to the adoption, and to meet the requirements of the Convention, a provision was also introduced in the Social Services Act to the effect that consent could only be given if the person or persons wishing to adopt had satisfactory knowledge of children and their needs and had been informed of the implications of the planned adoption.

In accordance with the 1993 Hague Convention, the Social Welfare Board was also required to give its consent to the continuation of the adoption procedure after the applicants had been designated as the parents of a child. As regards consent to the continuation of the adoption procedure, the Convention provided (Article 17) that a final assessment of whether the conditions for adoption were fulfilled should be made in each country before a child could be handed over to the prospective adopters. This examination was only carried out when a particular child had been proposed for adoption in the State of origin to certain applicants in the receiving State and the prospective adopters agreed to the adoption. A decision would then be taken in both countries on whether the adoption procedure could proceed. Apart from the fact that the examination in the States concerned involved an assessment of the competence and suitability of the applicants to adopt the proposed child, it was essentially a question of judicial verification that there was no inconsistency between the laws of the States concerned which might prevent the adoption from going ahead.

In 1998, a provision was also introduced in Chapter 5, Section 1 of the Social Welfare Act ¹⁵¹ concerning an obligation on the part of the social welfare board to meet, in its care of children and young people, the special need for support and assistance that might exist after an adoption had been completed. The provision did not cover adult adoptees.¹⁵³ It was introduced in response to the UN Committee on the Rights of the Child pointing out that Sweden lacked a specific system for systematically following up the actual situation of adopted children from abroad in Swedish families. The Committee recommended that measures be taken to monitor the situation of these children more closely¹⁵⁴

¹⁵¹ Prop. 1996/97:91, p. 50 ff, p. 60-61, 72-73 and 91-92.

¹⁵² Chapter 18, Section 10 of the Social Services Act (2025:000), latest wording Bill 2024/25:89.

¹⁵³ Prop. 1996/97:91 p. 74 and Prop. 1996/97:124 *Amendment to the Social Services Act* p. 176 f.

¹⁵⁴ SOU 1994:137 p. 136, 156 and 160. Prop. 1996/97:91, pp. 73-74 and Prop. 1996/97: 124, s. 176-177.

3.5.7 Confidentiality and mediation obligations introduced for adoption organizations

When the LIA was introduced, it was noted that the duty of confidentiality did not apply to those working in an adoption organization. The information to which an adoption organization had access in the course of its activities could be at least as sensitive as that to which a professionally run individual social service agency could have access. Section 71a of the Social Services Act (1980:620) stipulated a duty of confidentiality for those who are or have been active in professionally run private activities relating to interventions under the Social Services Act. A corresponding provision on confidentiality was therefore considered necessary for the authorized adoption organizations.

The LIA obliged the authorized associations to provide intercountry adoption services to applicants who had consent to adopt. The provision no longer allowed the organizations to carry out a further examination of the suitability of the applicants after such an examination had been carried out by the social welfare board¹⁵⁵.

3.5.8 NIA notes shortcomings in the possibility to reject authorization applications

In the 2000 Annual Report, the NIA raised a number of points relating to authorization under the heading "Key issues of principle". One was the need to be able to limit the number of authorized organizations. Another concerned the possibility of withdrawing an authorization when an organization was not performing satisfactorily, and a third concerned the criteria by which the NIA could refuse an authorization¹⁵⁶.

In its 2002 Annual Report, the NIA stated that it had no power to refuse applications for authorization on grounds other than those set out in the LIA. Anyone who applied for an authorization and met the requirements of the Act would be able to obtain it, even if it would not actually be of any benefit to the community, the applicant families or the adoption business as a whole. Nor could the NIA refuse an application for an agency from a particular country on the basis of that country's rules, as it had tried to do in one case. THE NIA

¹⁵⁵ Prop. 1996/97:91 s. 75.

¹⁵⁶NIA, Annual Report 2000, p. 16.

Nor could it reject an application on the grounds that several associations would then be working in the same country through authorization. The NIA pointed out these shortcomings to the Ministry of Social Affairs, which noted that these were issues that would be dealt with in the inquiry set up in 2001 to review the activities of international adoptions¹⁵⁷.

In the 2003 annual report, the NIA also highlighted the shortcomings in the legislation on the authorization procedure that had already been pointed out. According to the NIA, the 2003 adoption inquiry contained provisions aimed at strengthening the authorization procedure with clearer conditions for authorization. However, the NIA considered that some of these provisions could lead to the cessation of adoption activities with reference, among other things, to the requirement to account for costs. One issue faced by the NIA was the extent to which the state could interfere with and restrict the work of voluntary organizations. The NIA could not refuse applications on the grounds that it would not be efficient for several organizations to operate in the same country. Nor could the NIA refuse to grant multi-country accreditation to an association even if, in its view, the association would need to concentrate its activities in fewer countries in order to achieve stability in its operations. Nor did the NIA consider that the legislation was sufficiently clear as regards its ability to deny authorization to an association.¹⁵⁸

3.6 In the 2000s, rules are tightened for authorization and supervision further

3.6.1 Inquiry into international adoptions proposes new organization and stricter supervision of adoption activities

By the early 2000s, the number of international adoptions had increased again. Around 1 000 children were adopted from abroad each year. In the light of developments in Sweden and abroad, the Government decided that it was appropriate to review certain aspects of the regulatory system for international adoptions. An inquiry was set up in 2001. The inquiry into international adoptions had a broad remit

¹⁵⁷ NIA, Annual Report 2002, p. 10.

¹⁵⁸ NIA, Annual Report 2003, pp. 15-16.

and would, among other things, examine the possibility of strengthening the rights of the child in the adoption process, analyze the process of authorization of adoption agencies, review the organization and governance of the NIA and analyze cost issues related to international adoptions.

The report, which was published in 2003, concluded that the NIA's role as a supervisory authority was unclear and that it had too few supervisory instruments, which made active supervision difficult. Unclear authorization conditions for the authorized associations contributed to this. Among other things, the investigation pointed out that conditions in a country of origin needed to be taken into account when considering an authorization case. The inquiry proposed that the conditions for authorization should be expanded to ensure that international adoption mediation was conducted based on an ethical approach with a focus on the best interests of the child. The LIA needed to be clarified in terms of what requirements a country and a contact should meet to be considered suitable for adoption cooperation. The adoption authority's supervision would be strengthened through the right to obtain information and request corrections from authorized associations. The authority's instructions were proposed to be changed from the task of "facilitating the adoption of foreign children in Sweden" to "monitoring that the Swedish authorized associations' work with international adoption mediation is carried out in accordance with the law and the principle of the best interests of the child in accordance with the Convention on the Rights of the Child and the 1993 Hague Convention and in an otherwise ethically acceptable manner". This emphasized the neutral and independent supervisory role of the Authority. It was also proposed to give the Authority a more active role internationally in ethical adoption-related issues. According to the report, this would require increased resources, but also a refinement of the activities, including by emphasizing that all actors involved in society must take responsibility for their adoption-related issues. With regard to the organization of the adoption authority, the committee proposed that the NIA be dismantled as a board authority and that the government instead set up a new expert authority for international adoption issues with a management form of a council authority with an oversight council¹⁶⁰.

The report also analyzed the costs and assistance activities related to international adoption. They highlighted ethical

¹⁵⁹ Dir. 2001:93 International adoptions etc.

¹⁶⁰ SOU 2003:49 *Adoption at what price*, p. 181 ff.

issues and dilemmas associated with intercountry adoption. The inquiry wrote:

There are many childless adults in the world who long for children. There are also many children in the world who have no family. Many adults want to have as small and healthy a child as possible. Since the childless adults outnumber the small, healthy children available for adoption, a competitive situation arises, where there is a risk that whoever pays the most also gets the most "attractive" children from an adult perspective, i.e. the small and healthy children. (--) As long as there are more adults wanting to adopt than "suitable" children available for adoption, there will be a market for adoption, where financial means are of great importance. The term child trafficking is generally understood to mean the purchase of children by adults for the purpose of exploiting them in some improper way. Although the aim in the adoption context is the desire to give a child a family, there is a clear risk that children become pawns in an economic game, driven by adults' desire for children and severe economic and social problems in the countries of origin. Such an economic game can only be described as a form of child trafficking¹⁶¹

The inquiry went on to say:

When prospective parents have to pay more for the adoption than the actual costs, children tend to become a commodity. Even if what is paid in excess of the actual costs is used for a good purpose, such a contribution must never become a condition for a child to become available for adoption. As the costs of adoption increase in competition between different receiving countries, there is also a risk of creating dependency in the countries of origin of the children on the income generated by intercountry adoption. When large sums of money are provided in addition to reimbursement of actual costs, it may be more financially advantageous to place children for intercountry adoption than to place children for national adoption or to place children in foster care. In such cases, international adoptions may hinder positive domestic development, which is not acceptable. There is also a risk that international adoptions contribute to the preservation of structures with an outdated view of women and a view of illegitimate and disabled children, which Sweden cannot accept. Such a development cannot be accepted under any circumstances

The report concluded that Sweden had to take a position on what was ethically justifiable in terms of costs and assistance activities in connection with international adoption and how Sweden could act

¹⁶¹ SOU 2003:49, pp. 20-21.

¹⁶² SOU 2003:49, p. 21.

to reduce the risks of child trafficking in the context of intercountry adoption¹⁶³

It also analyzed the need for support for adoptees and adoptive families and made proposals for enhanced support and assistance. Another proposal was the establishment of a national research and knowledge center for international adoption issues.

3.6.2 The Swedish Intercountry Adoption Authority (MIA) is established in 2005

In April 2004, the Government presented a bill aimed at strengthening the rights of the child in the adoption process, which included proposals for a new adoption authority. The government emphasized the importance of active supervision with a high degree of independence in relation to the authorized associations, while the adoption authority was deemed to continue to have an important supporting and informing role. The new authority's overall task would be to create high quality in intercountry adoption activities in Sweden. A strengthened authorization process was part of this. The proposals in the bill meant that the National Board for Intercountry Adoption (NIA) was abolished and replaced by the Swedish Intercountry Adoption Authority (MIA).¹⁶⁴

The tasks of the new MIA were largely the same as under the NIA, i.e. to be the central authority under the 1993 Hague Convention, to distribute government grants, to follow international developments in the field, to monitor the development of costs, to negotiate with authorities and organizations in other countries and to conduct training activities. However, the supervisory task had been clarified. The MIA was to monitor that the Swedish authorized associations' work with international adoption mediation was carried out in accordance with the law and the principle of the best interests of the child as expressed in the UN Convention on the Rights of the Child and in the 1993 Hague Convention, and in an ethically acceptable manner in general.¹⁶⁵

The MIA as a single authority was now headed by a Director-General and had a Transparency Board whose role was to oversee its activities and advise the head of the authority. The Transparency Board would consist of a maximum of six

¹⁶³ SOU 2003:49 p. 20 ff. and p. 144 ff.

¹⁶⁴ Prop. 2003/04:131 *International adoption issues*.

¹⁶⁵ Ordinance (2004:1145) with instructions for the Agency for International Adoption.

members and chaired by the Director-General. All eight staff members of the NIA, except the former Director, moved to the new agency. The MIA had between 10 and 13 staff members, although the number of FTEs is not specified¹⁶⁶.

3.6.3 LIA is amended to tighten the conditions for authorization and supervision, and documentation requirements are introduced of intermediation activities

The proposals in the government bill also entailed legislative amendments to the LIA, the Parental Code and the Social Services Act, among others, which came into force in 2005.

Stricter authorization requirements and two-step authorization

The amendments to the LIA introduced stricter and clearer authorization requirements for brokering international adoptions and increased supervisory tools for the adoption authority.

The authorization assessment was changed from only taking into account the association's activities in Sweden to being given in two stages. First, the MIA would examine the associations' conditions for functioning at all as intermediaries of international adoptions, so-called Sweden authorization. A prerequisite for obtaining authorization for activities in Sweden was that any other activities carried out by an association must not jeopardize confidence in adoption activities. In the next step, the MIA was to assess the suitability of each individual country in which the association wanted to operate, so-called country authorization. The preparatory work showed that the rules in force at the time did not make it possible to take into account conditions in the country in connection with authorization. The Government considered that this was not satisfactory, as the contacts with which the association cooperated abroad, the country's legislation and administration concerning intercountry adoption and other conditions in the country were of decisive importance for how the mediation work would function. In order to ensure ethical and transparent adoption activities in Sweden and to comply with the intentions of the 1993 Hague Convention, a new paragraph was introduced to specify the conditions under which a country and

¹⁶⁶MIA annual reports.

a contact would have to meet in order for an authorized association to initiate or continue adoption cooperation in a specific country.¹⁶⁷

For intercountry authorization to be granted, the country had to have adoption legislation, or other reliable regulation of intercountry adoption, that took into account the basic principles of intercountry adoption in the Children's Convention and the 1993 Hague Convention. Furthermore, the other country would have a functioning administration for intercountry adoption activities. In this way, the principle of subsidiarity would be upheld and the children put up for adoption would be screened to ensure that they were available for adoption¹⁶⁸.

The requirement that authorization should be appropriate in the light of the other circumstances meant that the foreign intermediary activity should be conducted seriously and without profit motive. Furthermore, the general situation in the country had to be stable. There must be no corruption that could affect adoption activities or child trafficking. According to the Government, this assessment should also take into account whether harmful competition for children could arise. If an association operated in a country, it could be inappropriate for another association to be authorized for that country if there was a risk that this association would compete with the association already authorized for the country. This could be the case, for example, in countries where few children were available for adoption.

An obligation was also introduced for the MIA to consult with the Swedish authority abroad in the other country and, if necessary, also with child rights organizations operating in the other country. The aim was to ensure that the adoption authority had access to objective information about the conditions in a country of origin. Authorization under the first stage was granted for a maximum of five years and under the second stage for a maximum of two years. Furthermore, an obligation was introduced for the authorized associations to promptly notify the MIA of such changes in the association's activities in Sweden and abroad as well as such changes in political, legal or other conditions in the country that could be of significance for the mediation activities. In the case of an application for authorization for brokerage activities in another country, the association should provide information on the

¹⁶⁷ Prop. 2003/04:131, p. 38 f.

¹⁶⁸ MIA Annual Report 2006, p. 5.

the activities in the respective country (later referred to as country reports), intermediary contacts, the association's representatives, legislation and administration in the country, any development cooperation, aid or other support, and the association's costs for the activities in the country

The deficiencies pointed out by the NIA with regard to the possibility of limiting the number of associations operating in individual countries were to some extent addressed by the legislator. A provision was introduced in the LIA according to which a prerequisite for foreign authorization would be that, taking into account the cost situation, the balance between the Swedish associations (which came to be called the balance requirement) and the circumstances in general, it was deemed appropriate for the association to initiate or continue an adoption cooperation in the other country. The balance requirement was introduced because the Government considered that it would be beneficial to have more equal-sized associations in Sweden.

This meant that the authority would make it easier for the smaller associations to grow, if they so wished. When deciding on authorization, the adoption authority would, according to the Government, strive for a better balance in size between the Swedish associations ¹⁷⁰.

MIA decides on new authorization conditions

The MIA decided in 2005 on new conditions for authorized associations under the Intercountry Adoption Agencies Act. These replaced the conditions issued by the NIA in 1997. The MIA also drew up authorization forms to be used when applying. To these, the applicant was required to attach a business plan including a budget, a constitution, the minutes of the last annual meeting, an annual report, a statement of how the association met the requirements of the Act for expertise in adoption mediation, and an action plan for how the association would manage application fees and how the association would ensure that it had funds for winding up.

Thus, when an organization applied for authorization to operate in a particular country, it had to provide details of the organization's activities and the conditions in the country of origin. The MIA also requested information from the organizations in various

¹⁶⁹ Prop. 2003/04:131, p. 33 ff.

¹⁷⁰ Prop. 2003/04:131 p. 42 and Prop. 2008/09:109 *Certain international adoption issues*, p. 18.

¹⁷¹ MIA, Annual Report 2005, p. 10.

in these respects. The MIA gained insight into adoption activities in the countries of origin through reports from the MFA and international bodies such as the UN and ISS. In addition, the MIA, in cooperation with other receiving countries, carried out monitoring missions, held meetings with responsible officers at the MFA and consulted in the MIA's transparency council. Through these actions, MIA was able to assess whether the country complied with the terms of the LIA and relevant conventions.¹⁷² MIA addressed the risk of competition between different associations operating in the same country by encouraging associations not to work with the same orphanages.

Decision on authorization

At the beginning of the 2000s, five adoption organizations were authorized: AC, BFA, BV, FFIA and La Casa. Three more organizations were granted authorization between 2002 and 2007: African Hope Adoptions (AHA), Stiftelsen Frösunda Solidaritet - International Adoptions and Stiftelsen Barn i Världen - International Adoptions (SBIV).

During the first years of operation, MIA rejected some applications for authorization. In one case, the application for authorization (Sweden authorization) was rejected because the MIA assessed that the association would not mediate adoptions in an expert and judicious manner. In some cases, applications for authorization for individual countries were rejected. One application was rejected because the MIA considered that the country in question did not have adoption legislation or other reliable regulation of intercountry adoption that took into account the fundamental principles of intercountry adoption as expressed in the 1993 Hague Convention. Another application was rejected because there were already two associations operating in the country concerned. Another application was rejected because the MIA considered that the situation in the country, including a lack of administration, made it inappropriate to enter into adoption cooperation with the country. The decisions were appealed by the associations concerned, but the MIA's decision was upheld by the higher court. The MIA judged that the adoption organizations granted authorization were of high

¹⁷² MIA, Annual Report 2007, pp. 5-6 and 10.

¹⁷³ MIA, Annual Report 2006, p. 5.

The supervision highlighted some problems, for example, that individual intermediation contacts worked differently in the same country. Authorization decisions were thus deemed too blunt, and the MIA stated that it would be advantageous to be able to decide on authorization for part of a country or for individual intermediation contacts ⁽¹⁷⁴⁾.

Stricter supervision requirements

The MIA, as the new supervisory authority, was given more supervisory tools, including the right to inspect the activities of an authorized association, to obtain information and to consult the documents needed for supervision. A new provision also gave the MIA the right to order an authorized association to remedy deficiencies in its intermediation activities. Supervisory requirements on the day-to-day work, finances and budget of the organizations (including for individual countries) were also tightened. For example, the budget for intermediation activities was to be separated from other activities. The MIA, like the NIA, produced annual monitoring reports for each organization. Conditions that needed to be followed up were included in the annual supervision plan that was decided upon¹⁷⁵.

MIA reports for the period 2005-2008 that it received a small number of appeals from individuals who had been refused adoption assistance. In 2007, five appeals were received, all of which concerned Vietnam.¹⁷⁶ The MIA repeated the survey in 2007 with the aim of obtaining the opinion of the families themselves on the work of the adoption organizations, the information provided and the way they were treated.

During the period 2005-2014, the MIA made more than 35 trips and they are reported as part of the supervision. For the period 2005-2013, the MIA reports on the situation in certain countries of origin in a separate section in the annual report. The countries visited through monitoring missions are briefly described as well as countries where negotiations on cooperation are ongoing, where there have been changes in legislation, requirements for adoptions or where there have been problems in adoptions.

¹⁷⁴ MIA Annual Report for 2006 and 2007.

¹⁷⁵ MIA, Annual Report 2005, p. 10.

¹⁷⁶ MIA, Annual Report 2007.

3.6.4 Cost accounting requirements and separation of adoption mediation and assistance

Accounting for costs abroad

In 1997, the LIA had introduced an obligation for the associations to report on the costs abroad and their breakdown.¹⁷⁷ The 2005 reform of the Act clarified this requirement. It had to be clear how the fees were used by the foreign intermediary contact so that it was clear what the adoptive parents were paying for. In order for the adoption authority to be able to assess whether the costs could be considered reasonable, the financial report should be detailed enough to show which costs were directly related to the adoption and which costs related to other matters.¹⁷⁸ Both the NIA and the adoption organizations had stated in their comments that it was not possible to produce such specified and well-supported reports for each adoption country as the inquiry considered necessary. The Government expressed understanding for the fact that the new provision placed partly new demands on the intermediation contacts in the countries of origin and said that the requirements should be seen as long-term goals to strive for. Adoption organizations would gradually be able to demand greater transparency and specification of costs abroad. If the association for various reasons could not follow the authority's instructions, this could, in the Government's opinion, mean that this intermediary contact was unsuitable to cooperate with.¹⁷⁹ The 2003 Adoption Inquiry had proposed that the trend should be towards a gradual reduction in the part of the cost that related to other than actual costs for the adoption (calculated on average) and that the actual cost of adoption should be calculated from the time when the child's proposal was submitted. However, the Government considered that it should be possible to provide compensation for the costs associated with the child even before the child proposal had been made and that it was also reasonable to provide some compensation to an orphanage for the children remaining in the orphanage.

¹⁷⁷ Prop. 1996/97:91, s. 54.

¹⁷⁸ SOU 2003 :49, prop. 2003/04 :131, p. 39.

¹⁷⁹ Prop. 2003/04:131, p. 39 f.

¹⁸⁰ Prop. 2003/04:131, p. 40.

Adoption mediation and assistance should be separated

A provision was also introduced in the LIA in 2005 stating that any other activities carried out by an association should not also affect confidence in adoption activities. The reason was that many associations also carried out assistance activities. The assistance activities must not be perceived as payment for the adoption activities. The bill stated that this did not mean, as some of the consultation bodies feared, that the associations would not be allowed to have assistance activities in the countries of origin. The Government had no objection to associations also carrying out activities other than adoption mediation, provided that there was such a personnel and financial separation between the activities that confidence in the adoption activities was not jeopardized. In its consultation response, the NIA had stated that as long as the associations worked with both activities, it was neither possible nor particularly effective to separate the persons working with adoption and assistance in all situations. However, the Government considered that the basic rule should be a separation of personnel between the activities, both for the association's own staff and for contact persons abroad, but that exceptions could be made if this was not possible in certain situations ⁽¹⁸¹⁾.

3.6.5 Adoption agencies will be obliged to document adoption placements

Under the 2005 reform, adoption organizations were also obliged to document placement activities and retain the documentation for as long as it could be assumed to be of significance to the adoptee or their relatives. Copies of documents relating to a particular adoption were to be sent to the responsible social welfare committee. The adoptee was entitled to access documents relating to his or her own adoption case and documents relating to the placement activities in general in the country of origin during the period when the adoption was placed. Other persons to whom the documents related, such as the adoptive parents or the adopted person's children, were also entitled to access the documents. The regulation codified the NIA's 1982 requirement that adoption agencies make copies of all documents

¹⁸¹Prop. 2003/04:131, p. 36 f.

with details of the child's origin and previous circumstances and send copies to the social services department.¹⁸²

3.6.6 Compulsory parental education introduced

On January 1, 2005, the Social Services Act (2001:453) also introduced new requirements for prospective adoptive parents and their ability to obtain consent for international adoption. The amendments clarified that consent could only be given if the applicant was suitable to adopt and specified the skills and characteristics that the social services committee should take into account in the applicant, as well as requiring that the person wishing to adopt a child from another country should have participated in parental training provided by the municipality. The purpose of introducing parental training was to increase the prospective adoptive parents' insight and knowledge of children and children's needs. The preparatory works referred to research results showing that it was important that the prospective adoptive parents were aware of the specific vulnerability and special needs of adopted children, and that the prospective adoptive parents must be able to recognize and be prepared for different situations that could arise during the child's growth, and be aware of the possibilities to seek help early on if difficulties should arise.

3.6.7 Revision of LIA leads to MIA being able to give authorization for part of a country

Possibility introduced to grant authorization for part of a country

In 2008, a working group was set up within the Ministry of Social Affairs to review certain provisions of the LIA. The group submitted a memorandum with proposals in the same year.¹⁸⁴ In January 2009, a proposal was submitted with proposed amendments to Sections 6 and 6a of the LIA, which made it possible for the MIA to authorize an authorized association to work with adoption mediation in a certain part of another country.

¹⁸²NIA. *International adoptions. Handbook for Social Welfare Boards*. 1982, p. 53 and *International adoptions. Handbook for Adoption Agencies*. 1983, p. 18.

¹⁸³ Prop. 2003/04: 131, p. 17 and 57 ff.

¹⁸⁴Ds 2008:44 *Certain international adoption issues*.

country, or with a particular adoption contact in a country.¹⁸⁵The new rules were implemented as of July 1, 2009. In addition to the possibility of granting limited country authorization, MIA's assessment of an authorized association's ancillary activities would be made in the context of the association's authorization for a particular country or part of another country or with a particular adoption contact. In order for the MIA to grant authorization, it was also required that it was clear that the association would mediate adoptions in an expert and judicious manner, without profit motive and with the best interests of the child as the primary benchmark. The provision containing the so-called balance requirement was removed.¹⁸⁶The Government's assessment was that the balance requirement had not had the significance intended when the provision was introduced. It did not increase the freedom of choice between the associations, nor did it help the smaller associations to survive.¹⁸⁷

Authorization decisions based on the new rules

The new rules were implemented by the MIA in 2009. In 2010, the MIA granted authorization for one particular adoption contact in one part of one country. Otherwise, MIA decided to refuse the two associations that had recently been authorized for a number of countries. The reason was that the MIA considered that the organizations would not be able to mediate adoptions in a professional and judicious manner.¹⁸⁸Another two new associations applied for authorization but they were not granted authorization either.¹⁸⁹

FFIA ended its intermediation activities in 2014 and La Casa did the same in 2015. As of 2016, AC, BFA and BV were thus the remaining associations.

¹⁸⁵ Prop. 2008/09:109, p. 11 ff.

¹⁸⁶ MIA, Annual Report 2009, p. 18.

¹⁸⁷ Prop. 2008/09:109 p. 19.

¹⁸⁸ MIA, Annual Report 2009, p. 18.

¹⁸⁹ MIA, Dnr 3.1.1:20/13 and 3.1.1:21/13 and 3.1.1:57/13.

3.6.8 2008 adoption inquiry proposes stricter rules for private adoption

In November 2007, the Government appointed an inquiry to conduct a general review of the rules on adoption in Chapter 4 of the Parental Code. The inquiry was to consider the need for amended rules on the court's review of adoption cases in order to strengthen the child's perspective. The assignment also included investigating certain issues relating to international adoption, including the need for measures to ensure the best interests of the child in individual adoptions. A general review of the LIA would also be undertaken¹⁹⁰.

In its final report in 2009, the inquiry proposed that the regulations on individual adoption should be tightened up and made more uniform.¹⁹¹ The possibilities of obtaining a permit for individual adoption should be limited to children of relatives or where, based on the personal relationship between the applicant and the child, there was a particular reason to adopt without the mediation of an authorized adoption organization. As reasons for the proposal, the committee stated that it was generally better for an adoption to be mediated by an authorized adoption association than to be made as an individual adoption, among other things because the investigation was often poorer in an individual adoption. A permit for an individual adoption would only be granted if consent had been given for the applicant to receive the child for adoption and it had been verified that the adoption was in the best interests of the child. The inquiry proposed that the examination should be moved from the MIA to the social welfare board. The proposal was justified by the fact that the knowledge of the reliability of the mediation method that existed at the MIA was not needed if the individual adoptions could only concern a child known in advance.

The report's proposals were not used as a basis for legislative amendments until 2018, and no changes were made regarding private adoptions.

3.6.9 MIA proposes expanded mission to offer support for origin

In 2010, the MIA received an increase in funding to, among other things, develop support for adoptees seeking information about their background and conditions in their countries of origin. MIA intended to investigate

¹⁹⁰ Dir. 2007:150 Modernizing adoption rules.

¹⁹¹ SOU 2009:61 *Modernizing adoption rules*.

what information was requested and what information was possible to find.¹⁹²

In a letter to the Ministry of Social Affairs in 2013, the MIA proposed that the authority should be given an expanded remit to offer support to adoptees seeking their origins and that this should be regulated in the MIA's instructions. The reason was that the MIA assessed that more adoptees were expected to want to search for their origin, that general information efforts were not sufficient and that there was a need for practical help and guidance for searching for origin. The support would include guidance, informing adoptees and their families in Sweden, providing contacts to authorities and organizations that could help adoptees in the countries of origin, helping families in the countries of origin who were looking for persons adopted to Sweden, and promoting international cooperation on origin issues. However, the support would not include psychosocial support. Instead, MIA proposed that the authority should work to ensure that psychosocial support could be offered throughout the country by collaborating with different actors.¹⁹³

3.7 Adoption activities from 2015 to today

3.7.1 Changing conditions for international adoptions

Increasingly complex adoption processes put more demands on MIAs, municipalities and adoption organizations

In its 2012-2013 annual reports, the MIA highlighted that the international adoption business had undergone rapid and significant change. While the number of intercountry adoptions has decreased (65% in ten years), adoption processes have become longer and more complex. Extensive administrative processes in countries of origin were a contributing factor. Children adopted internationally were more likely to have disabilities and difficult social backgrounds, which placed higher demands on the applicants. It became more difficult for adoption organizations to find a family for the children. The demands on municipalities and adoption associations increased, while it was more difficult to maintain competence and capacity as the number of adoptions decreased.

¹⁹² MIA, Annual Report 2010, p. 34.

¹⁹³ MIA, 2013-03-27, Support for adoptees seeking their origin.

According to the MIA, its activities were affected by increased work on authorization, supervision and information. More countries of origin also asked for bilateral agreements with the receiving countries, which also led to an increased workload for the MIA. The agency referred to an ongoing investigation in Denmark with the task of conducting a comprehensive analysis of international adoptions. The investigation was to shed light on which countries Denmark should cooperate with, the organization of the adoption agency, supervision, preparation of and support for adoptive families, etc. The MIA considered that the study, which was to be completed in 2014, was also of interest to Sweden.¹⁹⁴ The MIA returned to the same problems and challenges in its annual report for 2014.

New tasks and new name for MIA

In 2014, the Ministry of Social Affairs issued a memorandum on coordinated responsibility for certain family issues. This was part of a major review of authorities in the health and social care sector. The memorandum proposed that the MIA should become the authority responsible for certain family issues and change its name to the Agency for Family Law and Adoption. The authority would be reorganized from 1 March 2015 by transferring the tasks that the National Board of Health and Welfare had in the family law area to the MIA. The Agency for Family Law and Adoption would also manage and develop the knowledge base developed within the framework of the national strategy for parental support, for which the National Institute of Public Health was previously responsible. As regards adoptions, the new authority was proposed to be responsible for international and domestic adoptions, including preparatory support to adoptive parents and follow-up of completed adoptions¹⁹⁵.

In the 2015 Spring Fiscal Policy Bill ⁽¹⁹⁶⁾ the Government announced that it intended to bring together government responsibility for certain family issues with the MIA. The decision was in line with the transfer of funds from the National Board of Health and Welfare and the Public Health Agency of Sweden to the MIA, as decided by Parliament. The aim was to create improved, more effective and efficient government coordination of adoption, parental support and family law within the social services ⁽¹⁹⁷⁾.

¹⁹⁴ MIA, Annual Report 2012 and Annual Report 2013, p. 4 ff.

¹⁹⁵ Ds 2014:17, *Coordinated responsibility for certain family matters*.

¹⁹⁶ Prop. 2014/15:100, budget bill, p. 71.

¹⁹⁷ Bet. 2014/15:SoU1, rskr. 2014/15:71.

In the 2015/16 budget bill, the Government referred to the challenges in international adoption activities raised by the MIA in its annual reports. Based on the proposals in the Ministry of Social Affairs' memorandum from 2014, the Government had decided to bring together the government's responsibility for certain family issues with the MIA by deciding to amend the Ordinance (2007:1020) containing the instructions for the MIA. The amendment entered into force on September 1, 2015, and the MIA was to change its name to the Agency for Family Law and Parental Support. By gathering the state's commitment in one authority, the previous division of responsibility within the international adoption process between the National Board of Health and Welfare and the MIA ceased. According to the Government, this would create a more cohesive adoption process where expertise could be pooled and resources used more effectively¹⁹⁸.

3.7.2 The Agency for Family Law and Parental Support (MFoF)

New broader mission for MFoF

On September 1, 2015, the MIA took over certain child and family law matters from the National Board of Health and Welfare and the Public Health Agency of Sweden. On 1 January 2016, the MIA changed its name to the Swedish Agency for Family Law and Parental Support (MFoF). A new instruction for the agency entered into force on 1 June 2017.¹⁹⁹In addition to the newly added tasks in family law issues on custody, housing and access within the social services and issues of preventive support, the tasks in international adoptions were largely the same as before. However, in 2020, the MFoF took over the responsibility that the National Board of Health and Welfare had had since January 1, 2005 for guidance to the social services in the processing of international adoptions, such as investigation and support relating to consent to adoption.²⁰⁰

MFoF is responsible for the tasks incumbent on the authority under the 1993 Hague Convention, the Act (1997:192) on international adoption mediation, the Ordinance (2008:1239) on government grants to authorized adoption associations and to national organizations for adoptees and the Ordinance (2018:1296) on adoption in international adoptions.

¹⁹⁸ Prop. 2015/16:1 Utgiftsområde 9, p. 182 ff.

¹⁹⁹ Ordinance (2017:292) with instructions for the Agency for Family Law and Parental Support.

²⁰⁰ Ordinance (SFS 2020:139) amending the Ordinance (2017:292) with instructions for the Swedish Family Law and Parental Support Agency.

nal situations. As with the previous MIA, the MFoF shall in particular monitor that the Swedish authorized associations' work with international adoption mediation is carried out in accordance with the law and the 1993 Hague Convention and in an otherwise ethically acceptable manner. The authority shall monitor international developments and costs for the adoption of foreign children and gather information on issues relating to the adoption of foreign children. MFoF remains the central authority under the 1993 Hague Convention and authorizes and supervises adoption organizations. The authority examines cases of individual adoption and approves adoptions not covered by the 1993 Hague Convention. The new instructions also added the task of official statistics authority and gave the Authority the right to issue regulations²⁰¹.

MFoF implements several changes but sees a need for a review of adoption activities as a whole

In 2015, the MFoF implemented several changes and measures in its operations. An internal reorganization was carried out to integrate family law issues into the operations. In the area of international adoptions, the work on authorization and supervision was reviewed and a new working method was introduced, which meant that supervision was coordinated to create the opportunity for in-depth knowledge of the adoption countries. The Agency also developed a new form of supervision report and supervision feedback. The new approach was to be evaluated in spring 2016.

However, the MFoF still saw a need to investigate how the activities could be adapted to the current conditions for international adoptions. According to MFoF, this concerned, among other things, how the mediation activities should be organised, how preparation and support for adoptive families should be provided, individual adoptions, support for adoptees seeking their origin and how the supply of skills should be secured. Pending a review of the adoption activities, MFoF decided to review the conditions for authorization together with the adoption organizations. The new conditions were decided in spring 2017 and meant that

²⁰¹Ordinance (2017:292) with instructions for the Agency for Family Law and Parental Support. MFoF's annual report 2017.

Sweden authorization is granted for two years instead of the previous four years²⁰²

MFoF supervision

The MFoF has continued to work in the same way as the MIA with the supervision of the authorized organizations. The authority has had continuous contact with the adoption organizations and examined documents (board minutes, financial accounts, travel reports, extradition cases) with the aim of ensuring that the organizations comply with the terms of their authorizations. MFoF has also made supervisory visits to the adoption organizations and in particular examined cooperation agreements with foreign contact persons, work on risk analyses, forms for the disclosure of documents and archiving, and whether the organizations have planning and sufficient funds for liquidation. The review has been compiled in annual supervision reports per organization. In 2017, MFoF conducted a review of all child reports for children adopted to Sweden in 2017 through authorized adoption organizations.²⁰³ In 2021, the authority conducted a similar review. The purpose was, among other things, to see how parents' consent to adoption, or, where applicable, competent authorities' decisions, had been documented.²⁰⁴ In 2020, MFoF also arranged a training course for Swedish adoption organizations focusing on the risks of corruption in the adoption process, where the Institute Against Corruption (IMM) lectured on how corruption can be identified and counteracted.²⁰⁵

The Agency's annual monitoring plan also includes monitoring missions to priority countries. Supervision missions are carried out with the aim of ensuring that adoption mediation from countries of origin can be carried out in a legal and ethically acceptable manner. The MFoF does not describe the grounds used for prioritizing countries.

MFoF notes that developments in international adoptions mean that the assessment of the best interests of the child has become increasingly complex. This work requires an in-depth examination of the mediation work in Sweden and in the countries of origin. MFoF also notes

²⁰² MFoF, Annual Report 2015.

²⁰³ MFoF, Tillsyn barnrapporter januari 2018, 2017-12-20, dnr 3.3.6:19/18.

²⁰⁴ MFoF, Annual Report 2021, p. 36 ff.

²⁰⁵ MFoF, Annual Report 2020, p. 32.

the need for the Agency to engage more actively with authorities and other stakeholders in both countries of origin and destination.

MFoF receives several assignments from the government on international adoptions

In the letter of appropriation for 2015, the MIA was tasked with assessing which knowledge needs and gaps in knowledge were of greatest strategic importance for Sweden in the field of international adoptions.²⁰⁶In its report on the task, the MFoF writes that there are a number of urgent research areas for gaining increased knowledge of the best interests of the child in international adoption activities. One area concerns the impact of intercountry adoption on children's rights in their countries of origin. This includes questions about how international adoption activities affect a country's child protection system regarding the care of orphans, the conditions under which there is a risk that the activities will be used as a cover for child trafficking, and how international adoption activities affect the view of children of single parents and children from minority populations, as well as which approaches promote positive social development in countries of origin²⁰⁷.

MFoF was also tasked with analyzing the need to develop the practical application of the UN Convention on the Rights of the Child (CRC) in its areas of activity. One area of development identified was country monitoring of intercountry adoptions, where a new model for country monitoring was developed based on previous reviews of children's reports²⁰⁸.

MFoF relocates to Skellefteå and receives several government assignments on support for adoptees

In June 2017, the Government decided that MFoF would be relocated to Skellefteå. The relocation should be completed by September 1, 2018, and in such a way as to ensure the functioning of the

²⁰⁶Letter of regulation for the financial year 2015 for the Swedish Intercountry Adoption Authority .

²⁰⁷MFoF, 2015-07-17, dnr 1.1.1:200/15, Redovisning av uppdrag om kunskapsbehov och kunskapsluckor.

²⁰⁸MFoF, Annual Report 2019, dnr 1.2.1:270/20.

just efficiently while maintaining quality in both the short and long term. Even before the relocation decision, the MFoF raised the issue of the authority's dimensioning in relation to the development of its mission. In its 2017 annual report, MFoF described how the relocation had taken time and energy away from its activities and had led to a halt in development work within MFoF. The authority had prioritized the tasks governed by law and regulation, in particular authorization, supervision and processing of cases relating to international adoption ²⁰⁹.

In 2018, information emerged in the media about irregularities in Swedish international adoption activities during the 1970s and 1990s, particularly in Chile. As a result, MFoF received and answered questions from adoptees, adoptive parents and original parents. The MFoF was also in contact with authorities in Chile and Sri Lanka and participated in various international meetings. MFoF stated that the authority was not tasked with investigating information about irregularities, but that it had expressed to the Ministry of Social Affairs that Sweden should investigate what measures the state should take when information about irregularities in Swedish intercountry adoption activities comes to light ⁽²¹⁰⁾.

In the letter of appropriation for 2020, MFoF was commissioned to carry out a pilot project with individual support for adoptees in connection with the search for origin.⁽²¹¹⁾ In the same year, the authority was also commissioned to provide adoption-specific professional counseling support to the target group of adoptees. MFoF submitted a final report on the assignments in early 2022.²¹² The assignments have since been extended.

In the 2022 appropriation directions, the MFoF was tasked with being the national contact point for issues relating to irregularities in international adoptions. The authority must refer to the right actor and offer support and assistance within the framework of the authority's responsibilities. As a contact point, the MFoF must keep abreast of relevant investigations both in Sweden and internationally, including the criminal investigation in Chile into child abduction and irregularities in international adoptions from the country during the 1970s-1990s. MFoF shall also keep itself informed of challenges and issues faced by adoptees from Chile,

²⁰⁹ MFoF, Annual Report 2017 and Annual Report 2018.

²¹⁰ MFoF Annual Report 2018.

²¹¹ Ministry of Social Affairs, Letter of Government Regulation for the financial year 2020 regarding the Agency for Family Law and Parental Support, S2020/07380.

²¹² MFoF (2022), Pilot project with individual support to internationally adopted persons in origin search, Final report January 2022 and MFoF (2022). Adoption-specific professional counseling support for adoptees, Final report January 2022.

but also among adoptees of other origins where there are misconceptions or information about irregularities. The authority shall actively disseminate information about the function of the mission to relevant target groups in Sweden and internationally to central authorities and other actors

that are deemed to be of significance. The mission was to be carried out in 2022-2023.²¹³This mission has also been extended.

In 2022, the MFoF was also tasked with reviewing the authorization and supervision work within the international adoption activities in order to further strengthen legal certainty and ensure the best interests of the child in the adoption process. The authority was to investigate whether existing resources for authorization and supervision could be used more effectively to achieve the purpose of the assignment. In particular, the authority was to investigate any stricter rules for authorization and, if necessary, make proposals for the necessary statutory amendments.²¹⁴MFoF reported on the assignment in 2024.²¹⁵

3.7.3 Adoption law reform 2018

Almost ten years after the 2008 adoption inquiry, the government submitted the bill Modernizing Adoption Rules in 2017.²¹⁶In 2018, a number of legislative amendments entered into force and the Act (1971:796) on International Legal Relations concerning Adoption was replaced by the Act (2018:1289) on Adoption in International Situations (LAIS).

New chapter in the Parental Code

Chapter 4 of the Parental Code on adoption was reworded to include a portal paragraph on the best interests of the child in adoption cases and a statutory right for the child to receive information and the opportunity to express his or her views on matters relating to adoption. It remained the case that a person aged 12 or over may only be adopted if he or she consents to the adoption. However, the exception to the requirement for the consent of a child under 16 was removed, if it would harm the child to be adopted.

²¹³Ministry of Social Affairs, Letter of Government Regulation for the financial year 2022 regarding the Agency for family law and parenting support, S2021/08111 (in part).

²¹⁴Ministry of Social Affairs, Regulatory letter for the 2022 financial year for the Agency for family law and parenting support, S2021/08111 (in part).

²¹⁵MFoF (2024), *Further strengthening legal certainty and ensuring the best interests of the child in the adoption process*, final report for government assignment S2023/02122, March 2024.

²¹⁶Bill 2017/18:121 *Modernizing adoption rules*.

asked. According to the Government, the exception did not reflect a modern view of children's rights and was not in line with the child's right to know his or her origin.

As regards the requirement for parental consent, two changes were made. Firstly, special reasons were introduced as an additional exception to the requirement for parental consent, and secondly, the circle of persons who can give consent to adoption was extended. Consent can also be given by a temporary guardian or someone else who has taken the place of the parents by law or custom. A person who, by law or custom of another State, may be regarded as having taken the place of the parents means a person who has the status of guardian of a child who has no other guardian. The extension that consent is not required if there are exceptional reasons is intended to apply

in specific situations where the other exceptions do not apply but where it nevertheless appears very urgent that an adoption decision be taken despite the absence of parental consent. The travaux préparatoires state that although the exception is formally applicable to all types of adoptions, it is intended to be used in particular for international adoptions. The aim is that adoptions that have been deemed suitable by the authorities of another State should not be hindered by Swedish consent requirements that may not correspond to the rules of the other State, while it is clear that an adoption is in the best interests of the child. For example, people may be reluctant to respond to requests for consent or otherwise participate in an adoption process because of the risk of social consequences if the adoption becomes known. In such a situation, if it is clear that the person concerned has been informed about the adoption process, the reasons for deciding to adopt may be very strong. In order for the exception to apply, it should normally be required that fairly extensive efforts have been made to investigate the reason why a consent that meets the Swedish requirements has not been given. It should also normally be a prerequisite that the authorities in the State of origin have made the assessment that the adoption should be carried out. These prerequisites can be assumed to be met primarily if the adoption is facilitated by an authorized adoption association. It cannot be ruled out that in some cases the conditions may also be deemed to be met in the case of a national adoption. However, the exception is not intended to be used to generally allow adoptions where the child's parents do not consent to an adoption, but in cases where, in the

relatives would find it offensive if the adoption could not take place.²¹⁷

A new provision was also introduced requiring the adoptive parents to tell the child that he or she is adopted. Cohabiting couples were given the possibility to adopt under the same conditions as married couples. Following comments from the Legislative Council, a provision was introduced on the court's duty to investigate in adoption cases. The provision did not entail any change in practice, as adoption cases are covered by the Court Cases Act (1996:242)⁽²¹⁸⁾, but the Council considered that the obligation to investigate is of such fundamental importance for an adoption decision that it should be stated directly in the Parental Code. The ban on compensation in the event of adoption was tightened by removing the rules on maintenance payments in the form of a lump sum.

Investigations by the Social Affairs Committee

In order to prevent unsuitable adoptions at the earliest possible stage, an extended consent procedure for the adoption of a known child was introduced from 2018. The applicant's suitability must then be assessed in relation to the individual child.²¹⁹ The period of validity of a consent to receive a child for adoption was extended from two to three years.

A new provision was introduced concerning adoption investigations. It is no longer the social welfare committee that has to give an opinion to the court, but an investigator who is commissioned by the social welfare committee to carry out the adoption investigation. This is the same system as for custody investigations.

Government rejects proposal to assess parental consent under the law of the country of origin

In the bill proposing more modern adoption rules, the Government rejected the Adoption Inquiry's proposal that the parents' consent to adoption should be examined according to the law of the child's country of origin. According to the Government, this would mean different requirements depending on where the child comes from. Already when Sweden acceded to the 1993 Hague Convention

²¹⁷ Prop. 2017/18:121 p. 150.

²¹⁸ Section 12 of the Courts Act.

²¹⁹ Prop. 2017/18:121 p. 101 et seq.

It was noted that, precisely in the case of parental consent, there is a risk that the law of the State of origin does not correspond to Swedish rules and that in such a case there may be grounds for the competent Swedish authority to refuse to grant its authorization under the Convention.

When the issue was raised again in 2018, the Government considered that Swedish law should apply in full when considering an application for adoption in a Swedish court and that the Parental Code's requirement for consent should continue to apply to international adoptions. However, the Government recognized that the strict requirement for the guardian's consent could in some cases lead to undesirable results. If, despite efforts, it proves impossible to complete the investigation with a missing consent while it can be assumed that the parent agrees to the adoption, it may seem unreasonable that the adoption cannot take place as a result of what is perceived as a mere formality. A parent may not wish to respond to requests for consent or otherwise participate in an adoption procedure because of the risk of social consequences if the adoption becomes known. In such a situation, if it is clear that the person concerned has been informed about the adoption process, the reasons for deciding to adopt may be very strong. Against this background, an amendment was introduced in the legislation to allow for an adoption decision to be taken even if consent meeting the Swedish requirements has not been given. The exception could be applied if there were exceptional reasons, in particular when it would appear offensive if the adoption could not take place.²²¹

New provisions in the law on adoption in international situations (LAIS)

The 2018 reform of adoption regulations not only entailed a new wording of Chapter 4, FB but also that the 1971 Act (1971:796) on international legal relations concerning adoption was replaced by a new act, the Act (2018:1289) on adoption in international situations (LAIS).

Among other things, the new provisions of LAIS extended the jurisdiction of Swedish courts to hear adoption applications so that applications can be heard here even if none of the applicants is domiciled in Sweden.

²²⁰ Prop. 1996/97:91 p. 67 f.

²²¹ Prop. 2017/18:121 p. 58 ff.

residence or citizenship in Sweden if the applicant is resident in Sweden. Foreign adoption decisions shall be automatically recognized in Sweden if the decision was issued or is valid in the adoptee's or adoptive parent's country of residence and it can be equated with a Swedish adoption. The MFoF may decide that a foreign adoption decision is valid in Sweden even if it does not meet the general requirements. MFoF may only make such a decision if there are exceptional reasons. These may be situations where there is a reasonable explanation for the non-compliance with the rules and it would be in the best interests of the child if the adoption was not recognized in Sweden. A foreign adoption decision that is recognized in Sweden has the same legal effects as a Swedish adoption decision.

3.7.4 The Convention on the Rights of the Child becomes Swedish law

On January 1, 2020, the Convention on the Rights of the Child became Swedish law through the United Nations Convention on the Rights of the Child Act (2018:1197). The government bill that led to the incorporation states that by the UNCRC becoming Swedish law, the provisions of the UNCRC, with the reservation that not all provisions are directly applicable in each individual case, can be used as a basis for decisions by authorities in cases and matters even when the provisions of the UNCRC are not expressly stated in other legislation²²².

Article 21 of the Convention specifies the rights of the child in adoption. States shall ensure that the best interests of the child are a primary consideration. The travaux préparatoires of the article show that it was important that the wording clearly referred to the best interests of the child and not the parents. No other interests may be given more weight than the best interests of the child in an adoption. The principle of subsidiarity, which was already expressed in the 1986 UN Declaration, was also confirmed in the CRC.

²²²Bill 2017/18:186, p. 77.

4 Irregularities in adoption activities in Chile

4.1 The mission

According to the terms of reference, the Adoption Commission is to clarify the existence of any irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to any irregularities based on the responsibilities and roles of each actor.

Chile is not one of the main countries of origin for intercountry adoptions in Sweden. However, adoptions from Chile have attracted attention in recent years due to alleged and proven irregularities in the operations. Most adoptions from Chile took place during the Pinochet military dictatorship from 1973 to 1990.

In Chile, there is an ongoing criminal investigation into adoption activities with a particular focus on the dictatorship period.

Our review of adoptions from Chile included documentation from the authorities and the Adoption Center (AC), which is the only adoption agency that mediated adoptions from Chile. We interviewed representatives of the supervisory authority and AC staff at various times. We also interviewed persons adopted from Chile. During a visit to Chile in the autumn of 2022, we also interviewed representatives of authorities, organizations, courts and Chile's criminal investigation and Chile's parliamentary commission that investigated irregularities in international adoptions. We also met families in Chile whose children and siblings have been adopted to Sweden. In addition, 97 adoption files for children placed through AC were examined from the 1970s to the 1990s. Adoption

Chile has been examined by Chile as well as by other countries that have received children from the country and we have taken note of the observations made by others.

4.2 Assessment

The investigator's assessment: Our review shows that there have been irregularities in the adoptions from Chile to Sweden throughout the period that AC mediated adoptions from Chile. These include abducted children (also referred to as stolen or kidnapped children), lack of voluntary and informed consent to adoption from the child's parents, incorrect information about the children's background and how they became available for adoption, and deviations from the international adoption process. Furthermore, it is clear that Swedish authorities and organizations have accepted procedures and acted in ways that have made it difficult and in some cases made it impossible to assess whether an adoption is in the best interests of the child. In particular, we have noted the following in our review:

- Children from Chile have been adopted to Sweden without the voluntary and informed consent of the child's parents. Children have been placed for adoption in Sweden where the parents have been informed that their child has died. There have also been cases where children left for temporary care in hospitals or orphanages have been placed for adoption in Sweden. There are also adoptions where the mother has not understood that she has signed a consent for adoption or where she has been pressured to give consent or where someone other than the mother has given the child up for adoption.
- The adoption documents from Chile contain a relatively large amount of information about the children's background, the mothers' situation and why the child was given up for adoption, including the letter sent by the AC representative and social worker to the adoptive parents in Sweden. However, there are instances where this information is not accurate, particularly in relation to why the child was given up for adoption.
- The AC's system of employing its own social workers to investigate the children's social situation for the Chilean judiciary posed obvious risks of conflict of interest.

The Swedish supervisory authority NIA did not question this organization but relied on the ability of AC's representative and the social workers she hired to avoid irregularities. The NIA did not travel to Chile at any time during the period when AC was placing children in Sweden. The AC's office in Stockholm also had limited insight into the activities in Chile and relied on its representative there. All in all, this means that the activities have been able to be carried out without external scrutiny.

- AC developed early on, together with the Chilean Ministry of Justice, a procedure for transferring custody in a Chilean court to the prospective Swedish adoptive parents, who could then bring the child to Sweden and adopt the child in a Swedish court. In most of the cases, the Swedish adoption decision has not been registered in Chile, which means that many adopted persons are not registered as expatriates and adopted in Chile.
- In many cases, it has been very quick from the time the child was found to be available for adoption to the time the child arrived in Sweden. It should have been clear to the Swedish actors that there were major risks that the child's interests could not be investigated in such a rapid process.
- Until 1998, adoption of children from Chile was decided by a Swedish court applying the rules of the Parental Code. This means that the same legal requirement of consent has applied to the adoption of children from Chile as from Sweden. Despite this, the Swedish court has not ensured that there was consent to the adoption from the child's parents. Even if the adoptive parents were the child's guardians and consent from the parents was therefore not required, they should have been heard in the case.
- It happens that children have been registered with a Swedish name in the Chilean official registers before the decision to transfer custody in Chile (and before the decision to adopt in Sweden). This procedure makes it difficult for the adoptee to search for his or her origin.
- We estimate that about half of the persons adopted from Chile to Sweden may belong to one of Chile's indigenous peoples. A child belonging to an indigenous people is entitled to special protection for

their rights. Although it was known that there was an over-representation of children belonging to one of Chile's indigenous peoples, no measures were taken to ensure their right to their identity, culture and language. Furthermore, the fact that in some cases children have been registered with Swedish names in the Chilean official registers makes it difficult for the adopted person to prove their belonging as an indigenous person. This in turn affects their ability to reclaim their specific indigenous rights in Chile.

4.3 Sweden's adoption activities in Chile

4.3.1 More than 2,200 children have been adopted from Chile to Sweden

Chile is the sixth largest country of origin for Swedish international adoptions. A total of 2 209 adoptions have taken place from Chile to Sweden. 2 021 children have been placed through AC during the period 1973-1992.¹ From 1976 onwards, adoptions were around 200 per year. In 1982, the number dropped to about 130 children per year, before steadily declining and virtually ceasing in 1993.

There is no summary of the number of private and individual adoptions up to 1993. If the adoptions carried out via AC are deducted from the total number of adoptions from Chile, it emerges that just under 160 private and individual adoptions were carried out up to and including 1992. The total number of adoptions from 1993 until today amounts to just over 30. All are private adoptions²

Table 4.1 shows the number of children adopted from Chile per year 1973-1992.

¹AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFOF on 23 August 2016, dnr AD36:256:11/15.

²Requests for adoptive children from Chile have mainly come from families of Chilean descent.

Table 4.1 Number of adoptions from Chile per year, 1973-1992

Year	Number of adoptions	Year	Number of adoptions	Year	Number of adoptions
1973	6	1981	179	1989	68
1974	17	1982	129	1990	45
1975	83	1983	126	1991	16
1976	189	1984	104	1992	7
1977	215	1985	99		
1978	214	1986	85		
1979	216	1987	70		
1980	175	1988	56		

Source: MFoF.

The total number of intercountry adoptions from Chile is unclear, but it is estimated that at least 20,000 children were adopted internationally during the period 1960-1990.³ However, the organization Nos Buscamos⁴ estimates the total number at 50,000 during the period 1950 to 1990.⁵

4.4 Background to intercountry adoptions from Chile

4.4.1 Economic crisis and military dictatorship

Already in the early 20th century, Chile laid the foundations of a modern welfare society and until 1973 was South America's only functioning democracy. Salvador Allende became the world's first democratically elected Marxist president in 1970. His government nationalized foreign companies and banks, among other things, and handed over large land holdings to workers' cooperatives. As a result, investors were scared away and capital flowed out of the country. Increased consumption led to shortages of goods, price rises and inflation. Unemployment rose. The United States and other countries withdrew their economic aid to Chile and the Chilean government was denied loans from major US banks. The country's opposition openly called for

³ MFoF. *Travel report Chile*. June 22, 2022, dnr 2022:394, p. 7.

⁴ Nos Buscamos is an organization that works to reunite adopted persons from Chile with their original families.

⁵ National Institute of Human Rights (2023), *Annual Report 2023: Situation of Human Rights in Chile*, p. 365.

the military into action, leading to a military coup in 1973. Following the coup, political parties and trade union activities were banned, and martial law and strict censorship were imposed. More than 3 000 people were killed by the regime and thousands were arbitrarily arrested, some disappeared and others tortured. Opposition members fled the country, including to Sweden. The junta introduced a market-economy programme of privatization, welfare cuts, and free trade.⁶The economic crisis made the social situation very difficult for many families. Abandoned children lived on the streets or were handed over for care in orphanages. A document submitted to the Adoption Commission by the association Chileadoption.se⁷states that the Chilean government estimated that there were 65 000 children living in an 'irregular situation' in Chile in 1974. The document states that these children often do not understand the Spanish language and Chilean customs and that they are a breeding ground for Marxists. It also describes corruption, poverty and prostitution in the orphanages and that the situation for these children is dramatic. Action needed to be taken at national level and with the necessary resources.⁸In an article in 1977, Dagens Nyheter wrote that of 17 000 children in a slum area, over 60 percent suffered from severe malnutrition. Child mortality had increased by 18%. According to the article, the regime was aware of the situation and had set up special clinics for children, but 9 out of 20 children died in these care centers.⁹Many officials in Chile saw international adoption as a solution for these children.

⁶This section is based on the Foreign Policy Institute, Country Guide: <https://www.ui.se/landguiden/lander-och-omraden/sydamerika/chile/>.

⁷The association Chileadoption.se was founded in 2018 and works, among other things, to make adoptees in Sweden and the general public aware of Chile's criminal investigation into illegal adoptions.

⁸Republica de Chile. Junta de Gobierno. *Acta No 112.-a*. Document submitted to the Adoption Commission by Chileadoption.se on October 9, 2024.

⁹Dagens Nyheter. *Chile's economy is good says the junta but... Children are starving to death. Great distress in the slums*. Published 1977-07-17.

4.4.2 Initially, Chile's approach to international adoptions was very restrictive

The AC began its contacts in the country in 1970 and held talks with the Ministry of Justice in Chile about the adoption procedure.¹⁰ The Chilean government's attitude towards international adoptions was initially very restrictive. This is what the Swedish ambassador wrote to a private individual in March 1973:

According to what I have heard so far, it is not easy for a foreigner who is not resident in Chile to adopt a child. The reason for this is that it is felt that there is insufficient control and that adoptions abroad can easily become a form of child trafficking. Then there are many Chileans who want to adopt children and the authorities prefer that the children are reserved for them⁽¹¹⁾.

However, the restrictive attitude of the political authorities was not always shared by the local authorities and child welfare courts, which saw adoption as a solution for children in orphanages or living in extreme poverty with their families. A memorandum from AC in 1978 states that over the years AC's representatives worked with the authorities in Chile, not only in Santiago but all over the country, mainly in southern Chile, for example in Rancagua-Temuco and Concepción. This work eventually bore fruit and the scope of the activities increased¹².

According to Chilean historian Karen Alfaro Monsalve, the Chilean government's attitude towards international adoptions changed over time. In 1978, Chile adopted a five-year National Plan for Children (Plan Nacional de la Infancia), administered by the Chilean Ministry of Justice. The plan introduced the concept of social vulnerability. Being poor was considered to be living in a socially vulnerable situation, even if the child was cared for by its parents. Through this new child policy, adoption came to play an important role in the Chinese child protection system.¹³ According to Alfaro, there was also a political

¹⁰A-C. Gudmundsson et al (2015), *Adopted from another country. On cooperation with children's countries of origin*, p. 272 and AC. *Adoption Center's activities in Chile, 2016-08-16*. Submitted to MFoF on 23 August 2016, dnr AD36:256:11/15.

¹¹MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish ambassador to Chile to a Swedish private individual, March 12, 1973, 12/66 R 34 Vch.

¹²AC. *Chile*. 1978-09-12. E4 Chile country binder 1975-87.

¹³Second Chamber of Parliament of Chile (2019), *Report of the Special Commission to Investigate the Conduct of State Bodies in relation to Irregularities in the Adoption and Enrollment Processes of Minors and the Control of their Travel Abroad*, p. 65.

willingness to significantly increase the number of adoptions in order to improve the reputation of the Chilean military junta.¹⁴

4.4.3 AC was first in Chile and their adoption activities became a model for other countries

AC's activities became the first example of international adoption mediation that took place in an organized form from Chile and from the beginning AC was the only one to mediate children from Chile.¹⁵ In a letter from AC's office in Stockholm to AC's representative in Chile, it is stated that Chile's child welfare authority, (Sename) sets AC's activities as an example and model for all other activities.¹⁶

4.5 Actors, regulation and the Swedish adoption process in Chile

4.5.1 AC is the only authorized association that mediated adoptions from Chile

One of the first international adoptions is said to have been carried out in the mid-1960s by a Swedish missionary couple who founded an orphanage in the town of Lautaro, just north of Temuco in southern Chile. However, more organized adoption activities started in 1973 when AC placed the first children in Sweden. AC is the only Swedish adoption organization that has been active in Chile. AC ended its activities in Chile in 1992. During the period 2016 to 2019, AC was again authorized to work with international adoptions from Chile. However, no adoptions were mediated during that authorization period¹⁷.

The Children Above All (BFA) was authorized to provide adoption services in Chile from 2008 to 2011¹⁸ but provided

(14) K. Alfaro Monsalve and J. L. Morales (2021), *Chilean children adopted by Swedish families. Diplomatic proximity in times of Cold War (19/3-1990)*. Translated by Erika Tanacs. Historia Crítica n.º 81 (2021): 71-94 and Riksdagens andra kammare Chile (2019). See also Daily News. *Pinochet used adoptions to influence Sweden*. Published 2021-10-26.

¹⁵ AC. *Travel report Chile April 14-22, 1990*. E4 Chile AC Country binder 1975-87 and *memo on Adoption Center activities in Chile*. 2004-03-11.

¹⁶ AC. Letter to the AC representative in Chile, January 26, 1982. Corr Chile 1974-92.

¹⁷ MFoF. Annual report 2016, 2017, 2018 and 2019.

¹⁸ MIA. Decision of February 3, 2009, No 61:719/08 and decision of October 12, 2009, No 61:533/09 No 8.

no adoptions as they were refused accreditation by Chile.¹⁹

Reasons why AC ended its operations in Chile

According to the AC, there were several reasons why they ended their activities in Chile in 1992. Over time, the number of children referred to AC from the courts in Chile decreased. This was because more children were being adopted nationally but also because lawyers working on behalf of individual families were conducting outreach directly to pregnant or new mothers.²⁰ The AC did not want to engage in that way of working.²¹ A 1990 AC travel report states:

Initially, AC was the only one adopting children from Chile. In recent years, demand from around the world has grown incredibly. We are now almost completely out of competition. Interest in domestic adoptions has increased, but foreigners have found ways to leave Chileans without children. It is mainly Americans, Italians and French who "buy" children in Chile²².

The AC reorganized its activities in Sweden and more and more demands were made on how the work was conducted and organized abroad. AC wanted more continuous and direct contact with the authorities in each country and for the traveling families to be taken care of in a certain way. The AC representative in Chile felt that the office did not understand how she worked and she did not want the families to travel

to Chile to collect the children because she felt they did not understand how to behave. Dialogue was complicated by the fact that the falling number of adoptions meant that AC had to reduce fixed costs and lay off staff. The representative was dismissed in 1991 and subsequently paid on a case-by-case basis²³.

¹⁹E-mail from BFA 2023-01-30. See also MIA. *Country report for Chile 2011-09-05*, received from BFA to MIA 2011-09-06, dnr 64:390:2/11.

²⁰AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFoF on 23 August 2016, dnr AD36:256:11/15.

²¹A-C. Gudmundsson et al (2015), pp. 271-273, memo from AC, *Adoption Center's adoption activities in Chile, 19/1-1992* and meeting with former employees of AC on September 6, 2022.

²²AC. *Travel report from Chile, April 14-22, 1990*. AC E4 Chile Landpärm 1975-87.

²³AC. *Adoption Center's activities in Chile*, 2016-08-16, received by the MFoF on 23 August 2016, ref. AD36:256:11/15.

4.5.2 Role of Swedish authorities in adoptions from Chile

From 1966 to 1971, the National Board of Health and Welfare was responsible for arranging international adoptions. Thereafter, the responsibility lay with the Advisory Board of the National Board of Health and Welfare. In 1973, the mediation work was taken over by the Board for International Adoption Issues (NIA) within the National Board of Health and Welfare. At that time, a cooperation agreement was also concluded between the NIA and AC, which meant that AC was responsible for contacts with authorities and institutions in Chile. AC received expressions of interest in adoptions and provided information and assistance to adoption applicants. When AC wanted to place children, AC had to make a written request to the NIA's placement committee, read more in Volume 2, Chapter 3. In 1979, AC took over responsibility for the placement work, while the NIA was responsible for supervising the activities.

During the period 1985 to 1996, the municipal social welfare committees were responsible for examining the reliability of the intermediation method the applicant intended to use for private adoption. The opinion of the NIA had to be obtained. Since 1997, the NIA, the MIA and then the MFoF have examined the acceptability of the intermediation method for private adoption.

Until 1999, adoption decisions were taken in Swedish courts. Since 1999, the adoption decision is made in Chile before the child leaves the country and the MIA and then MFoF have examined whether it can be approved in Sweden.

The Ministry for Foreign Affairs and the Swedish Embassy in Chile have assisted the Ministry of Justice, the NIA, the MIA and subsequently the MFoF and Swedish courts with information on Chilean adoption legislation. The Swedish Embassy in Chile has granted the child an entry visa to Sweden. When the visa expired, the Migration Board²⁴ granted the child a temporary residence permit in Sweden pending a Swedish court decision on adoption.

Sweden has not had an adoption agreement with Chile

Despite attempts by Sweden, no agreement on cooperation on adoptions has ever been concluded between the countries. Correspondence between the Swedish Embassy in Chile and Swedish authorities shows that the AC representative in Chile worked intensively to bring about such an agreement. In February 1974, for example

²⁴Until July 1, 2000 the authority was called the National Immigration Board.

a judge from a child protection court in Chile, on behalf of the Chilean Ministry of Justice, visited Sweden on the issue²⁵

4.5.3 Operators in Chile

Until 1988, the entire adoption process in Chile was handled by courts or notaries. However, many actors were involved in the adoption process in different ways, such as social workers, lawyers, doctors, midwives and nuns.²⁶ The adoption decision was taken by the local juvenile courts (Juzgados de Menores), which had special social workers attached to them. They in turn liaised with social workers working in hospitals and orphanages.²⁷

Chile's child welfare agency, the Servicio Nacional de Menores (Sename), was created in 1979 but its mandate did not include adoption. It was not until 1988 that Sename was given some role in the adoption process by receiving applications from foreign adopters and providing an opinion to the court.²⁸ Sename was to investigate whether there were Chilean parents who could adopt the child and that the foreign adopters met the requirements of their home country. The compliance of the foreign adopters with the requirements of their country of origin would be verified by the Chilean consul in that country²⁹.

Since 1999, adoptions can only be processed by Mejor Niñez⁽³⁰⁾ (formerly Sename) and those organizations authorized to run adoption programmes. Mejor Niñez is required to maintain national registers of children considered for adoption and registers of those who have gone through the process and are considered suitable as potential adopters³¹.

²⁵MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, January 30, 1974, R34 Vch.

²⁶ Meeting with Mejor Niñez in Santiago 2022-10-26.

⁽²⁷⁾ C. Lindgren (2010), *International adoption in Sweden. Policy and practice from the sixties to the nineties*, p. 110.

²⁸ This was an adaptation of the Convention on the Rights of the Child, ratified by Chile in 1990.

²⁹MINISTRY OF FOREIGN AFFAIRS. Correspondence on legislation from the Swedish Embassy in Chile to the NIA, June 1988, R 34 Vch.

³⁰Servicio de Protección Especializada a la Niñez y Adolescencia (Specialized Protection Service for Children and Adolescents).

³¹Article 5 Law 19 620 of 1999.

4.5.4 Chile's adoption legislation before 1988

In 1934, the first adoption law was passed in Chile.³² It was replaced by a new law in 1943.³³ The form of adoption was weak, which meant that adoption gave the adopted child the status of son or daughter of the adopters without terminating its connection to the original family. Information on the biological parents remained in the Chilean civil registry.

In 1965, a new Adoption Act was passed, which remained in force until 1988.³⁴ The new Act provided for strong adoption, and all legal ties to the biological parents were severed.³⁵ In strong adoption, all background information was kept confidential, and any information that might link the adoptee to the original parents was to be destroyed once the case was settled.³⁶ Children were registered as born into the adoptive family and the first entry in the population register was deleted.³⁷ In order for a child to be adopted, children under the age of seven had to have been in the care of the adopter for at least two years before the adoption. For children over seven, the period of custody was four years.³⁸ During the probationary period, children and adopters had to live together to ensure that the adoption was in the best interests of the child. Children could be adopted if they were abandoned, orphaned, had unknown parents or were the children of one of the spouses (step-child adoption).

Children in the care of public or private institutions could also be adopted if their parents had not shown a lasting and genuine interest in them³⁹.

There was no specific regulation for international adoptions (it was only introduced in 1988). For international adoptions, a 1967 law regulating the protection of minors was applied.⁴⁰ The juvenile court of the region where the child lived appointed the prospective adoptive parents as guardians (*tuición*) and granted them permission to take the child out of the country. The actors involved

³² Act No 5343 of 1934.

³³ Law No 7 613 of 1943.

³⁴ Law No 16 346 of 1965.

³⁵ However, Law No 7 613 regulating weak adoption also remained in force.

³⁶ However, as the children who were adopted internationally were not adopted in Chile, these background data remain in Chile.

³⁷ Meeting with Mejor Niñez in Santiago 2022-10-26.

³⁸ Article 2 Law No 16 346 of 1965.

³⁹ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, November 21 1977, No 223, R 34.

⁴⁰ Law No 16 618 of 1967.

in the process were the courts and the Chilean Civil Registry (Registro Civil).

4.5.5 1988 Adoption Act

In 1988, the 1965 Adoption Act was replaced by a new Act which also contained rules for international adoptions.⁴¹ The purpose of the new Act was to ensure that infants would primarily be adopted nationally and that older children would be considered for international adoption.⁴² The Act regulated both strong and weak adoption. For strong adoption, the child must be an orphan, have unknown parents or be abandoned.⁴³ The child must have been in the care of the adopter for at least six months continuously before adoption.⁴⁴ The rules on confidentiality were amended, which meant that the background information on the adoption would no longer be destroyed but kept by the Chilean civil registry office. Both the adoptee and the original parents could now have access to their files⁴⁵.

In the case of international adoption, the child left the country with an exit permit

For children who were to be adopted in another country, it was still the case that the child was not adopted in Chile but the courts granted an exit permit for the child. An exit permit could be granted if a child was an orphan, had unknown parents or was abandoned. The question of whether the child was abandoned was dealt with in a separate decision and applied, inter alia, to children in orphanages if they were left there by parents or guardians with the express intention of relieving them of their legal obligations towards the child.⁴⁶ Sename was given a role in the adoption process in that all applications for permission for a child to leave Chile were to be sent to Sename, which forwarded them to the court together with an opinion on whether it was appropriate for the child to leave the country.

⁴¹ Law 18 703 of 1988.

⁴² This was an adaptation of the Convention on the Rights of the Child, ratified by Chile in 1990.

⁴³ SOU 1989:100 *Adoption issues*, p. 113.

⁴⁴ Article 8 Law 18 703 of 1988.

⁴⁵ Meeting with Mejor Niñez in Santiago 2022-10-26.

⁴⁶ SOU 1989:100, p. 113 f.

⁴⁷ Email from Sename to MFoF on February 12, 2018, ref. no. 4.2.2:1043/17 no. 17.

If a child was allowed to leave the country to be adopted abroad, the respective consul would ensure that the adoption took place abroad. The Chilean consul in the receiving country would oversee the adoption and send a copy of the judgment to the Ministry of Foreign Affairs in Chile. The Ministry of Foreign Affairs would in turn inform the Chilean civil registry office.⁴⁸ From 1988 onwards, the prospective adoptive parents also had to travel to Chile to sign their adoption application in court and collect the child.⁴⁹

Subsidiarity principle introduced in 1990

In 1990, Chile ratified the UN Convention on the Rights of the Child and the principle of subsidiarity was introduced into legislation. An adoption unit was created at Sename, which took over the management of the state orphanage Casa Nacional del Niño in Santiago de Chile (hereafter referred to as Santiago), previously a private institution of the Church. Sename also introduced a program to promote domestic adoption and created adoption units for this purpose in some regions⁵⁰.

4.5.6 Adoption decisions in Chile from 1999 onwards

In 1999, Chile ratified the 1993 Hague Convention and in the same year the current adoption legislation came into force.⁵¹ The law makes a clear distinction between national and intercountry adoption.⁵² The adoption must always be carried out in Chile, which means that from 1999 onwards the child always leaves the country as adopted.

Adoptions may only be processed by Mejor Niñez and the organizations authorized to conduct adoption programs. The adoption process takes place in two stages; one is pre-adoption and aims to declare the child eligible for adoption and the other is the adoption process itself. Mejor Niñez is responsible for maintaining national registers of children up for adoption and registers of the persons

⁴⁸ Article 46 Law 18 703 of 1988.

⁴⁹ NIA. *Annual report 198/88*, 1988-10-19, dnr 1:341/88 and AC's Travel report Chile May 16-25, 1989. AC E4 Chile country binder 1975-87.

⁵⁰ Second Chamber of Parliament Chile (2019), p. 39 f.

⁵¹ Law 19 620 of 1999. In the fall of 2022, a proposal to amend the law was discussed in Congress.

⁵² National Institute of Human Rights (2023), p. 380.

who have gone through the process and are considered suitable as potential adopters⁵³.

The law gives the adoptee the right to access all their adoption documents. However, copies of the judgment or the background to the adoption can only be disclosed by court order, at the request of the adoptee, the adopters or their relatives in the direct ascending or descending line.⁵⁴ Mejor Niñez will provide support and advice to adoptees who wish to trace their origins.

In 2003, Chile ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

4.5.7 Organization of the Adoption Centre in Chile

When AC started its contacts in Chile in 1970, children came to Sweden both through private agents and through an agent that AC hired in Chile.⁵⁵ Since AC's agent lived 30 miles from Santiago and AC wanted a contact in Santiago, they contacted a Swedish woman in 1971 who had helped her sister and a couple of other families with the adoption of Chilean children.⁵⁶ The woman had come to Chile in 1965 with her Swedish husband but married a Chilean man in 1971 who had worked as a police chief in Santiago. AC began its work in Chile with a small office in the Swedish woman's home.⁵⁷ Initially she assisted AC on a voluntary basis, but in 1979 she was hired by AC and had a monthly salary until 1991.⁵⁸ The woman became AC's Latin American representative and over the years built up an extensive adoption operation with its own social workers, foster mothers and a pediatrician. Information has been circulated that AC's representative in Chile was employed at the Swedish Embassy in Santiago and was also covered by diplomatic immunity. After extensive searches in all the Ministry's archives, the Ministry has not found any information that the representative was employed

⁵³ Article 5 Law 19 620 of 1999.

⁵⁴ Article 27 Law 19 620 of 1999.

⁵⁵ Before 1979, individuals residing in another country did not need permission from the National Board of Health and Welfare to place children with residents of Sweden.

⁵⁶ AC. *Report re: background and current adoption situation in Chile, contact with Instituto Interamericano del Niño, Montevideo. Trip to Chile and Uruguay 14.11-26.11 19/5*. AC corr Chile 1974-92.

⁵⁷ AC's representative's lawsuit against Chilevisión 2018. The Adoption Commission has ordered the Swedish translation.

⁵⁸ AC. *Adoption Center's activities in Chile*, 2016-08-16, received by the MFoF on 23 August 2016, ref. AD36:256:11/15.

within the MFA or locally at the embassy in Santiago. There is also no information that a diplomatic passport was issued for her.⁵⁹

AC's activities were concentrated in the Auracania and Biobio regions

A report by the Chilean Parliamentary Commission on Illegal Adoptions (see section 4.6.2) states that many of the persons adopted to Sweden come from the Auracania region.⁶⁰ The AC representative in Chile worked closely with the chief judge of Temuco, the central city of the region. They had been close friends since 1973.⁶¹ When the AC representative in Chile started the adoption work, she cooperated mainly with the courts in Rancagua and Concepción.⁶² Concepción is located in the Biobio region. Later, the courts of Valdivia, Talcahuano, Vina del Mar, Traiguén and Santiago were added.

Initially, the judge in Temuco cooperated only with AC, but from the mid-1980s onwards, the judge began to place children for private adoption, mainly in Switzerland and Belgium.⁶³ In the late 1980s, AC's cooperation with the Temuco court ended. According to AC, the judge blamed a scandal in Lautaro in which a social worker had been accused of child trafficking, but AC claimed that the judge "favored" the Norwegian Adoptions Forum.⁶⁴

4.5.8 Specifically on escort activities from Chile

AC had an agreement with SAS to escort children from Chile. According to a former SAS escort hostess, they received the children at the airport in Santiago. It was a Swedish woman who handed over the children⁽⁶⁵⁾.

⁵⁹ E-mail from the Ministry of Foreign Affairs to the Adoption Commission 2023-01-23 and 2024-12-17.

⁶⁰ Second Chamber of Parliament Chile (2019), p. 79.

⁶¹ AC. Letter from the AC representative in Chile to the AC office in Stockholm, October 16, 1987. Corr Chile 1972-94.

⁶² AC. *Report on the background and current adoption situation in Chile, contact with Instituto Interamericano del Niño, Montevideo, trip to Chile and Uruguay 14.11-26.11 1975-12-15*. Corr Chile 1974-92.

⁶³ Copy of the Chilean criminal investigation's interview with a former judge of the Children's and Juvenile Court in Temuco on 2022-07-05.

⁶⁴ AC. *Travel report Chile + Paraguay and Argentina April 14-22, 1990*. AC E4 Chile Landpärm 1975-87.

⁶⁵ Interview with a former SAS escort hostess on August 29, 2023.

A travel report from AC in 1985 shows that it was AC's representative in Chile and one of AC's employed social workers who accompanied the children to the airport. One of AC's foster mothers and her husband also traveled with the children to the airport in cases where there were no more than two children traveling.⁶⁶ The flight was to Copenhagen with a stopover in Lisbon. Each escort hostess escorted two children. The children from Chile were of mixed ages, some very young and others older.⁶⁷ A 1975 AC travel report states that AC was the second largest customer on SAS flights from Santiago to Stockholm.⁶⁸

The AC representative and AC social worker in Chile, the director of the orphanage in Lautaro and the Swedish missionary couple who founded the orphanage in Lautaro also escorted children from Chile. For example, the Swedish missionary couple is said to have escorted eight children on one trip⁶⁹.

In 1983, Chile required the prospective adoptive parents to come to the country to pick up the child themselves.⁷⁰ In practice, however, child escorts continued until 1988, when prospective adoptive parents were required to appear in court in Chile.⁷¹

The NIA made recommendations on escort activities in 1983

The NIA's first handbook for adoption agencies in 1983 states that when choosing an escort, the best interests of the child should be a primary consideration and financial considerations secondary. In the case of escorting older children, if possible, the escort should be able to speak the child's language. The person who would escort the child must have practical experience in childcare and travel experience. Furthermore, it is stated that an escort should not escort more than two children at the same time⁽⁷²⁾.

⁶⁶AC. *Report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Land- binder 1975-87.

⁶⁷Interview with a former escort hostess at SAS 2023-08-29.

⁶⁸AC. *Report on: background and current adoption situation in Chile, contact with Instituto Interamericano del Niño, Montevideo. Trip to Chile and Uruguay 14.11-26.11 1975*. AC corr Chile 1974-92.

⁶⁹NIA. Notes from the AC - NIA meeting on August 22, 1980 and Notes kept at the AC - NIA meeting on August 21, 1980.

⁷⁰NIA. *Annual Report of the National Intercountry Adoption Agency, NIA, July 1 1982-June 30, 1983* and NIA Minutes 1983-01-20.

⁷¹AC. *Letter to prospective Chilean families*. November 30, 1988. AC E4 Chile country binder 1975-87.

⁷²NIA. *International Adoptions. Handbook for Adoption Organizations*. 1983, p. 18.

4.6 General information on irregularities in Chile's adoption activities

4.6.1 Introduction

There have long been suspicions and rumors that children were stolen for adoption in Chile during the 1970s and 1980s. There have also been reports that children of opposition members murdered during Pinochet's military dictatorship were placed in orphanages and then adopted internationally.⁷³ During the 1970s, the Chilean media reported on the "scandalous traffic of Chilean babies" to Sweden and elsewhere. In 2017, several reports on illegal adoptions were broadcast on Chilean television.

In this section, we review the general findings on irregularities in intercountry adoptions from Chile.

4.6.2 Previous investigations into intercountry adoptions from Chile

There have been previous reviews of intercountry adoptions from Chile by the receiving countries Denmark and Switzerland.

Norway's ongoing investigation is looking into adoptions from Chile and is due to report in December 2025. Several investigations have also been launched in Chile, see below.

Criminal investigation into irregularities in international adoptions from Chile

In 2017, Mario Carozza Espinoza, a judge of the Chilean Supreme Court, was assigned to investigate human rights violations during the military dictatorship in Chile. In his work as a judge, Carozza had already come across cases of illegal adoptions in the 1980s. It involved 600 seized adoption files. For various reasons, they were not investigated further at the time, but Carozza reopened the cases as part of his investigation into human rights violations during the military dictatorship.

⁷³SHAW (Zurich University of Applied Sciences), (2023), *Evidence of illegal adoptions of children from ten countries of origin in Switzerland, 1970s to 1990s. Inventory of documents in the Swiss Federal Archives*, p. 45.

⁷⁴Meeting with Judge Mario Carozza Espinoza at the Supreme Court in Santiago 2022-10-25.

no one to expand the mandate to include suspicions of irregularities in connection with national and international adoptions. In summer 2019, the investigation was split into two parts: one continuing to investigate human rights violations during the dictatorship, and another investigating adoption activities from the 1970s onwards. Judge Jaime Balmaceda Errázuriz was appointed to lead the latter investigation. In practice, the work is carried out under the direction of the Chilean Investigative Police (PDI).⁷⁵In 2015, the organization Nos Buscamos met with a social worker employed by the AC and was given access to 700 adoption files, 475 of which concerned Sweden. Nos Buscamos handed over these files to the criminal investigation in 2017.⁷⁶The files contained background information on the adopted children, the living conditions of the mothers, a list of 29 social workers and details of financial transactions.⁷⁷In addition to these files, Chilean police have seized hundreds more documents from the home of one of the social workers contracted by the AC, from which a further 371 children could be identified.⁷⁸

The investigation team focuses on the work and responsibilities of the Chilean authorities in terms of how children were taken into care, how background investigations were conducted, and on what grounds the children were declared available for adoption in Chilean courts.⁷⁹The offense is abduction of a minor.⁸⁰

In February 2024, the association Chileadoption.se submitted a letter to the criminal investigation in which they expressed serious concern about the investigation process. According to Chileadoption.se, the criminal investigation does not follow internationally recognized requirements for how a criminal investigation should be conducted. The letter states that the complainant has given testimony without access to legal counsel and an interpreter and that cases have been closed without the complainant being informed of this. In addition, the investigation has disclosed sensitive personal data to third parties. Chile-adoption.se believes that confidence in the investigation has thereby

⁷⁵ Meeting with Judge Mario Carozza Espinoza at the Supreme Court in Santiago on 2022-10-25.

⁷⁶ MFoF. E-mail from the Swedish Embassy in Chile to the MFoF on March 7, 2018, dnr 43.1:90/10/18.

⁷⁷The Guardian. *I just needed to find my family': the scandal of Chile's stolen children*. cerad 2021-01-26.

⁷⁸Chilean adoptees worldwide. *An update from Mr Mario Carroza, and his team of investigators about the current findings*. 2018. See also The Guardian. *She was told her babies were dead. Instead they were sold abroad. What happened when she met them 40 years on?* Published 2024-04-27. ⁷⁹MFoF. *New information from the criminal investigation in Chile on international adoptions on January 25, 2019*.

⁸⁰Meeting with a representative of the criminal investigation in Santiago on 2022-10-25.

⁸¹In April 2024, the Supreme Court of Santiago decided to dismiss Judge Balmaceda and, as of July 1, 2024, the work is led by Judge Guillermo Eduardo de la Barra Dunner.⁸²Parts of the investigation had to be restarted.

In March 2025, criminal investigations covered 1 296 cases for the period 1973 to 1998, of which 713 are dormant and 583 are active. Dormant cases can be reopened if new evidence comes to light.

The Criminal Investigation Division has selected ten 'practice cases' to illustrate different approaches. In these cases there is evidence of criminal acts. Prosecution and compensation proceedings are ongoing in some of these cases⁸³.

Chilean Parliamentary Commission

In November 2018, the Chilean Parliament set up a commission to investigate the authorities' actions in relation to possible irregularities in adoption procedures throughout the 20th century. The commission also examined the legislation in place at the time and how the process worked in places such as hospitals, children's homes and courts. Member of Parliament Boris Barrera Moreno was appointed as rapporteur member. The Commission presented its conclusions in July 2019. To inform the report, the Commission interviewed a large number of public and other stakeholders and organizations representing first families and adoptees. Individuals have also been consulted.

Chile's parliamentary commission has found that hundreds of children have been unlawfully taken from their parents and adopted abroad, including Sweden. A common practice has been for health professionals to misinform the mother that the child had died. Social workers working in hospitals, children's homes and juvenile courts played a key role in investigating and assessing the background and needs of the children, but also the situation of the family and the needs of the mothers. Based on the assessment, they have proposed appropriate protective measures for the children. In several cases, social workers have been appointed as guardians of the child after it has been declared

⁸¹Chileadoption.se. *Report: Criticism and suggestions for action regarding the criminal investigation in Chile - Causa Rol N 1044-2018*. Stockholm, February 12, 2024.

⁸² E-mail from a representative of the criminal investigation in Santiago 2024-06-18.

⁸³Chileadoption.se. *Report from //3 meeting-Crime investigation-Santiago/Chile*. Received by the Adoption Commission 2025-03-12.

abandoned or given up for adoption. The social worker has applied for a transfer of custody of the child, the court has decided on the case and transferred custody to the prospective foreign adoptive parents and granted an exit permit for the child. The child has then been taken out of the country, often with an escort. The case was then finalized in Chile. The process has often been swift. According to the Commission, this procedure was widely publicized and the Commission concludes that economic interests have been the driving force ⁸⁴.

The National Human Rights Institute has called on Chile investigate and compensate the victims of illegal adoptions

The National Human Rights Institute (INDH)⁽⁸⁵⁾Annual Report on Human Rights in Chile 2023 devotes an entire chapter to illegal adoptions.⁸⁶The report shows that children came mainly through care facilities and that several actors acted in a coordinated manner: social workers, midwives, doctors, nurses, civil registry officials and police officers. Children also came through state 'protection centers' for children; it is believed that hundreds were placed through the National Children's House and Corporation for Child Nutrition (CONIN).⁸⁷There were two main methods for the child to leave the country. Either the court transferred custody of the child to a third party who then agreed to the child leaving the country. The adoption was then carried out abroad. The second way was to issue a false death certificate for the child. The prospective adoptive parents could then register the child as their biological child in their home country, or by registering themselves as the biological parents of the child already in Chile, either through a falsified birth certificate or through two false testimonies.⁸⁸The INDH concludes that the illegal adoptions can be classified as different types of crimes, depending on the rights violated and taking into account the political, socio-economic, cultural, geographical and historical contexts in which the crimes were committed, as well as the methods used to commit them.

⁸⁴ Second Chamber of Parliament Chile (2019).

⁸⁵The National Human Rights Institute (Instituto Nacional de Derechos Humanos) is an independent body whose mission is to promote and protect the human rights of all persons living in Chile.

⁸⁶ National Institute of Human Rights (2023) *e*, chap. 6.

⁸⁷ National Institute of Human Rights (2023), p. 385 f.

⁸⁸National Institute of Human Rights (2023), p. 384 et seq.

have been used. These include abduction, sale, trafficking, sexual abuse and exploitation, enforced disappearance and illegal adoption. The report also states that Minister Carroza identified elements that constituted crimes against humanity when he was the responsible judge.⁸⁹ According to the INDH, the Chilean State has not recognized the victims as victims of violations of various human rights: the right to identity and to live with their family of origin, the right to personal integrity, to life, to recognition of legal personality, to name, to nationality, to personal freedom, to justice and to information. The State has delegated the responsibility to civil society organizations to seek, within their limited means, truth and justice.⁹⁰ The NHRI made nine recommendations, including that the criminal investigation continue its work, that a truth commission be established, that the State fully compensate the victims of the illegal adoptions, that the Ministry of Justice resume work on a genetic database, and that adoptees be given the right to the nationality of their biological parents and to pass it on to their children.

Chile has set up a government task force to coordinate efforts for victims of irregular adoptions

In March 2024, the President of Chile, Gabriel Boric, decided to set up a governmental task force to coordinate the efforts needed to ensure the right of every person to know their origin and the right to family reunification. The working group includes representatives from the relevant ministries, the Chilean National Registry Office and Mejor Niñez.

At the same time, a government committee was set up to try to reunite overseas adoptees with their original families using a combination of AI and DNA technology. The aim is to create a central DNA database for both adoptees and original families and use AI technology to connect them, including facial recognition. The first searches were carried out in spring 2024 and a person adopted to Sweden was one of the first to find her mother using the new technology. In this case, algorithms based on DNA matches and surnames were used. Once the

⁸⁹ National Institute of Human Rights (2023), p. 411.

⁹⁰ National Institute of Human Rights (2023), p. 426 f.

A search was made in the Registro Civil for the child's year of birth. The Registro Civil found a child whose birth was registered but for whom there was no other information (no passport, no schooling, no death certificate). After searching for many years without results, the adoptee found her Chilean mother in five days using AI technology.⁹¹

The National Board of Appeal has investigated adoptions from Chile to Denmark

The Danish National Social Appeals Board has, on behalf of the Minister for Social Affairs and the Elderly, investigated suspicions of irregularities in connection with adoptions from Chile to Denmark from 1978 to 1988. The National Social Appeals Board has investigated the general from Chile (including information from the Chilean Parliamentary Commission) and examined 31 individual adoption cases from Chile to Denmark.

The overall conclusion of the National Board of Appeal is that it cannot be ruled out that there was unlawful conduct in the mediation of adoptions from Chile to Denmark through AC Børnehjælp during the period 1978 to 1988. The Authority points out, inter alia, that AC Børnehjælp's contact person in Chile urged the organization not to mention certain matters to the Chilean Ministry of Justice. These included the fact that private adoptions had been carried out, that some children had been predestined to come to Denmark without being matched with Danish adoptive parents, and that it could not be ruled out that there had been financial incentives for the actors involved in Chile. Furthermore, the National Social Appeals Board found that the registrations on the children's birth certificates were incomplete, as the biological parents were not included in several cases, and in several cases the children have the surnames of the Danish applicants. According to the National Social Appeals Board, it is also not possible to establish unequivocally that the biological parents were aware that their consent had been given with a view to the child being adopted abroad⁹².

⁹¹Meeting with Chileadoption.se 2024-04-23. Also Sveriges radio P1. *The DNA trail in Chile - Anna's journey home*.

⁹²Ankestyrelsen (2021), *Suspicion of illegal conditions in adoptions from Chile to Denmark 1978-1988*.

4.6.3 Chilean adoption law was circumvented to allow the international adoptions to take place

As described in section 4.5.4, there was no specific regulation concerning international adoptions in Chile before 1988. The national adoption law required that children under the age of seven had to be in the care of the adopter for at least two years before the adoption. For children over seven, the period of custody was four years. In order to avoid foreign adoptive parents having to wait that long or to be in the country during that time, a law regulating the protection of minors was applied instead. The prospective adoptive parents were appointed as guardians of the child and thus the child could be taken directly to its new family in the receiving country. The decision to adopt the child was taken in the new home country. This meant that the statutory period of custody required by the Chilean Adoption Law did not apply to intercountry adoption. In this way, Chilean legislation was circumvented in order to speed up adoptions abroad.⁹³ Historian Karen Alfaro Monsalve argues that the five-year plan for children's policy adopted by the military junta in 1978 included a campaign to increase adoptions. Chilean press clippings show that judges from the juvenile courts encouraged families, especially foreign families, to put a child up for adoption on the grounds that the procedure was very simple and that a Chilean child could be adopted in two to three days.

The foreign adoption decision has generally not been registered in Chile

Until 1998, no decision on adoption was taken in Chile for the children to be adopted internationally. The Chilean consul in the receiving country would oversee the adoption and send a copy of the judgment to the Ministry of Foreign Affairs in Chile. In turn, the Ministry of Foreign Affairs would inform the Chilean

⁹⁵However, this has not always been done, which means that many people adopted from Chile during this period are not registered as adopted in Chile. According to the Criminal

⁹³Meeting with Judge Mario Carozza Espinoza of the Supreme Court on October 25, 2022 and the Appeals Board (2021).

⁹⁴ Second Chamber of Parliament Chile (2019), p. 66.

⁹⁵Article 46 Law 18 703 of 1988.

investigation, 20,000 to 25,000 children have left Chile but only 5 000 are de-registered. This can lead to serious inconveniences for both the adopted person and the family of origin, for example in the context of inheritance. There are examples of an adopted person's identity being used in a harmful way by another person in Chile⁹⁶.

4.6.4 Birth registration could be done with witnesses and children could be registered in different regions

The laws governing civil registration in Chile date from 1934 and provide that the birth of a child can be registered either by presenting the birth certificate issued in a hospital by a doctor or midwife or by a witness certificate.⁹⁷ Witness certificates are used in cases where the child was not born in a hospital. The process involves two people, after identifying themselves by name and ID number, declaring that they witnessed the birth and then providing the same information as on a medical birth certificate, i.e. the mother's name, the date and time of birth, the sex, weight and length of the child and any multiple births.⁹⁸ Birth registration based on witnesses was mainly practiced in rural areas in the 1960s and 1970s.⁹⁹ Illegal adoptions were made possible either by falsifying the birth certificate or by witnesses giving false information. For example, if a young woman became pregnant, the parents could register their grandchild as their own child. There are also many cases where adoptive parents have registered themselves as the biological parents of the child¹⁰⁰.

Since the civil registration system at that time was entirely manual and not centralized, it was possible to register a person in different regions.¹⁰¹ For example, a child could be registered with a birth certificate in one city and with witnesses in another city. A woman who had a child in marriage and registered the child with a birth certificate could later re-register the child with a new partner's name in another region. There are adopted persons who have double birth registrations. One registration with their first name after

⁹⁶ Meeting with Mejor Niñez in Santiago 2022-10-26.

⁹⁷ MFoF. *Travel report Chile*. June 22, 2022, dnr 2022:394, p. 6 f.

⁹⁸ Servicio de Registro Civil e Identificación, *Reporto of irregular adoptions and child abduction*.

⁹⁹ Second Chamber of Parliament Chile (2019), p. 21.

¹⁰⁰ Meeting with Mejor Niñez in Santiago on October 26, 2022. See also the Second Chamber of the Chilean Parliament (2019), p. 54.

¹⁰¹ MFoF. *Travel report Chile*. June 22, 2022, dnr 2022:394, p. 6 f.

their first parents and a birth registration with their second name after their adoptive parents made when they were leaving Chile. These persons retain their original identity in Chile and can therefore be said to have "dual identities"¹⁰².

4.6.5 Children have been declared dead in hospital and then adopted internationally

According to the Chilean Parliamentary Commission, the most common practice in the illegal adoptions was that women giving birth in hospital were informed that their child had died during or after birth. Mothers could be informed that the child had deformities, making it unsuitable for them to see the child. The mother was told that the baby's body would be taken care of by the hospital or be the subject of scientific research. In the case of multiple births, the mother could be told that one of the babies had died. By making the mother believe that the child had died, the hospital ensured that she could not reclaim her child.¹⁰³ According to the INDH, social workers selected underage women who came alone to the hospital to give birth. According to testimonies, the irregularities started already during the delivery, for example, the health workers put the woman to sleep instead of giving her partial anesthesia.¹⁰⁴

4.6.6 Children left in temporary care have been adopted internationally without parental consent

Chile's Parliamentary Commission has found that children have been adopted without the informed and explicit consent of their parents and that this has been systematic. Mothers have left their children in orphanages or similar institutions for temporary care so that they can work, for example. The child has then been moved to another orphanage so that the mother has lost track of her child. In this way, the child could then be declared abandoned when the parents did not visit the child.¹⁰⁵ There are also examples of mothers being given

¹⁰² Meeting with Mejor Niñez in Santiago 2022-10-26.

¹⁰³ Second Chamber of Parliament Chile (2019)

¹⁰⁴ National Institute of Human Rights (2023), p. 384.

¹⁰⁵ Meeting with Boris Barrera in Santiago on 2022-10-28.

told they have no right to visit or get their child back. Some have been threatened with a police report if they continue to search for the child. As this was during the military dictatorship, people were also afraid to ask too many questions. The women have thought they were the only ones to suffer this, have felt ashamed and have not dared to tell others about what happened. This has allowed the systematic abuses to continue ¹⁰⁶.

According to a judge of the Temuco Family Court, most of the adoption cases were for the care of children; there was not a majority of abandoned children. In most of the cases, the mother had agreed to hand over the child for care (for example, because she had to work or had other children to care for). The mother's signature was not for a transfer of custody or adoption, but she has agreed to placement in an orphanage, the rest of the process the mother did not know about. It was the social workers who applied for the transfer of custody to the prospective adoptive parents.¹⁰⁷ The Ankesty's report on adoptions from Chile to Denmark states that in the vast majority of cases it is not possible to assess whether the biological parents were aware that their consent to the transfer of custody was given with a view to the child being adopted abroad.¹⁰⁸

4.6.7 Children have become available for adoption through economic and moral pressure

During the Commission's mission to Chile, we received information that parents have given their consent to adoption under financial and moral pressure. For example, mothers who have left their children for temporary care have been required to pay a care fee for the child, and when they have been unable to pay, the child has been taken away from them. There have also been cases of obstetricians informing the mother that her child had been born with serious health problems and that the only way for the child to survive was to adopt it to a foreign country that could provide the right treatment¹⁰⁹

¹⁰⁶Second Chamber of the Chilean Parliament (2019), meeting with Judge Mario Carozza Espinoza at the Supreme Court in Santiago on October 25, 2022 and meeting with families in Temuco, Chile on October 27, 2022.

¹⁰⁷Meeting with judges at the Family Court of Temuco (Juzgado de Familia de Temuco) 2022-10-27.

¹⁰⁸ Ankestyrelsen (2021), p. 31.

¹⁰⁹Meeting with a representative of the criminal investigation in Santiago 2022-10-25.

4.6.8 Economic drivers and child trafficking in adoptions from Chile

According to the Chilean Parliamentary Commission, economic interests were the driving force behind the network of actors collaborating on intercountry adoptions.¹¹⁰ During the Commission's visit to Chile, we were told that adoptions were initially seen as a humanitarian solution for the children, but gradually it became a systematic approach that became a practice. Money is considered to have been a driving force, especially for social workers. The process does not seem to have been questioned to any great extent. Individual officials have not seen themselves as the ones to change the system. However, some judges and courts have been more supportive of making decisions on the transfer of custody to parents abroad than others. This has been perceived by the actors in the system and has led them to move to the courts that have been favorable to this type of decision and vice versa.¹¹¹ According to historian Karen Alfaro Monsalve, interviews with social workers who were active during this period show that they believe that everything they did was within the framework of laws and regulations and that they did it with the conviction that they were saving children from poverty. Apart from the economic gain for the parties involved, there was a political/ideological conviction to save poor children in a context where Chile and Latin America were going through one of the worst economic crises in modern history during the 1980s¹¹².

There was extensive child trafficking in Chile in the 1980s and 1990s

From the time when AC was the only foreign adoption organization in Chile in the 1970s, the number of operators increased steadily from 1980 onwards. According to the AC, the new actors meant that the adoption business turned into pure child trafficking. A travel report from the AC in 1985 states that in recent years more and more people have started to pay attention to the market value of Chilean children (bright, small children). Lawyers, doctors, midwives and former social workers at the privately owned children's

¹¹⁰ Second Chamber of Parliament Chile (2019).

¹¹¹ Meeting with Judge Mario Carozza Espinoza at the Supreme Court of Santiago 2022-10-25 and meeting with Judge at the Family Court of Temuco (Juzgado de Familia de Temuco) 2022-10-27.

¹¹² Second Chamber of Parliament Chile (2019).

The Casa Nacional home had discovered that there was a lot of money to be made from these children and was doing direct outreach to pregnant or newly delivered women. According to the report, there were sums in the order of USD 12 000 in cash, excluding travel and subsistence for the adoptive parents.¹¹³ A 1987 AC travel report states that private adoptions were 'rampant', mainly by Italians, French and Americans.¹¹⁴ In 1990, the AC noted that adoptions in Chile were even worse than in Peru. Everyone accepted money and children were a commodity. Even Sename accepted money. The sums spoken of were "horrendous", the costs could be as high as USD 6 000 to 8 000 excluding lawyers' fees.¹¹⁵ A later report from the same year states that Sename's director was fully aware of how child trafficking was carried out. She knew which courts, judges, lawyers and foreigners were involved. She knew of sums of USD 30 000 to 50 000 in fees for a child.¹¹⁶

4.7 Irregularities in Swedish adoption activities and how Swedish actors have acted and behaved

4.7.1 Introduction

In this section, we review what irregularities have emerged in Swedish adoption activities in Chile, what Swedish actors knew about irregularities and how they acted to prevent or deal with irregularities.

It is clear from the Chilean Parliamentary Commission, testimonies from families in Chile and adoptees in Sweden, and the associations Chileadoption.se, Hijos y Madres del Silencio¹¹⁷ and Nos Buscamos that there have been irregularities in adoptions from Chile to Sweden. Our interviews with adoptees in Sweden, families in Chile and with organizations and officials in Sweden and Chile confirm this. AC also states that they are well aware of the

¹¹³ AC. *Report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Landpärm 1975-87.

¹¹⁴ AC. *Travel report Chile Aug. 30-Sept. 14, 1987*. AC E4 Chile Landpärm 1975-87.

¹¹⁵ AC. *Reserapport Chile 90012/-900203*. 90-02-14. AC E4 Chile Landpärm 1975-87.

¹¹⁶ AC. *Travel report Chile, April 14-22, 1990*, AC E4 Chile Landpärm 1975-87.

¹¹⁷ Hijos y Madres del Silencio is a Chilean organization that works to reunite intercountry adoptees with their original families in Chile.

are aware that there have been irregularities in the adoptions from Chile.¹¹⁸ These include child abduction (also referred to as child theft or kidnapping), lack of voluntary and informed consent to adoption from the child's parents, misrepresentation of the children's background and how they became available for adoption, and deviation from the intercountry adoption process.

Our review of Swedish newspaper articles on irregularities in international adoptions shows that the Swedish media did not report on irregularities in adoptions from Chile until the 2000s. However, from the 1970s onwards, Chilean media have repeatedly reported on child trafficking, which the Swedish embassy in Chile has also informed the Ministry for Foreign Affairs in Stockholm and the NIA about. The adoption authority did not travel to Chile at any time during the years when adoptions from Chile mainly took place. The AC's representative in Chile visited the NIA regularly and provided information about activities in Chile and the rest of Latin America.¹¹⁹ Chilean authorities have visited Sweden on several occasions.¹²⁰ After the criminal investigation in Chile was expanded to include suspicions of irregularities in connection with adoptions, the MFoF has traveled to Chile twice: in 2018¹²¹ and 2022¹²². The aim has been to assist, in dialogue with the Chilean central authority, adoptees seeking their origin to access as much information as possible and to obtain information on the Chilean criminal investigation.

In June 2024, Sweden and Chile agreed to deepen cooperation on adoption irregularities

On June 13, 2024, Sweden's Minister for Development Cooperation and Foreign Trade and Chile's Minister for Foreign Affairs signed a bilateral roadmap that sets out a number of areas for deeper cooperation between the countries. One of these areas concerns the irregularities that may have occurred in Chile's and Sweden's international adoption activities. The roadmap states that Sweden and Chile recognize that irregularities

¹¹⁸ AC. *Comments on draft text Chile*. Received by the Adoption Commission on 2024-09-06.

¹¹⁹ For example in 1975, 1979 and 1980, see NIA, Protocol 1975:8 1975-11-20 and Protocol 1980-06-12.

¹²⁰ For example, a judge from the Supreme Court of Chile visited Sweden in 1974 and Chile's Ministry of Justice has visited the NIA in 1980, 1988 and 1991.

¹²¹ MFoF. *Travel report - Chile on /-9 May 2018*, 2018-06-05, dnr 4.2.2:1043/17.

¹²² MFoF. *Travel report Chile*. June 22, 2022, dnr 2022:394.

intercountry adoption have serious consequences for the lives and rights of victims and their relatives, in particular the right to identity. The enhanced dialogue between the Governments of Sweden and Chile aims to facilitate cooperation and serve as a platform for information exchange in order to address and remedy the effects of these irregularities¹²³.

4.7.2 Most adoptions from Chile took place during the military dictatorship

Most of the adoptions from Chile to Sweden took place during Augusto Pinochet's military dictatorship, which lasted from 1973 to 1990. According to a former AC employee, Chile was a major issue at all board meetings in the 1970s. The insecurity of the country made the operation risky and AC did not have large amounts of money in safety funds to compensate families if things went wrong.¹²⁴ Former AC employees have emphasized that AC's representative in Chile was very careful in checking the background of the children and that they had to come from known parents. For example, the representative "raised a big alarm" when she encountered two cases of "foundlings", a child found in a garbage dump and a child found near the Argentine border. She was careful to ensure that children did not come from detained persons.¹²⁵ In the 97 files from Chile that we reviewed, only five percent of the children were reported as abandoned.

Today, AC says it should not have cooperated with Pinochet's military regime.¹²⁶

The adoptions have had a political impact on relations between Sweden and Chile

The AC representative in Chile has described that the work was not without difficulties as the Chilean dictatorship did not have a good relationship with Sweden and saw Sweden as one of its main opponents.

¹²³Letter of intent. *Bilateral roadmap between Sweden and Chile*. Signed in duplicate in Stockholm, June 13th, 2024.

¹²⁴ Interview with former AC employee 2022-09-06.

¹²⁵ Interview with a former employee of AC 2022-10-05.

¹²⁶Statement by AC President Wilhelm Kaldo in the Agenda program broadcast on 24 November 2024.

During the first years, AC was therefore under the watchful eye of the authorities.¹²⁷ That the adoptions had political implications is clear from the archival material that we have seen.¹²⁸ There is extensive correspondence between AC, the Swedish Embassy in Chile and the Ministry of Foreign Affairs in Stockholm regarding the adoptions from Chile to Sweden. It appears that AC's activities during the 1970s were questioned and opposed by the Chilean government. The Swedish material shows that the Chilean government's opposition to the adoptions was due to the political conflict between Chile and Sweden and that the Chilean government did not want to send Chilean children to "a country that attacks Chile".¹²⁹ AC's representative in Chile worked intensively to reach an agreement with the government on the adoptions. In November 1975, the Swedish Embassy in Chile wrote to the Ministry of Foreign Affairs in Stockholm:

The only wish would be that, if the activities were to continue, this should be done in such a way that the matter could not be used improperly in propaganda against the Chilean junta. As far as the AC is concerned, the advantage of an agreement would be that it would provide some protection against harassment from circles hostile to Sweden. There are no objections of a general or political nature to an agreement, but all contacts and forms of cooperation between Swedes and the regime here can of course lend themselves to headlines in the Swedish media.

A letter from the Swedish Embassy in Chile in November 1977 states that the AC representative had spoken to the Minister of Health, who said that he did not think the government would take a positive decision on an agreement with Sweden on adoptions. Instead, a ban on foreign adoptions could possibly be expected. According to the ambassador, this would indicate that AC's activities in Chile would be phased out but that there were still courts contacting her to have children adopted because the orphanages did not have the resources to take care of the children⁽¹³¹⁾.

¹²⁷ AC representative's lawsuit against Chilevisión 2018.

¹²⁸ See also P. Lundberg, J. Sköld and A. Mahmoud (2022), *Adoptions. A scrutinizing reportage*, p. 240 ff.

¹²⁹ Letter from the AC representative in Chile to the AC office in Stockholm, September 29, 1975, R 34.

¹³⁰ Ministry of Foreign Affairs, cipher telegram from the Swedish Embassy in Chile to the Ministry of Foreign Affairs in Stockholm, November 13, 1975, 71:B 153 R 34 Vch.

¹³¹ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs in Stockholm on December 2, 1977, received by the Ministry on December 6, 1977 R 34 Vch.

Historians Karen Alfaro Monsalve and José Luis Morales, who have reviewed diplomatic documents from the Chilean embassy in Sweden between 1973 and 1990, believe that the military dictatorship was initially very skeptical about the adoptions as they felt that the adoptions could be used as a way for Sweden to smear the Chilean government. But they later realized that they could use the adoptions to Sweden to improve the government's reputation in Sweden and spread a more positive image of Chile, thus breaking the country's isolation.¹³² According to Alfaro and Morales, Sweden was an important actor because of Olof Palme's harsh criticism of the military dictatorship, but also because of the growing Chilean exile diaspora in Sweden. The regime wanted to show the world that the dictatorship also cared about the abandoned children. According to Alfaro and Morales, it was Chile's Minister of Justice who, after a visit to Sweden in 1974, managed to convince the military junta of the advantages of adoption, the Ministry of Justice was given responsibility for the issue and simplified the adoption process. An investigative reportage", a Chilean diplomat in Stockholm wrote a letter to the Chilean government in 1979. The letter states that there are about 4,000 Swedish couples who want to adopt foreign children and that the adoptions would significantly improve Chile's reputation¹³⁴.

4.7.3 The model of custody transfer was a departure from Chile's adoption law

As explained in section 4.5.4, Chilean adoption legislation required a probationary period of two and four years respectively before the child could be adopted. During the probationary period, the child and the adopters had to live together to ensure that the adoption was in the best interests of the child. According to the AC, the trial cohabitation model was common in the 1970s and also applied to India, Thailand, Korea, Indonesia and the Philippines. According to the AC, the probationary period requirement made it practically impossible to carry out the adoption in Chile.¹³⁵ The AC, together with the Chilean Ministry of Justice, therefore developed its own model for intercountry adoptions. By transferring custody to the prospective adoptive parents

¹³² Dagens Nyheter. *Pinochet used adoptions to influence Sweden*. Published 2021-10-26.

¹³³ K. Alfaro Monsalve and J. L. Morales (2021).

¹³⁴ P. Lundberg, J. Sköld and A. Mahmoud (2022), p. 243.

¹³⁵ AC. *Memorandum on the activities of the Adoption Center in Chile*. 2004-03-11.

The adoption of the child in Sweden was a way to derogate from Chile's adoption law and speed up the adoption process.

In our file review, the Chilean court's decision on the transfer of custody was found in almost 90 percent of the files we reviewed. The court that has made the most decisions on transfers of custody to Sweden is the court in Santiago. Most decisions were made by the same judge. The court that has made the second most decisions on custody transfers to Sweden is the court in Temuco. The same judge has made all the decisions in Temuco. The court in Concepcion has also made relatively many decisions on custody transfers. There, it is mainly two different judges who have made the decisions.

Our file review shows that the Swedish district court decision on adoption is missing from just over half of the adoption files we examined. The adoption decisions that were found show that it took an average of seven months before a decision on adoption was made in the Swedish district court. However, the time varies between just under two and just over 15 months. After the decision to transfer custody, it took an average of 20 days for the children to arrive in Sweden. But it varies from four days to almost four months. The time between the adopters receiving the child into their care and the adoption decision has thus been considerably shorter than the probationary period required under Chilean adoption legislation.

The child often has a Swedish name before the decision to transfer custody

Our review of the files shows that a new birth certificate was issued for the child in connection with the Chilean decision on transfer of custody. In the files we reviewed, there was such a new birth certificate in around 30 percent of the files. The new birth certificate is sometimes issued before and sometimes after the social investigation is carried out. The new birth certificate is usually issued a few days or weeks before the Chilean court decides to transfer custody to the prospective Swedish adoptive parents (but it also happens that the birth certificate is issued after the decision to transfer custody). In the new birth certificate, the child is usually registered with a new Swedish first or surname. Children adopted from Chile have thus often been given a new Swedish name before the decision on transfer of custody in Chile and before the decision on adoption.

¹³⁶An original birth certificate with the child's original Chilean name is found in only 14% of the files examined.

There are also examples where the child has been registered with its Swedish first and last name before the adoptive parents have received a child certificate

In one case, the child was registered with its new Swedish first and last name before the prospective Swedish adoptive parents had been notified. In other words, the child was given the prospective adoptive parents' names before they agreed to receive the child as their adopted child.¹³⁷ Four days after the Swedish prospective adoptive parents received the child order, the court in Temuco decided to transfer custody of the child to the Swedish couple and less than a month later the child arrived in Sweden. Another such case has appeared in the media¹³⁸.

According to Chileadoption.se, a social worker has registered over 200 children with Swedish names in the village of Perquenco, located just north of Lautaro. According to their information, the children were registered as surrendered with the support of the same witness: the social worker's son and his girlfriend.¹³⁹ The Chilean criminal investigation has also, in an interview with the judge in the children's and youth court in Temuco, raised questions about the registration of children with Swedish names in Perquenco.¹⁴⁰ Our file review revealed that 60 percent of the birth certificates issued prior to the decision on the transfer of custody had been issued in the area around Temuco, including Lautaro and Perquenco.

The adoption process in Chile was fast

According to representatives of the Criminal Investigation Department in Chile, the processing times for intercountry adoption cases have been significantly shorter than what the legal processing time should have been in Chile. The processing time varies from just a few days up to more than 90 days

¹³⁶ See also Ankestyrelsen (2021).

¹³⁷ In the Swedish application process for children from Chile, the Swedish applicants often indicated a girl and a boy name for their prospective adoptive child when applying for adoption.

¹³⁸ Sveriges radio P1. *The DNA trail in Chile - Anna's journey home*.

¹³⁹ Meeting with Chileadoption.se 2024-04-23.

¹⁴⁰ Copy of the Chilean criminal investigation's interview with a former judge of the Children's and Juvenile Court in Temuco on 2022-07-05.

in a few cases. The legal processing time in Chile should have been at least four months¹⁴¹.

Our file review shows that it has taken an average of 18 days from the social investigation of the child's situation to the Chilean court taking a decision on the transfer of custody and granting an exit permit. In almost two thirds of the cases, the decision to transfer custody was taken within two weeks of the social investigation. In about 80% of the files examined, the decision was taken within three weeks and in about 40% within one week. As a rule, there was no information in the file about how old the child was when it was matched with the Swedish prospective adoptive parents. However, we have seen examples of adoptive parents being appointed on the same day as the child is born. In the four files where there is information about this, the matching takes place when the child is between 0 days and 5 months old. We have also seen examples of children in Chile being matched with Swedish adoptive parents just over a week before the social investigation of the child's situation was carried out (and a new birth certificate issued in connection with this). The children were on average 13 months old when the decision to transfer custody was taken in Chile. However, the age of the children varies between 10 days and almost 5 years. Almost a third of the children were less than two months old at the time of the transfer and 13% were less than one month old.

A memorandum from the AC to the NIA in the spring of 1976 states that the adoption procedure takes one to three months.¹⁴² In 1987, a social worker employed by the AC in Chile wrote that the processing of cases took at least two months, which she found very slow. She wrote that every day she had anxious mothers pressing her to close their cases as soon as possible. The mothers who gave their children up for adoption were usually people with severe economic and social problems who needed to be able to go back to work as soon as possible and therefore wanted the legal process to be quick. Once they started working, they could not get time off to attend court¹⁴³.

¹⁴¹MFoF. *New information from the criminal investigation in Chile on international adoptions on January 25, 2019.*

¹⁴² AC. *Memorandum on adoptions in Chile*, received by the National Board of Health and Welfare on May 14, 1976, no. 49:701/76.

¹⁴³AC. Letter from one of AC's social workers in Chile to the AC office in Stockholm, March 28, 1987. AC Corr Chile 1974-92.

Children from Chile were often very young when they arrived in Sweden

A memorandum from the AC to the NIA in the spring of 1976 states that the children usually come from hospitals and are very young when the agents take them into their care. The children are then placed in private foster homes.¹⁴⁴In our file review, the age of the children on arrival in Sweden varied from 24 days to almost five years. Almost half of the children from Chile in our sample were under four months old when they arrived in Sweden and almost a quarter of the children were under two months old. In our interviews, we have received examples of children who were ten and 15 days old when they traveled to Sweden.¹⁴⁵We have also received information that a two-day-old infant traveled with an escort to Sweden.¹⁴⁶According to AC, they have not mediated any adoption where an infant was two days old when it arrived in Sweden.¹⁴⁷It is therefore likely to have been a private adoption.

The Swedish adoption decision has generally not been registered in Chile

Once the court in Chile had granted permission for the child to leave the country, the Chilean consul in Sweden would monitor the adoption and send a copy of the judgment to the Ministry of Foreign Affairs in Chile. The Ministry of Foreign Affairs would in turn inform the Chilean civil registry authority. However, this has not always been done, which means that many persons adopted from Chile during this period are not registered as adopted in Chile. In our sample of files, Chile has been informed of the Swedish adoption decision after an average of 2.6 months. However, the time varies from one week to just over five months.

The fact that persons adopted from Chile are still registered with their family in Chile can lead to serious inconveniences for both the adopted person and the family, for example in the context of inheritance. In cases where the mother has not told her family in Chile that she has given a child up for adoption, this is revealed at the time of her death because the child is still registered in the mother's nameⁱⁿ. the civil registry

¹⁴⁴ AC. *Memorandum on adoptions in Chile*, received by the National Board of Health and Welfare on May 14, 1976, no. 49:701/76.

¹⁴⁵ Meeting with families in Temuco, Chile 2022-10-27.

¹⁴⁶ Meeting with judges of the Family Court of Temuco (Juzgado de Familia de Temuco) 2022-10-27.

¹⁴⁷ AC. *Comments on draft text Chile*. Received by the Adoption Commission 2024-11-06.

¹⁴⁸ Swedish Radio. *Terese was looking for a mother but found a brother*. Published 2024-12-28.

have double registrations in the Chilean population register: one registration with their first name and one registration with their new Swedish name, i.e. they have to some extent double identities.¹⁴⁹

The model of custody transfer was accepted by Swedish authorities

The model of transferring custody to the prospective adoptive parents and then finalizing the adoption in the adoptive parents' home country was considered in Sweden to be a solution for countries of origin that either lacked the institution of adoption in their legislation or had a long and time-consuming adoption procedure.

In 1975, the Swedish Ministry of Justice requested assistance from the Ministry of Foreign Affairs to clarify whether the applications for adoption approval received by the Ministry of Justice (see section 4.5.2) constituted evidence of valid adoption in Chile. According to the Ministry of Justice, the applicants had unequivocally stated that AC had said that there were valid adoptions.¹⁵¹ The Ministry of Foreign Affairs replied that the attached documents only seemed to show that guardianship for the prospective adoptive parents had been arranged and that permission had been given for them to travel to Sweden.¹⁵² According to a Chilean expert on adoption issues consulted by the Swedish Embassy in Chile, the documents implied that guardianship had been transferred to the adoptive parents as a first step towards adoption. It included a probationary period of two or four years. According to the embassy's lawyer, the adoption procedure should preferably be concluded in Sweden through the Swedish district court.¹⁵³ In 1981, the Swedish embassy in Chile described the legislation as follows:

As a first step towards adoption, a court grants the prospective adopters custody of the child through a 'tuicion definitiva', sometimes called 'proteccion definitiva'. This is not an adoption. However, the adoption can be accelerated, if Swedish adopters do not wish to wait the waiting period of 2-4 years, by applying for adoption in Sweden in a Swedish court --- Adopters with the permission of a Swedish court,

¹⁴⁹ Meeting with Mejor Niñez in Santiago 2022-10-26.

¹⁵⁰ See U. Lindström (1968), *Att ha barn eller inte*, p. 121 f. and O. Hellberg (1977), *International adoptions - current problems against the background of legal history*. SvJT 1977

¹⁵¹ UD. Letter from the Ministry of Justice to the Ministry of Foreign Affairs, March 17, 1975.

Nos. 3268/74, 264/75, 657/75, received by the Ministry of Foreign Affairs on March 19, 1975, No. 207/108 R 34 Vch. ¹⁵² Ministry of Foreign Affairs. Letter from the Ministry of Foreign Affairs to the Ministry of Justice, March 25, 1975, 293 R 34 Vch.

¹⁵³ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs on June 9, 1975 Hr 145, received by the Ministry on June 10, 1975 dnr 145 R 34 Vch.

adopted a child from Chile may later, when the waiting period of 2-4 years for legitimación adoptiva has expired, if they wish, apply for a final decision on adoption before the same court that issued the decision on tuición definitiva. Such a decision is of no practical significance if the adoptee becomes resident in Sweden but may be of value in a situation where the adoptee, before reaching the age of majority, visits Chile and then perhaps still holds citizenship of Chile and has acquired Swedish citizenship after adoption in Sweden ¹⁵⁴.

A letter from AC's office in Stockholm to AC's representative in Chile states that NIA 1984 asked whether the Swedish adoption becomes valid in Chile immediately upon the Swedish district court's decision on adoption or only after two years when the child has been in the care of the Swedish family for a sufficiently long time under Chilean law. AC asks its representative in Chile to find out what applies and notes that "it is always difficult to embark on a legal adventure"⁽¹⁵⁵⁾.

4.7.4 AC's organization in Chile may have created momentum to bring more children up for adoption

The AC's organization in Chile is different from how they have worked in other countries. In Chile, the AC representative built up his own organization with social workers, foster mothers and a doctor who were paid for the work they did for the AC. The AC representative also had a very independent mandate from the AC and worked directly with the Chilean juvenile courts. It was not until 1988 that Chile's child protection agency, Sename, was given a role in the adoption process. In a letter from the AC's office to the Swedish Embassy in Chile in 1975, the office writes that she "worked as a lone wolf and that she did not want to know of any interference".¹⁵⁶ In a travel report from the AC in 1987, it is stated that the representative strongly criticized the AC for lack of contact and support and, in fact, lack of interest from the Swedish side in her work. The report states that there has always been very little knowledge and little information in Sweden about adoption activities in Chile.¹⁵⁷ The AC has stated that with

¹⁵⁴ UD. *Adoption legislation etc.*, 1981-11-11, No 92 R 34.

¹⁵⁵ AC. Letter from the AC office in Stockholm to the AC representative in Chile, November 21, 1984. AC Corr Chile 1974-92.

¹⁵⁶ MINISTRY OF FOREIGN AFFAIRS. Letter from the AC's office in Stockholm to the Swedish Embassy in Chile on October 23, 1975, received by the Embassy on November 4, 1975, 14/122 R 34.

¹⁵⁷ AC. *Travel report Chile Aug. 30-Sept. 14, 1987*. AC E4 Chile Landpärm 1975-87.

today's perspective on intercountry adoption would not have allowed the representative to work so closely with social workers, foster mothers and doctors.¹⁵⁸

AC social workers came into contact with the children through the courts but also through direct contact with the mothers

A 1974 AC report states that children became available for adoption in various ways. One could be that parents or some other relatives contacted the court or a social worker in the district where they lived and asked for help with adoption. The court/social worker would leave the child in a children's home or contact the AC's representative directly. In cases where the child was abandoned, an arrest warrant was issued for the parents. If no parent could be found, the judge in the district where the child was found was appointed guardian of the child. The judge handed the child over to an orphanage or to the AC's representative.¹⁵⁹

A 1982 AC travel report shows that in Temuco, Concepcion, Valdivia, Talcahuano and Vina del Mar, it was the court that contacted the AC when there was a child for adoption. The court asked the AC's social workers for help in seeking out the mothers to talk to them and invite them to appear in court.

In Santiago, on the other hand, it was various institutions with which AC cooperated that contacted AC's employed social workers. One of AC's Chilean social workers described that in Santiago, AC cooperated with maternity homes and nunneries with which they were in contact through judges at the child protection courts. Mothers were referred to these homes by social workers/counselors at the health centers.¹⁶⁰ When an institution contacted the AC, the AC social worker conducted a social investigation that was assessed by the court. The court also called the mother for an interview. The reason why it worked this way in Santiago was that the court there did not have any reception activities, but the mothers were referred to existing institutions.¹⁶¹ In a travel report from 1982 it is stated that AC cooperated with two homes for single mothers in Santiago. The basic idea at these homes was that mothers should be able to keep their children, but if they could not, they were contacted

¹⁵⁸ AC. *Comments on draft text Chile*. Received by the Adoption Commission on September 6, 2024.

¹⁵⁹ AC. *Chile*. 1978-09-12. AC E4 Chile land binder 1975-87.

¹⁶⁰ Letter from one of AC's employed social workers in Chile to AC's Stockholm office, , March 28, 1987. AC Corr Chile 1974-92.

¹⁶¹ AC. *Travel report Bolivia - Chile 4/3-15/3 1982*. 82-04-05. AC E4 Chile country binder 1975-87.

AC social worker. The AC social worker met the mother repeatedly for interviews. In 50% of cases, she managed to persuade the mother to keep the child. In this way, the AC social worker started 100 investigations a year in Santiago. 50 cases a year led to adoption. The mother signed an agreement that she was leaving the child voluntarily and that she could have the child back at any time until the court's decision. If the mother was a minor, her parents also participated in the decision. The AC's report was then presented in court, the mother had to appear in court and was then allowed to speak alone with the judge and the court's social worker, who could carry out an additional investigation. An official wrote down the mother's declaration which she then signed¹⁶².

Several AC travel reports also indicate that one AC social worker was directly contacted by mothers who were unable to care for their children.¹⁶³ The AC representative in Chile has stated that she never had direct contact with the child's biological parents.¹⁶⁴

AC had its own social workers who investigated the situation of children for the Chilean courts

According to the AC, the number of social workers has varied over the years depending on the scale of the operation.⁽¹⁶⁵⁾ but there are mainly three social workers' names on the files of the children adopted to Sweden.¹⁶⁶ One of the social workers was employed by the AC, one was employed by the AC's representative and one social worker was paid on a per-assignment basis. One of the social workers employed by the AC had previously held a senior position at the state orphanage Casa Nacional del Niño in Santiago.¹⁶⁷ According to media reports, she also mediated

¹⁶² AC. *Report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Land- binder 1975-87.

¹⁶³ AC. *Travel report Chile 90012/900203*. 90-02-14. AC and AC. *Travel report Chile April 14-22, 1990*. AC E4 Chile Landpärm 1975-87. This is also evident from AC's description of the activities in Chile, which was compiled on August 16, 2016 and received by the MFoF on August 23, 2016, dnr AD 36:256:11/15.

¹⁶⁴ AC representative's lawsuit against Chilevisión 2018.

¹⁶⁵ AC. *Memo on the activities of the Adoption Center in Chile*. 2004-03-11.

¹⁶⁶ AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFoF on 23 August 2016, dnr AD36:256:11/15.

¹⁶⁷ AC. *Report on: background and current adoption situation in Chile, contact with Instituto Interamericano del Niño, Montevideo. Trip to Chile and Uruguay 14.11-26.11 19/5*. AC corr Chile 1974-92.

children to other adoption organizations during the years 1950 to 2001.¹⁶⁸ The social worker who received compensation per assignment was a social worker at the court in Concepción. In our file review, we identified two other commonly used social workers hired by AC. The AC's Chilean social workers investigated the children's situation on behalf of the local child protection courts. According to AC, this particular arrangement was due to the fact that the social workers working in the hospitals and for the courts were so busy that the investigations took longer. Our file review shows that in just over 40 percent of all files where it is stated who carried out the social investigation of the child's situation, it was one of AC's social workers in Chile. In other cases, it is usually a social worker at the court or at the hospital who investigated the child's background.

The AC representative also used a number of his own foster mothers in Santiago to care for the children. In 1978, there were 17 foster mothers.¹⁶⁹ Most lived in the Lo Barnechea neighborhood, which was close to the AC representative's home. According to our file review, almost 70 percent of the children were in foster care. In the other files, there is generally no information about this. It varies whether the child was placed in the foster home before or after the child was matched with the Swedish adoptive parents. Of the children born in the Temuco area, 40 percent were moved to foster homes in Santiago before leaving for Sweden. Most have stayed in the foster home for less than two months but the duration varies between ten days and ten months.

A pediatrician was hired to check the children's health; it was the same doctor throughout the years.¹⁷⁰ According to a former AC employee, the doctor was a highly respected professional hired by the "elite" in Chile and he was a guarantor that everything was done correctly.¹⁷¹ Our file review shows that there is no health description of the children in most of the files. In cases where there is a health description, it is often a short description, for example from a hospital stay or in the letter from AC's social secretary to the Swedish adoptive parents. The children adopted from Chile have generally not had any special needs, at least not as described in the file. The files we have examined show

¹⁶⁸The Guardian. *She was told her babies were dead. Instead they were sold abroad. What happened when she met them 40 years on?* Published 2024-04-27.

¹⁶⁹ AC. *Chile*. 1978-09-12. AC E4 Chile land binder 1975-87.

¹⁷⁰ AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFOF on 23 August 2016, dnr AD36:256:11/15.

¹⁷¹ Interview with former employees of AC 2022-09-06.

only in a few cases have the children had any illness or needed any form of special care or attention.

AC's remuneration model involved comparatively high salaries and sometimes payment per assignment

Initially, the AC's representative assisted the AC on a voluntary basis, but in 1979 she was employed by the AC and paid a monthly salary until 1991.¹⁷² According to the 1979 employment contract, the representative was paid a monthly salary according to the state salary scale.¹⁷³

Following media reports that AC's representative had enriched herself from the adoption business, AC has investigated her finances. AC's representative owned a riding school together with her husband which was sold in the late 1980s. According to the AC, this is the explanation for her assets.

The remuneration of AC social workers

Two of AC's social workers were employed and the others were paid by assignment.¹⁷⁴ In 1985, one of AC's employed social workers received 200,000 pesos¹⁷⁵ per month for each of January and February and 161,135 pesos¹⁷⁶ per month for March.¹⁷⁷ The social worker paid by assignment received 30,000 pesos per month in the first quarter of 1985.¹⁷⁸ In addition, the social workers were paid for expenses.¹⁷⁹ According to the Swedish Embassy in Chile, the salary of a social worker varied depending on the workplace. A distinction was made between private and state employees. A social worker in a Chilean child protection court was paid 51 374 pesos gross and in servicios

¹⁷² AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFoF on 23 August 2016, dnr AD36:256:11/15.

¹⁷³ AC. *Employment contract of October 1, 1979*. AC Korr Chile 1974-92.

¹⁷⁴ AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MFoF on 23 August 2016, dnr AD36:256:11/15.

¹⁷⁵ 1 550:38 USD.

¹⁷⁶ 1 120:54 USD.

¹⁷⁷ Average dollar exchange rate 1 USD= 129 pesos in January and February and 144 pesos in March 1985.

¹⁷⁸ Average dollar exchange rate 1 USD= 129 pesos in January and February and 144 pesos in March 1985.

¹⁷⁹ AC. *Accounting for expenditure in Chile during January, February and March 1985*. AC Corr Chile 1974-92.

públicos, the highest amount was 71 343 pesos. In the private sector, salaries ranged from 35 000 to 90 000 pesos.¹⁸⁰

A travel report from AC in 1985 states that AC's social worker in Concepcion had been paid a monthly salary by AC for a long time, but that she had been dismissed because there had been no some children from Concepcion. When cooperation was resumed, the AC representative in Chile had chosen to pay the social worker for each investigation that resulted in an adoption. The report shows that it was agreed to revert to a monthly salary as soon as possible, but until then, the social worker would be paid for each investigation regardless of whether it resulted in an adoption⁽¹⁸¹⁾.

A 1990 travel report from the AC states that their employed social worker, who had left in March 1990, was still being approached by mothers for help. According to the report, she was trying to exploit this situation against AC to get the best possible financial compensation for her work. She had also been offered good fees by a lawyer. The travel report states that the issue of the social worker's remuneration and conditions must be resolved urgently¹⁸².

Compensation for AC's foster mothers and pediatricians in Chile

AC hired its own foster mothers in Santiago to take care of the children and a pediatrician to check the children's health.¹⁸³In 1985, the foster mothers were paid 500 pesos per day for the older children, which was equivalent to 36 Swedish kronor. For infants, they were paid 400 pesos per day, which was equivalent to 29 Swedish crowns. They were also reimbursed for all their expenses.¹⁸⁴A document we have seen at AC states that the doctor was "minimally paid for his work".

¹⁸⁰Letter from the Swedish Embassy in Chile to the AC Secretariat, Stockholm, January 7, 1985. AC Corr Chile 1974-92.

¹⁸¹AC. *Report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Land- binder 1975-87.

¹⁸²AC. *Travel report Chile, April 14-22, 1990*, AC E4 Chile Landpärm 1975-87.

¹⁸³AC. *Adoption Center's activities in Chile, 2016-08-16*, received by MFoF on 23 August 2016, dnr AD36:256:11/15.

¹⁸⁴AC. *Travel report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Landpärm 1975-87.

¹⁸⁵AC. *Report on: background and current adoption situation in Chile, contact with Instituto Interamericano del Nino, Montevideo. Trip to Chile and Uruguay 14.11-26.11 19/5*. AC corr Chile 1974-92.

parents in 1988 that it was possible to book an appointment with the pediatrician, which cost 4,500 pesos (about 110 Swedish kronor).¹⁸⁶

The adoptions facilitated by AC were cheaper than a private adoption

A memorandum from the AC in 1976 shows that the costs of adoptions from Chile had remained around SEK 10,000.¹⁸⁷ At a conference in 1973, the AC stated that SEK 3,000 was cheap and SEK 10,000 was very expensive to carry out an adoption.¹⁸⁸ At the beginning of the 1980s, the total costs of adoptions in Chile (excluding travel costs) were around SEK 20,000 and by the end of the 1980s the cost had risen to around SEK 35,000. According to the AC, the costs related mainly to administration, care and medical costs and transportation. Lawyers were hired only for consultation on legal matters.¹⁸⁹ It was AC's representative who wrote the pleadings and represented the child in court.¹⁹⁰ However, a letter from AC's representative in Chile states that she had to use a lawyer in one of the courts in Santiago.¹⁹¹

By way of comparison, in 1977 the Department of State reported that the cost of a private adoption from Chile depended on the choice of lawyer. Fees ranged from \$150 to \$300, but fees of \$900 to \$1,000 were also common. Then there was often the cost of the social worker's assessment of the child, which varied between USD 150 and USD 200, and the cost of medical examinations, possible treatments and travel within the country. Finally, the total cost depended on where the child was staying until departure (orphanage or boarding school) in private homes).¹⁹² Thus, the adoptions mediated by AC would have been cheaper than a private adoption, mainly due to

¹⁸⁶ AC. *Letter to prospective Chilean families*. November 30, 1988. AC E4 Chile country binder 1975-87.

¹⁸⁷ AC. *Memorandum on adoptions in Chile*, received by the National Board of Health and Welfare on May 14, 1976, no. 49:701/76.

¹⁸⁸ NIA. *Documentation from Conference on international adoption issues, summer 19/3*, p. 20.

¹⁸⁹ AC. *Comments on individual statements in the paper (2004 - Ana Maria Olivares and Pablo Soto)*, received by the MföF on August 23, 2016, ref. 1103.6:256:11/15.

¹⁹⁰ AC. *Adoption Center's activities in Chile*, 2016-08-16, received by MföF on 23 August 2016, dnr AD36:256:11/15.

¹⁹¹ AC. Letter from AC's representative in Chile to AC's office in Stockholm on June 27 (the year is not clear but should be early 1980s). AC Corr Chile 1974-92.

¹⁹² MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, November 21, 1977, received by the Ministry on November 25, 1977, 75, 223 R 34 Vch.

that, as a rule, the AC did not use lawyers to handle the proceedings before the court.

A travel report from AC in 1988 states that AC's administration in Chile appeared to be relatively expensive. Some costs that were borne by the organization in Chile should be transferred to care, for example the salary of one of AC's employed social workers, which was almost exclusively for children's investigations.

There were obvious risks with AC's system of employing its own social workers in Chile

In the 1980s, the monthly salary of the AC representative was almost 20 times higher than the average monthly salary in Chile, and the social workers employed by the AC earned about three to four times more than the social workers employed by the Chilean child protection courts.

That this was a risky arrangement was highlighted by the emerging guidelines of the HCCH and EuroAdopt, which the AC was also instrumental in developing. According to the HCCH, undue financial gain can arise when the salary of the accredited body's representative in the State of origin is too high compared to the average salary of workers in that country doing the same type of work outside the adoption context.¹⁹⁴ In addition, one of AC's social workers was paid for each investigation that resulted in an adoption. According to EuroAdopt, such a remuneration system should be avoided as it may lead to a commercialization of adoption activities, which was also noticed and addressed by the AC office in Stockholm¹⁹⁵.

EuroAdopt has also drawn attention to the risk of representatives of adoption organizations assisting the country of origin in preparing the necessary documents for an individual child before the child has been "allocated" to the organization. According to EuroAdopt, special precautions must be taken to avoid any impact on the number of children placed for intercountry adoption or specifically for the particular receiving organization. In principle, double

¹⁹³ AC. *Travel report Chile November 14-23, 1988*. AC E4 Chile country binder 1975-87.

¹⁹⁴ HCCH (2012), *Accreditation and adoption accredited bodies. General principles and guide to good practice Guide no 2*, p. 75 ff. See also Bill 2003/04:131 p. 40.

¹⁹⁵ EuroAdopt (2002), *EuroAdopt Guidelines on financial factors in co-operation with counterparts and co-workers in countries of origin*. Adopted by the EuroAdopt General Meeting in Aarhus, Denmark, April 7, 2002, p. 17.

roles of the representative should be avoided but may be accepted temporarily if required in the best interests of the child and the biological mother. To reduce the risk arising from the conflicting roles, an official body must take responsibility for the arrangement¹⁹⁶.

4.7.5 In the 1970s, several police investigations were conducted into AC's activities in Chile

During the 1970s, several police investigations were carried out into AC's adoption activities in the country.

In 1975, the Chilean criminal police investigated AC's activities but the investigation was closed

In 1975, the International Criminal Investigation Department of the Chilean police began an investigation into the AC representative and her trafficking of adopted children to Sweden. The origin was an article in the Chilean weekly VEA about "scandalous traffic in Chilean children". The article stated that the Chilean police were investigating an organization that adopted children of single mothers for forwarding to European countries. About 70 Chilean babies had been brought to Sweden over three years for adoption into childless marriages. The Swedish ambassador to Chile informed the Ministry for Foreign Affairs that the AC representative had been in contact with the police. The letter states that the Embassy's impression is that the representative handles the adoption cases with great thoroughness and openness and thus in every way correct, but that two events have occurred that cast a dark shadow over the adoption activities and which concern the police. There are examples of adoption cases where the AC representative himself initiated the adoption process. The letter was closed:

While the police continue to investigate these cases, the incident continues to cause concern, as the transfer of Chilean children to Sweden is increasing rather than decreasing.

¹⁹⁶ EurAdopt (2002), p. 17 f.

¹⁹⁷MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, August 19, 1975, Annex. 2 t. 190A, received by the Ministry on August 19, 1975, no. 190 R 34.

In a later telegram from the Swedish ambassador in Chile to the Ministry of Foreign Affairs in Stockholm, he wrote that the investigation appeared to be "extra-official". Since there was no formal accusation, the investigation could, according to the ambassador, be illegal. As far as the Ambassador could tell, there was nothing to hide, but two things were worrying: that the AC representative was completely upset and that the police seemed to be under pressure from some important quarter. The Ambassador had put the AC representative in touch with a Chilean lawyer who would take the case¹⁹⁸.

In a letter from AC's representative in Chile to AC's office in Stockholm, she wrote that the police had asked questions but that what she had done in Chile was unacceptable. She wrote, among other things, that many judges and authorities had assured her that international adoptions were an opportunity to bridge the gap between two peoples. She went on to say that the police wanted a list of where the children came from. The AC representative believed that it was a political game and that a "general" wanted to advance and use the AC as a thief against the enemy country Sweden and that Chile was discussing breaking diplomatic relations with Sweden. "You can't send Chilean children to a country that attacks Chile". The letter also states that they had spoken to the Minister of Justice and the Minister of Health, who were particularly close to the state orphanage Casa Nacional del Niño.¹⁹⁹ At the end of September, the Swedish Embassy in Chile sent another telegram to the Ministry of Foreign Affairs in Stockholm, stating that it had been established that the criminal police's investigations into the adoption of Chilean children to Sweden constituted a preparation at the highest level for a political campaign against Sweden. There was little chance of saving the operation.²⁰⁰ By October 1975, however, the situation had changed, and the Swedish Embassy wrote to the AC office in Stockholm that the adoption issue had developed in a much more positive way than the Embassy had had reason to believe a few weeks earlier. After a representative from the Supreme Court of Chile had visited Sweden and gained a positive impression of AC's activities, the Chilean Minister of Justice had stated that there had been no breaches of the law and that the children were doing well in Sweden. Nor was there any desire to exploit the issue for public policy purposes.

¹⁹⁸MINISTRY OF FOREIGN AFFAIRS. Telegram from the Swedish Embassy in Chile to the Ministry of Foreign Affairs on September 24 1975, 66:A 420 R 34 Vch.

¹⁹⁹ Letter from the AC representative in Chile to the AC office in Stockholm, September 29, 1975, R 34.

²⁰⁰Ministry of Foreign Affairs, cipher telegram from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, September 30, 1975, 71:B 129 R 34 Vch.

²⁰¹The Minister of Justice was, in principle, willing to sign an agreement or otherwise help facilitate the AC's work in Chile. However, the Minister wanted the AC representative to submit a list of the children left in guardianship. He would interpret such an action as a gesture of cooperation: 'he who has nothing to hide has nothing to fear'. Furthermore, he wanted the AC to denounce the information published in Finland that the junta was selling children. Under these conditions, the Minister of Justice would ensure that the police investigation was closed.²⁰² According to the Embassy, this was a political price that they did not consider to be excessive.²⁰³ An employee at the AC's office in Stockholm replied²⁰⁴ that their representative had done an outstanding job and that all the papers were clear and correct and that her enormous work was linked to her genuine desire to save as many children as possible for a better future. She also wrote that their representative in Chile did not want to give a list of the children adopted to Sweden because she felt that she was letting down all the people who had given their children up for adoption and did not want to be reminded of it. However, the AC office felt that this was a very reasonable price to pay politically for the adoptions to continue and that they could probably find a solution with her⁽²⁰⁵⁾.

In the summer of 1977, the Chilean security police requested lists from SAS of all children who had flown to Sweden

In the summer of 1977, a new investigation was launched into AC's activities in Chile. This time it was the Chilean intelligence police, DINA²⁰⁶, who requested that SAS hand over lists of all children flown to Sweden for adoption. In a letter from the Swedish ambassador to Chile to the Ministry of Foreign Affairs in Stockholm, the ambassador wrote that he had already mentioned in the spring that there was information that the Chilean security police had thoughts of "coming

²⁰¹MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Adoption Center, 14 October 1975, dnr 112 R 34.

²⁰² AC. *Memorandum. Conversation with the Minister of Justice*, November 3, 1975, R 34 Vch.

²⁰³MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the Adoption Center, 14 October 1975, dnr 112 R 34.

²⁰⁴ The answer seems to follow a phone call between the Embassy and the AC.

²⁰⁵MINISTRY OF FOREIGN AFFAIRS. Letter from the AC office in Stockholm to the Swedish Embassy in Chile, October 23, 1975, R 34.

²⁰⁶Dirección de Inteligencia Nacional.

Scandinavian interests in Chile. He wrote that he could not help but have it in mind when the SAS chief reported that his office had been visited by a representative of DINA. The Ambassador wrote that there was a stream of children brought to Sweden under the auspices of the AC and that the AC had previously experienced considerable difficulties when high-ranking forces, led by nationalistic and anti-Swedish feelings, tried to make political capital out of the adoptions. The Ambassador notes that the attempt was averted that time, after an official Chilean delegation in Sweden noted how well the adoptions had been handled. However, according to the Ambassador, DINA's visit to SAS could be an unpleasant sign of new activity. The ambassador also wrote that the AC representative had had to deposit some documents and money (mostly traveler's checks) at the embassy because she was afraid of being deprived of material that could prove that the activities had been conducted legally in the event of a sudden house search.

In November 1977, one of AC's social workers was suspected of child abduction but cleared of the charges

In November 1977, the Ambassador again wrote to the Ministry of Foreign Affairs that AC's adoption activities, particularly in Concepcion, were being seriously obstructed. The activities in general had also been subjected to close scrutiny, for example at the passport office and at passport control. The AC representative said that he was closely monitored by members of the security services. On November 22, a "child transport" from Concepcion had been intercepted at the central station in Santiago by the police. The AC social workers had been taken for questioning and accused of child abduction. The social workers were released, but the child was taken from them. According to the AC representative, it was the superintendent of Concepcion who opposed the operation because he believed that children were being taken to Sweden to become communists.²⁰⁷In a letter from the AC representative to the AC office, informing them that one of her social workers had been arrested on suspicion of child abduction, she wrote that she had met with Chile's Minister of Health who had said that he had tried to increase international adoptions but had not been successful. The Minister of Justice, all

²⁰⁷MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Ambassador to Chile to the Ministry of Foreign Affairs, June 6, 1977, dnr 50 R 34.

²⁰⁸Ministry of Foreign Affairs, cipher telegram from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, November 25, 1977, 73:B 281, R 34 Vch.

According to the Minister of Health, the AC's representative had enormous enemies in the state orphanage Casa Nacional del Niño and in a number of women's organizations. The Minister of Health had wondered why the government did not simply ban giving children to foreigners, but that it was probably because the social situation was very difficult and there were many children who needed parents because there was no room in the existing institutions.

In January 1978, the AC representative wrote to the AC office in Stockholm that the Intendant in Concepcion had reported to the Minister of the Interior that the AC representative had bought the children they had been forced to return. The report had been forwarded to the Minister of Justice. She went on to say that there were renewed rumors that "the AC people were making a fortune out of international adoptions". As a result of these rumors, the AC representative had been warned about the requirements of some courts for a lawyer to be involved in the application for "tuicion" and if she needed to hire a lawyer, she should use the free legal assistance provided, for example, by the Universidad Catolica.

The investigation into the AC's social workers in Concepcion was carried out over two months by a special delegation which read all the court documents relating to adoption cases from 1980 to 1981. Mothers who had given up their children for adoption, staff of the Registro Civil, hospital staff and social workers from various institutions were also questioned. According to the AC, the AC's performance was judged to be impeccable²¹¹.

AC's office in Stockholm asked questions but had great confidence in the operations in Chile

The archival material we have studied shows that both the AC and the Swedish Embassy in Chile had great confidence in the AC's representative in Chile. In connection with the first police investigation in 1975, the AC wrote to the Swedish Embassy in Chile that their representative in Chile

²⁰⁹ UD. Letter from the AC representative in Chile to the AC office in Stockholm, December 6, 1977, R34.

²¹⁰ MINISTRY OF FOREIGN AFFAIRS. Letter from AC's representative in Chile to AC's office in Stockholm, January 10, 1978, Beskickningsarkiv Santiago de Chile FIH:10 R 34, folder 3.

²¹¹ AC. *Travel report Bolivia - Chile 4/3-15/3 1982*. 82-04-05. AC E4 Chile country binder 1975-87.

tant did an outstanding job and that all papers were clear and correct:

I understand more than well that you think it should have been enough, as you say, to get away, say, 30 kids a year, but this is also connected with the fact that we have never really been clear about HOW she worked and under what conditions she received the children. We have only, to put it drastically, thanked and received.²¹²

In retrospect, the letter writer at AC has said that the statement sounds idiotic but that she never had a thought that the children could be stolen. She describes staff on the ground in Chile as passionate about their mission to help children have a better life.

It was not on the map that it would be about trafficking, we completely trusted those we worked with.²¹³

In a letter from the AC's office to the AC's representative in 1982, it appears that the AC has asked questions about how and who makes the social reports in Chile and whether the AC's social worker makes one and the court's social worker makes another. The letter writer writes that the questions should not be understood to mean that she does not believe that things are not going right, but that she

In a letter from one of AC's social workers in Chile to AC's office in Stockholm, it is stated that she is upset that AC makes statements that give the impression that they doubt her "professional honesty and suitability". She writes that she has been working for 21 years with abandoned children and that through her very correct professional practice she has gained the trust of the Chilean professionals as well as the authorities and the Chilean police. The letter concluded by asking AC to do some soul-searching and stop making comments that were not well-intentioned and only hurt AC.²¹⁵

²¹²MINISTRY OF FOREIGN AFFAIRS. Letter from the AC office in Stockholm to the Swedish Embassy in Chile, October 23, 1975, R 34.

²¹³SVT News. *The letter writer does not remember his own letter about suspected irregularities.* Published on December 16, 2019.

²¹⁴Letter from the AC office in Stockholm to the AC representative in Chile, January 26, 1982. AC Corr Chile 1974-92.

²¹⁵Letter from AC's social worker in Chile to AC's office in Stockholm, April 16, 1982. AC E4 Chile country file 1975-87.

The Swedish Adoption Authority did not conduct its own investigation

Minutes from NIA in 1975 show that the NIA board was informed about the newspaper article in VEA about "scandalous traffic with Chilean infants" and the actions taken by AC's representative in Chile in response to the article.²¹⁶ From NIA's archival material, we cannot see that NIA did any investigation of the adoption business in Chile. In our interviews with former NIA employees, they do not recall any discussions at the agency about how the children came into AC's operations.²¹⁷ Overall, the NIA is very invisible in the correspondence relating to the police investigations in Chile. Correspondence is between the AC, the Swedish Embassy in Chile and the Ministry for Foreign Affairs in Stockholm.

4.7.6 AC highlighted child trafficking and false birth registration in private adoptions to Sweden

In 1979, the NIA received a memorandum from the police in Helsingborg concerning suspected child trafficking. A man who worked as a consul in Honduras for another European country had been contacted by a Swedish man who told him that he was a member of a large organization that placed children from abroad with Swedish adoptive parents and that this organization placed children from Chile, among other places. The Swedish man offered the Consul SEK 10 000 for each child that the Consul could place from South America. The Consul had replied that he did not want to do such business and would not speak to the man again.²¹⁸ The NIA subsequently wrote a letter to the Consul expressing great concern about the information because it confirmed rumors that the NIA had heard about child trafficking from South America. According to the NIA, there were reports of children being brought from other countries in South America to Chile to be taken to prospective adoptive parents in other countries. However, these children were not included in the Swedish statistics, which according to the NIA indicated that these children were brought as biological children to the adoptive parents, i.e. that a birth certificate was drawn up that incorrectly stated the new parents as the biological parents of the child. NIA

²¹⁶ NIA. Minutes 1975:6 1975-09-02.

²¹⁷ Interviews with former NIA employees on 2023-02-16 and 2023-04-24.

²¹⁸ NIA. Letter from the Helsingborg police district to the NIA, November 21, 1979. *PM Suspected trafficking in adopted children from abroad*, case number 429 A 10356.

wrote that they had no factual information to rely on, apart from the information provided by the consul to the police in Helsingborg. The NIA therefore wished to contact the man for further information that could confirm the NIA's suspicions.²¹⁹ Minutes from the NIA board in 1981 show that AC's contact in Chile had reported that a large number of private adoptions had been carried out, in several cases probably through false births.²²⁰ Minutes from 1987 also show that the NIA's office had received information that Swedish families had carried out so-called cushion adoptions in Chile.²²¹

AC drew attention to child trafficking and received fewer children for adoption

In a letter from the AC representative in Chile to the AC office in Stockholm in 1984, she described that there were fewer children for the organizations working as AC. This was not only because there were more domestic adoptions, but also because there were a number of lawyers who arranged children for adoption through direct contact with pregnant women and through "fat" cash offers at the public maternity hospitals.²²² In 1985, the NIA asked the Swedish Embassy in Chile what the Chilean authorities' attitude was to adoptions without the involvement of organizations authorized in Sweden. The Embassy replied that the Chilean authorities' attitude to so-called private adoptions was, in theory, relatively strict but that the official attitude was not shared by a number of children's courts. Faced with the grim reality in Chile of abandoned, malnourished and begging children, many judges chose to leave the care of Chilean children to those who wished to adopt. According to the Embassy, a large number of lawyers were involved in private adoptions in Chile for varying fees, ranging from USD 3 000 to USD 12 000.²²³ Some judges were 'particularly scrupulous, while others seemed to have no scruples at all'. It was difficult for people wishing to adopt privately to assess the accuracy of the judges.²²⁴

²¹⁹ NIA. Letter from the NIA to the Consul, December 3, 1979, NIA 49:545/79.

²²⁰ NIA. Annex to NIA minutes 1980-01-30, Minutes 1980-04-17.

²²¹ NIA. Minutes 1986/87 No 7 1987-02-18.

²²² Letter from the AC representative in Chile to the AC office in Stockholm, July 29, 1984. AC E4 Chile country binder 1975-87.

²²³ Which, according to the Adoption Commission's calculation, corresponded to approximately 25,000 to 100,000 Swedish crowns 1985.

²²⁴ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Chile to the NIA, March 4, 1985, R 34:315 Vch.

In a letter from a social worker employed by AC in Chile in 1987, she described to AC that it was very difficult to work in Santiago because the way of working was different from the rest of the country. She described that there were reports of the sale and trafficking of children in the Chilean media and that there were cases of mothers hesitating and calling to ask for their children. She wrote that she found this very unpleasant and a reason why she no longer wanted to continue dealing with cases in Santiago. She asked the AC not to receive any new cases because she had ten cases pending and she had to be available to the judges who wanted to visit the foster mothers and to all the mothers who came to her home and wanted to talk about how their children were doing and how they were traveling, that is, whether the children were sold or not. Some mothers had called to ask for up-to-date reports on their children and she therefore asked AC to contact some of the families who had adopted children in Santiago to reassure people and dispel doubts²²⁵.

A 1989 AC travel report states that it was impossible to get into the adoption business without the help of expensive lawyers who worked "more or less neatly". The report noted that the risk was that AC would be completely outcompeted by its strict ethics.²²⁶ A 1990 travel report states that two of the judges with whom AC worked had quit and "gone into" adoption instead, one of whom had started an adoption organization. The report writer questioned whether AC would work in a country where adoption equates to child trafficking.²²⁷ A later travel report from the same year states that AC informed the Swedish Embassy of the ongoing child trafficking and that they would speak to the Embassy's new visa staff to get better control. The AC urged the embassy to ask who had been the representative, the lawyer's fee and where the child came from in connection with the application for a visa for the child. AC had also expressed concern that a scandal would occur and that Swedes were involved. The Embassy promised to talk to the Secretary of State in the Chilean Ministry of Justice and to write a report to the Swedish Ministry of Foreign Affairs

²²⁵Letter from an AC social worker in Chile to the AC office, March 28, 1987. AC Corr Chile 1974-92.

²²⁶AC. Travel report Chile May 16-25, 1989. AC E4 Chile country binder 1975-87.

²²⁷AC. *Reserapport Chile 90012/-900203*. 90-02-14. AC E4 Chile Landpärm 1975-87.

²²⁸AC. *Travel report Chile, April 14-22, 1990*, AC E4 Chile country binder 1975-87.

archive or in the archives of the Ministry of Foreign Affairs or the Swedish Embassy in Chile. It is unclear whether the report was never written or whether it has been deleted.²²⁹

AC representative in Chile distanced himself from payments to mothers

A travel report from AC in 1985 states that financial compensation or other material support has never been used in AC's relationship with the mothers.²³⁰ A letter from AC's representative in Chile to AC's office in Stockholm states that the representative reacted to an Italian family "embarrassing themselves" by offering money to speed up the processing of their case in court.²³¹ In another letter, she stated that they had to return a child promised to a family in Sweden partly because the father had opposed adoption and partly because the mother now wanted to be considered for giving up the girl. The AC representative wrote that she thought this would become increasingly common as lawyers and other intermediaries contacted women who they knew were thinking of relinquishing children, or who may not even have thought about it yet, and those who had already relinquished their child. Those who had already given up their child were persuaded to ask for the child back and then give it to the new contact for a fee. The AC's representative wrote that she could do little more than express her regrets²³²

In a letter in 1987, the AC representative wrote that the judge of the court in Temuco was planning to hold adoption days in which ethics would be given great importance. The judge had mentioned with deep contempt a French adoption organization that had offered her donations to a children's home in Temuco if they could get more children. The judge had also told her that the Norwegian Adoptions Forum had invited her on a trip to Oslo.²³³ The purpose of these adoption days was to stop the proposed new adoption law and was aimed at social workers, doctors, lawyers and staff from the Registro Civil. The aim of the new

²²⁹Emails to the Adoption Commission from the RC archives on June 28, 2024 and from the Swedish Embassy in Chile on July 16, 2024.

²³⁰AC. *Report from trip to Chile 1985-02-01-1985-02-11*. 1985-02-19. AC E4 Chile Land- binder 1975-87.

²³¹AC. Letter from the AC representative in Chile to the AC office in Stockholm. The letter is undated but is probably from the mid-1980s. AC Corr Chile 1974-92.

²³²AC. Letter from the AC representative in Chile to the AC office in Stockholm on March 29. The year is not given, but should be 1986 or 1987. AC Corr Chile 1974-92.

²³³AC. Letter from the AC representative in Chile to the AC office in Stockholm, July 24, 1987. AC Corr Chile 1974-92.

the law was, inter alia, that infants should primarily be adopted nationally and that older children should be considered for intercountry adoption (see section 4.5.5). The AC contributed to the travel and subsistence expenses of participants in the seminar up to a maximum of USD 5 000.²³⁴ In a report on the adoption seminar, the AC representative wrote that she had been shocked to see and hear the representatives of different countries discussing lawyers' fees, donations and requests for children to meet their clients' needs.

In a letter to the representative in Chile from the AC office in Stockholm, they emphasized that one of her strongest points was her refusal to compromise on ethical issues. The letter states that her sure sense of what is right and proper in the short and long term, as well as her perception and experience, had been invaluable to the discussions in Sweden:

We see in the activities of others how easy it is to end up in a questionable or an activity that in any case can be strongly questioned and criticized even if the purpose has been the very best.²³⁶

In the media, an adoptive parent who picked up his child in Chile in 1973 said that he and the AC representative traveled from authority to authority and at each place they had to have money.

4.7.7 Children have been declared dead to their parents and then adopted to Sweden

Several people who have been adopted to Sweden have found out, when they were reunited with their families in Chile, that their parents had been told by health professionals that their child had died.²³⁸ The children have thus been falsely declared dead to their parents in order to be adopted to Sweden.²³⁹ Sometimes this has happened in connection with the birth and sometimes it has happened in connection with

²³⁴ AC. *Travel report Chile Aug 30-Sept 14 1981*. AC E4 Chile Landpärm 1975-87.

²³⁵ AC. *Report of the AC representative in Chile on the adoption seminar in Concepcion between December 5 and 8, 1981*. The document is undated but should be from spring 1988. AC E4 Chile Country map 1975-87.

²³⁶ AC. Letter from the AC office in Stockholm to the AC representative in Chile, January 26, 1982. AC Corr Chile 1974-92.

²³⁷ SVT. UG reference: *The stolen children*. Published 2021-06-16.

²³⁸ There are several such testimonies from adoptees in Sweden in the Swedish media. See also L. Wool-Rim Sjöblom (2022), *The Excavated Earth*.

²³⁹ The offense can, for example, be robbery of human beings under Chapter 4, Section 1 of the Criminal Code or trafficking in human beings under Chapter 4, Section 1a of the Criminal Code.

The parents have sought care for the child in hospital.²⁴⁰In one Swedish adoption, a social worker had enrolled the mother in a convent where she could live with her child. When the child was three months old, she was told that the child had died of sudden infant death syndrome. The social worker asked the mother, who was 17 at the time, to sign the death certificate for the child. In fact, it was the consent to adoption that the mother signed. The Swedish adoption documents state that the child was abandoned by his parents because of poverty and that they wanted a better future for their child²⁴¹.

We have also received such testimonies from adoptees in Sweden and their families in Chile. One of our interviewees told us that he came to Sweden at the age of three months. When he was reunited with his mother in Chile, the mother told him that she had been told that the child had died during childbirth. The adopted person's adoption document states that the mother could not take care of the child. A woman we met in Chile told us that she had been told that her child had died at birth, but 42 years later the child was found in Sweden. Both of these adoptions were facilitated by AC in the 1970s and 1980s respectively.

4.7.8 Child adopted to Sweden without parental consent

Children left for temporary care have been adopted to Sweden

In DN's investigation there are testimonies of parents leaving their child for temporary care and the child being abducted and adopted without their consent to Sweden.²⁴²One person who came to Sweden in 1978 when he was 17 months old, has said that the mother was persuaded to leave her child to one of AC's social workers. The mother, who was ill, was offered that the child could stay temporarily in an orphanage. However, that very evening she had a bad feeling and went to the orphanage to get her child back. The staff then informed her that her child was missing and eventually she was informed that

²⁴⁰See, for example, P. Lundberg, J. Sköld and A. Mahmoud (2022), pp. 25, 30 f. and 65 ff, Proletären. *My mother in Chile thought I was dead*. Published 2021-06-30, Smålandsposten. *Liza was pronounced dead in the hospital, stolen and sold to Sweden*. Published 2022-09-30 and the play *I 300 mil från verkligheten* which was performed at Alias teatern in spring 2024.

²⁴¹Swedish Radio Reality in P3. *Markus was stolen as a child: "She thought I was dead"*. Published 2024-02-20.

(²⁴²) P. Lundberg, J. Sköld and A. Mahmoud (2022), pp. 26 f. and 34.

that her child was adopted to Switzerland (although the child was adopted to Sweden). The adoption documents state that the mother decided to give up the child because she was poor and could not take care of the child. However, the mother says that she did not consent to the adoption. It took two weeks from the time the mother handed the child over to the AC social worker until the child was in Sweden. The adoptive parents were notified of the child two months before the mother handed the child over to the AC's social worker.²⁴³ The testimony thus implies that the AC had put the child up for adoption long before the mother left the child for temporary care. According to the AC, it is not possible that the adoptive parents were notified of the child two months before the birth mother gave the child up for adoption. According to the AC, in this case it must be the human factor that caused the error by, for example, reusing a template and failing to change the date or writing the wrong date²⁴⁴.

A woman told us that her twins disappeared when they were hospitalized in 1977 when they were 19 months old. When she visited the hospital one day, the twins were gone and the medical staff said that there was no information about the children in the hospital. The mother thought that the children must have died and that the staff didn't dare to confirm it. The Swedish adoption documents drawn up by the AC representative in Chile state that the mother showed no interest in her children and that she gave them up for adoption.²⁴⁵ A woman who was adopted to Sweden in the 1970s has said that her adoption letter states that her mother gave her up. In fact, she lived in an orphanage during the week (weekly home) but with her mother at weekends. She was supposed to be picked up by her father, but he was arrested by the regime. When her mother found out, she tried to pick up her child herself, but the home was empty and no children were left.²⁴⁶

We have also received such testimonies from adopted persons in Sweden and families in Chile. During the Commission's visit to Chile, two mothers told us that they had been persuaded to leave their children in an orphanage. One of the mothers said that the social worker had told her that she could keep the children in an orphanage for a year, during which time she could work as a maid. She was promised that she could visit

⁽²⁴³⁾ A. Arpi (2023), *De kritiska. Stories of international adoption*, p. 129 ff. and SVT Nyheter. *Adoptee to launch legal action after scandal*. Published on 2018-01-31.

²⁴⁴ AC. *Comments on draft text Chile*. Received by the Adoption Commission on September 6, 2024.

²⁴⁵ Sveriges Radio Konflikt. *Sweden's stolen adopted children*. Published 2023-11-17.

²⁴⁶ The adopted person told her story in the play *Sammanflätade*, which was performed at Dramaten in 2023/24. See also SVT Nyheter. *Veronica was stolen from her mother: "I was subjected to human trafficking"*. Published 2024-11-24.

children, but when she came back they told her that she could not bring the children home and that the youngest child had been sent to Sweden. Some mothers state that they have not signed any papers at all, others state that they were illiterate and did not know what they were signing. In our meeting with a judge in the family court in Temuco, she stated that in most cases the mother has consented to leave the child for care (for example, because she had to work or had other children to take care of). The consent was not for custody transfer or adoption, so the mother was unaware of the rest of the process.²⁴⁷

Mothers have been pressured to give up their children for adoption

AC has stated that since the 1990s they have supported around 100 adoptees to be reunited with their families in Chile and none of these mothers have expressed that they have been pressured to give up their children for adoption.²⁴⁸ However, in our file review, there is information in several cases in the file that indicates that the mother may have been persuaded to adopt by hospital staff, staff at maternity homes or AC's social workers. In a few cases, it appears that the mother was not really sure whether she wanted to give up the child and in some cases expressed that she did not want to. One file shows that it was difficult to get the mother to go to court with her to agree to give up the child. It appears that relatives accompany the mother to court and eventually the mother, and also the father, agree to the transfer of custody in court. In one case, the mother had decided to adopt during pregnancy, but changed her mind after the birth and wanted to keep the child. However, she was "guided and supported" by the nuns at the maternity home, the social worker and the psychologist and gave the child up for adoption. In another case, one gets the impression that the doctor at the hospital and the AC are pushing for adoption, even though the parents are wavering on whether they want to keep the child. The mother initially opposed the surrender of the child. The court ruled that the parents were not capable of giving the youngest the care required. According to a later document, the mother has changed her mind. There are also examples of the mother agreeing to go to court and hand over the child for adoption under pressure from the father's family.

²⁴⁷ Meeting with judges of the Family Court of Temuco (Juzgado de Familia de Temuco) 2022-10-27.

²⁴⁸ AC. *Comments on the draft text Chile*. Received by the Adoption Commission on September 6, 2024.

Mothers do not understand that they have signed a consent form for future adoption

In SVT's 2018 investigation, a woman said that a social worker had visited her in hospital when her daughter was a newborn in 1980. After some time, she came back and took the child without telling her where they were taking her. When the woman searched for her daughter, they said that she had signed a paper stating that she had approved the adoption of the child even though she could not write at the time.²⁴⁹ We have interviewed a person who came to Sweden in the 1970s through AC, whose case is part of the criminal investigation in Chile. The adopted person has been reunited with her mother in Chile. The mother has stated that she had not yet reached the age of 21 when the child was born, which meant that she was a minor under Chilean law.²⁵⁰ The adoption document states that the mother came back with the child to the hospital a week after the birth and said that she wanted to leave the child for adoption to Sweden. However, in her testimony to the criminal investigation in Chile, the mother said that she was not allowed to see or hold her child after the birth. A social worker took the child immediately after birth. This has caused great trauma for the mother. The mother has said that she signed a paper with her thumbprint after the birth, which she thought meant that she was leaving the hospital, not that she wanted to give up her child. The document in the file is signed with a thumbprint but the mother's name is misspelled and the ID number box is blank. The child's birth certificate lists the mother as unknown. The birth certificate is witnessed by two persons, one of whom was only 16 years old. The criminal investigation in Chile has questioned these witnesses and according to the criminal investigation, the birth certificate is invalid as it is not properly witnessed.

There may also have been linguistic reasons for mothers not understanding that their children would be adopted internationally. The traditional language of the indigenous Mapuche people is Mapudungun, and in the 1970s and 1980s, when most adoptions took place, parents may not have fully understood what was being said or what was written in the documents in Spanish.

²⁴⁹SVT. *Marianne Skoglund was adopted to Sweden from Chile: I was kidnapped*. Published 2018-01-29.

²⁵⁰The age of majority was 21 in Chile until the new constitution in 1980, when it was lowered to 18.

Consent to adoption has been given by someone other than the mother

There are reports in the Swedish media that relatives have given the child up for adoption without the mother's consent or knowledge. A common example is that the mother worked elsewhere and the child lived with the grandparents who gave the child up for adoption.²⁵¹ AC states that this is not specific to Chile. In cases where the biological mother is under 18 years of age, the mother's legal guardian has the right to give consent. According to the AC, this is still the case today²⁵².

We interviewed a person who came to Sweden in the 1980s through AC. The adopted person's adoption documents state that the mother was 18 years old, that the father did not want contact and that her mother did not want to help her with the child. The documents state that the mother said she wanted to give the child up for adoption so that the child could have loving parents and a good and normal life. When the adopted person was reunited with her mother in Chile, the mother told her that she was 17 years old and that she had not given her consent to adoption. The grandmother had been angry when she became pregnant and had arranged for her to be placed in a Catholic maternity home where she had to work for food and shelter. At the maternity home, she was warned by the other pregnant women that the children would disappear once they were born. After the birth, one of AC's social workers went home in the car and when the mother got out of the car, the social worker left with the baby. The grandmother said that they had taken the baby and that the baby would be put up for adoption.

In another case, an aunt had left three siblings at a children's home in Santiago. When the mother came to pick up the children, they were gone.⁽²⁵³⁾ DN's review describes a private adoption where the mother left the child for adoption. The adoption was arranged by Swedish missionaries in 1975. The child was only 21 days old when it was flown to Sweden. There was no consent from the mother in the documents that accompanied the child to Sweden. Correspondence between the missionaries in Chile and the Swedish adoptive parents shows that the social worker in Chile had promised that she would have a pretty girl to bring home before the missionaries left. In a later letter, the missionaries wrote that they had turned down a boy who was five and

²⁵¹For example, Swedish Radio. P4 Blekinge. *Alexandra's adoption is investigated: "Feels like shit"*. Published 2021-03-05.

²⁵² AC. *Comments on draft text Chile*. Received by the Adoption Commission on 2024-09-06.

²⁵³SVT News. *Viviana in Karlstad convinced that she was sold for adoption against her mother's will*. Published 2022-06-16.

half a year but that the hospital was expecting a baby at the end of the week. When the woman adopted to Sweden as an adult was reunited with her mother in Chile, the mother told her that it was her mother and sister who gave the child up for adoption²⁵⁴.

Our file review shows that the mother has been involved in giving up the child for adoption in just over 60 percent of the cases. In a few cases, the father was also involved. Relatively often, a family member has been involved in giving up the child, usually the grandmother or the child's father. In a few cases, it is stated that the grandparents gave their consent to adoption, but without this being documented in the file. Sometimes it has been an aunt, cohabitant or brother of the mother who has given the child up for adoption. In a few cases, they have given up the child without the mother being involved. In one case, for example, the child's uncle appeared in court because the mother was said to be developmentally disabled, but the AC representative writes that she did not believe this. In almost 40 percent of the files reviewed, a public authority other than the court had a role in the child being given up for adoption. These were hospitals/nursing homes, infant homes and maternity homes.

Children taken into care by social authorities have been adopted to Sweden

In its annual report for 2023, the National Human Rights Institute has described how hundreds of illegal adoptions have been mediated through the shelters where children taken into care by the social authorities were placed. The report states, among other things, that one of the social workers hired by AC has said that when the children had recovered after a period in the shelter, the mothers did not want to take care of them. That is why the children were given up for international adoption. However, there are many cases where the parents neither consented to nor were informed that the child was given up for adoption and, according to the report, dozens of illegal adoptions have taken place to Sweden in this way.²⁵⁵In our file review, about a quarter of the files show that the child has been in a hospital or nutrition center. More than half of all children born in the Temuco area have either

²⁵⁴Dagens Nyheter. *Pingstad option investigated as human rights violation*. Published 2018-11-18.

²⁵⁵National Children's House and Corporation for Child Nutrition (CONIN).

been hospitalized in connection with the birth or lived in a temporary infant home in Temuco. The examples that emerged in Chile's investigations of children being cared for in nutrition centers and the family not showing interest in the child when it is to be discharged are thus also visible in our file review.

The organizations Hijos y Madres del Silencio and Nos Buscamos have also described how children were taken from their homes by police and social workers, particularly in the south of Chile. According to Hijos y Madres del Silencio, the reports that formed the basis for the detention in these cases are virtually identical. Only the names of the parents and the child have been changed.²⁵⁶ We have interviewed a person who came to Sweden in the 1970s through AC. We also met the adopted person's family in Chile. The family in Chile, which belongs to the Mapuche indigenous people, told us that social workers and police took several children in the family and placed them in an orphanage. The youngest, whom the parents had not yet registered in the population register, was adopted to Sweden via the orphanage in Lautaro. At the orphanage, he was given a new name, which caused major problems for the adoptee later in life. The family described how the police had been very brutal to the parents (the father was so badly injured that he could no longer work) and that this had caused lifelong suffering for the whole family. The adopted person's adoption document states that the parents' lifestyle is poor due to alcoholism and mental illness and that the mother herself applied to the court for help with her youngest child as she had other children to care for and was unable to care for the youngest child. It further states that the mother believes that the only way to help her child is to give it away to adoptive parents who can provide the child with "love, care and everything necessary to develop and be happy in its life".

AC writes on its website that tragic scenes are described in the media where biological families come forward with stories that show a different picture than the one shown in the adoption documents. These include, for example, how domestic authorities have brutally taken children from their families. According to AC, however, the documentation they have received shows that the children have been abandoned or taken into care by social authorities due to lack of care, neglect and abuse. According to the AC, this is what they have to deal with when

²⁵⁶National Institute of Human Rights (2023), p. 386 f.

they are contacted to arrange an international adoption.²⁵⁷

In our review of files, we found in 16 percent of the files that the child had been taken into care by social authorities in the country, but only in a few cases was it clear that the child had been forcibly taken into care. However, there are relatively many cases where it is unclear from the file whether the child has been taken into care by social authorities or not.

Information that the child was taken into care by social authorities may have been deliberately withheld from Swedish courts

As described in section 4.5.2, the adoption was carried out in a Swedish court under Swedish law. As a general rule, the Swedish court requires the consent of the child's guardian for an adoption to be decided. If it appears that the child's guardian has opposed social care, this may therefore be an obstacle to adoption. A document that we have seen at AC from 1990 states that the court decision may not state that the child's Chilean biological parents have opposed the taking into care, as this would cause problems in the district court.²⁵⁸ The quote indicates that AC wanted to conceal from Swedish courts that the child had been forcibly taken into care and that there was therefore no consent from the parents to the adoption.

Shortcomings in maternal consent

In our file review, a separate consent document from the mother is missing in just over 90 percent of the files, even in cases where the full name of the mother appears in the file. In a few other cases, the file states that the mother has signed a consent form, but there is no document in the file attesting to this. There may be consent from a parent, even if it has not been documented and forwarded to Sweden. The few consent documents that exist usually state that the consent relates to future adoption and that it may be abroad. The mother has usually signed or fingerprinted it, and in about half the cases a notary or secretary has also

²⁵⁷ <https://www.adoptionscentrum.se/ac/adoption-i-media>. Retrieved 2024-10-07.

²⁵⁸ AC. *Notes from meetings with persons visiting Chile 9/11-13/11 1990*. 90-11-19. AC E4 Chile Landpärm 1975-87.

witnessed the mother's signature. Until 1980, the age of majority in Chile was 21, when it was lowered to 18. In our file review, we have seen several examples of the mother not being of legal age, which means that her guardian would also have to consent to the adoption. However, we have not seen any consent documents from any person other than the mother in our file review.

Based on the file review, we cannot assess when in time the consent was given. In the few cases where there is such information, we have not seen any examples of the mother giving her consent before the birth. In about ten percent of the files, however, it appears that the mother decided on adoption during pregnancy. An internal letter that we have seen at AC (it is not clear who the recipient of the letter is) shows that AC has had problems with district courts that have not wanted to approve adoptions where the mother has given her consent earlier than six weeks after the birth. The letter is written by an AC employee:

There hasn't been a case in Chile for a long time now, so maybe you've solved it by having the judgments written to suit Sweden now?²⁵⁹

The quote indicates that AC wanted to conceal from Swedish courts that there were consents that did not meet Swedish, and internationally recognized, requirements for the mother's consent. According to the 1967 Council of Europe Convention on the Adoption of Children, the mother's consent to adoption could not be given until at least six weeks had elapsed after the birth of the child. 5 FB²⁶¹ so that it was clear from the text that the mother's consent was to be obtained after she had had sufficient time to recover from the birth. The preparatory works to the provision state that this period should generally not be less than the six weeks specified in the Convention.²⁶² In a letter from the AC in 1986, attention was drawn to the fact that a commentary on the Parental Code from the Association of Local Authorities contained wording that could affect the AC's work in adoption cases, "particularly if it were well distributed". In the letter, the AC referred to Chapter 4, section 5 of the Civil Code. According to the AC, the requirement for the mother's reflection period was not new (the provision was introduced in 1968) but that the courts were not always aware of it. According to the AC, the requirement only existed in

²⁵⁹AC. The letter is not dated but seems to belong to the letter *New book on Swedish child care legislation*. 86-07-08. AC Corr Chile 1974-92.

²⁶⁰Article 5 p. 4.

²⁶¹Numer 4 kap. 9 § FB.

²⁶²Prop. 1968:114 med förslag till lag om ändrad lydelse av 4 kap. 5 § Parental Code, etc., p. 17.

court adoptions and only when the mother was the guardian and was the one to give consent to the adoption.²⁶³ AC has argued that consent can legally be given on the same day as the birth even in Sweden if the mother has recovered from the birth.

According to AC, there are Swedish examples where the mother gives consent and the children are picked up by the prospective adoptive parents from the maternity hospital immediately after birth²⁶⁴

4.7.9 Incorrect information in adoption documents to Sweden

In interviews with former employees of AC, they have emphasized that AC's representative in Chile was very thorough with the documentation and that the children had a full background story with them, which was something that was particularly characteristic of the children from Chile.²⁶⁵ AC's representative or one of the social workers she hired usually wrote a personal letter to the Swedish adoptive parents with information about the child's background. In our file review, such a letter is found in almost 70 percent of the files. The letter was usually sent a week before the child arrived in Sweden. In 80 percent of the files examined, the mother's first and surname are given and in half of the files the father's first and surname are also given. In a few more cases, either the first or the surname of the father is given. There is often information about the mother's living situation, but there is usually no information about the father's situation. The AC office staff had "long sessions" with the representative in Chile about what to do when the children had a terrible background. Would she be honest with the adoptive parents?

We had a heated discussion with our representative in Chile, whether it should be told in the file at all, or even to the child when it was an adult, that it was found in a garbage can. Because it was so negative. She wanted to keep it in her head, so to speak.²⁶⁶

²⁶³ AC. *New book on Swedish child welfare legislation*. 86-07-08. AC Korr Chile 1974-92.

²⁶⁴ AC. *Comments on draft text South Korea*. Received by the Adoption Commission on May 30, 2024. The same problem of consent being given earlier than required by Swedish law is described in volume 2 chapter 10 *Irregularities in adoption activities in South Korea*.

²⁶⁵ Interview with former AC employee 2022-10-05. See also AC. *Adoption Center's work in Chile*, 2016-08-16, received by the MFoF on 23 August 2016, ref. AD36:256:11/15.

⁽²⁶⁶⁾ C. Lindgren (2010), *International Adoption in Sweden: Policy and Practice from the Sixties to the Nineties*, p. 142.

The quote suggests that the AC's representative in Chile sometimes did not want to print the real reason for the adoption in order to protect the child from information that she perceived as harmful to the child. However, the AC's understanding today is that the documentation in the files was correct.²⁶⁷ However, based on both media testimony and interviews conducted by the Commission with adopted persons who have been reunited with their families in Chile, it is clear that the background stories are often not accurate. For example, it is common for the background description of the child to state that the mother voluntarily left her child for adoption because she does not believe that she can take care of her child and that she thinks that the child will be better off with its adoptive parents. In reality, the mother has left the child for temporary care, for example to be able to work, or the child has been forcibly taken into care by social authorities. However, there are also examples in the media where the mother confirms that she has given her consent to the adoption²⁶⁸

It is repeatedly described that the mother has to leave the child for adoption because she is single and has other children to support

Our file review shows that in about 60 percent of the cases, the reason for adoption is stated to be that the mother is single and cannot take care of the child. Often this is a temporary relationship where the father left the mother when he found out about the pregnancy and he does not want to take responsibility or contribute financially. The mother leaves the child for financial reasons, because she cannot keep her job (often as a maid) if she takes care of the child or because she already has several other children to support. Often the mother is young and lives at home with her parents, who do not have the financial means to care for another grandchild or do not accept the child. In almost 70 of the files, the age of the mother is given. The average age is 23 years but it varies from 14 to 44 years. The father's age is given in just over 40% of the files. The average age of the father is 31 years but it varies from 16 to 58 years.

Thus, a typical case is a young single woman who cannot work with another child and the grandparents cannot support another child. In some cases, it is because the child is not accepted by

²⁶⁷ Interview with a former employee of AC 2022-09-06.

²⁶⁸ Swedish Radio. *Terese was looking for a mother but found a brother*. Published 2024-12-28.

her other family, i.e. her own parents or a man she lives with but who is not the child's father. Another recurring reason for giving children up for adoption is that the parents (both or one single parent) are poor and already have many children, or that the children are not being adequately cared for or are being neglected by the parents or caregiver. Relatively many children have been malnourished. Sometimes the parent cannot afford the costs of caring for a sick child, for example. In many cases, the child has been assessed by a social worker or similar as needing a protective measure. In some cases, there are other social problems such as abuse and violence.

There are also recurring descriptions of the mother being disinterested in the child or showing no emotion/ indifference towards the child. The fact that there are patterns in the reasons for adoption raises questions, but it does not necessarily mean that the descriptions are not accurate.

Conflicting information

In our file review, there is some form of contradictory information in about 20 percent of the files from Chile. These are usually minor differences, such as what could be a misspelling of dates or that there are more details in one of the documents that make it appear as different information. However, in some cases, the mother is listed as unknown in one document and in other documents there is information about her full name or extensive information about her. In one case, the social investigation states that the father is unaware of paternity, while the letter to the adoptive parents states that he has shown no interest or responsibility for the children. We have seen some examples where different documents contain different information about the age of the mother or the father. In one case, the social investigation states that the mother is 15 years old and the father is a teenage boy, while the letter from the AC representative to the adoptive parents states that the mother is 22 years old and the father is a married man. There are also examples of different information about the child's date of birth, the mother's number of previous children or their age. In one case, the court decision states that it is the mother who has applied for a protective measure, while the AC's social worker writes in the letter to the adoptive parents that it is the grandmother who has applied for a protective measure.

4.7.10 Swedish missionaries have brokered adoptions from Chile without a brokerage license

The first adoptions from Chile to Sweden were mediated by a Swedish missionary couple

The first Swedish adoptions from Chile to Sweden probably took place via a Swedish missionary couple belonging to the Pentecostal movement. They came to the town of Lautaro, just north of Temuco in 1939. In 1959, their congregation was given the status of a separate legal entity. The missionary couple founded an orphanage in Lautaro. Several people who have been adopted to Sweden have lived in that orphanage. We have interviewed a person closely connected to the orphanage and the following account of the activities comes from that informant.

The orphanage in Lautaro

The orphanage in Lautaro took in its first children in 1964. The orphanage was run as a cooperative with the chairman and board members from the parish and the orphanage working closely together. The Swedish pastor was chairman and administrative director of the orphanage until 1970 but participated in the activities until 1982. Even after the pastor retired in 1982, he traveled once a year to Chile. During the period 1965 to 1979, money was sent from Sweden for the orphanage's expenses. Thereafter, the orphanage is said to have cooperated with and been run by Sename²⁶⁹.

The couple cooperated with social workers, police and judges in different cities and the children came to the orphanage from different areas. From 1971, children were placed for adoption in Sweden from the orphanage. Sometimes the children were sent to Santiago before traveling to Sweden and sometimes it was the director of the orphanage who escorted the children to Sweden. The director made several trips to Sweden with children for adoption. When the children arrived in Sweden, the missionary couple's home served as a staging post where the Swedish adoptive parents came to pick up the children. It is reported that many documents covering the period from 1964 when the first children arrived at the orphanage were deliberately burned in 1995 when the director received

²⁶⁹This is also evident from a copy of the Chilean criminal investigation's interview with a former judge at the Children's and Juvenile Court in Temuco on 2022-07-05.

stop working at the orphanage. The orphanage was closed in 2015. Adoptees we have interviewed have told us that in Lautaro there was "talk" about the orphanage and that it was mainly children from the Mapuche indigenous people who were brought to the orphanage to be adopted abroad.

AC has placed children from the orphanage in Lautaro

Our interviews with adoptees revealed that AC cooperated with the Swedish missionary couple and that AC arranged adoptions from their orphanage in Lautaro.²⁷⁰ However, in interviews with former employees of AC, they did not recognize that orphanage. In our file review, only 25 percent of the files show that the child has lived in an orphanage or a temporary infant home. Of these 24 files, three children appear to have lived in the orphanage in Lautaro. A travel report from AC in 1990 states that AC's representative "passed out" partly because of the scandal and the effects of the Lautaro story. It also states that one of AC's social workers in Chile was on his way to the court in Lautaro to re-declare AC's innocence and finally get the case closed.²⁷¹ A travel report from the same year states that AC had not received any children from Temuco in recent years and that the judge in the court in Temuco blamed a scandal in Lautaro with a social worker who had been accused of child trafficking and who had mentioned AC's name. The report states that AC is not involved and that there was certainly no child trafficking involved²⁷².

The NIA knew that the Swedish missionary couple was brokering adoptions to Sweden without permission

Under section 54 of the Child Care Act (1960:97), an individual or association was not permitted to carry out placement activities concerning foster children without permission from the National Board of Health and Welfare. According to the National Board of Health and Welfare, the legal effects of the provision were limited to Sweden. The National Board of Health and Welfare could thus not prevent persons resident abroad from placing foster children/prospective adoptive children with

²⁷⁰ See also L. Wool-Rim Sjöblom (2022).

²⁷¹ AC. *Travel report Chile 90012/-900203*. 90-02-14. AC E4 Chile Landpärm 1975-87.

²⁷² AC. *Travel report Chile, April 14-22, 1990*, AC E4 Chile country binder 1975-87.

This means that individuals, for example missionaries living in another country, did not need a license from the National Board of Health and Welfare to place children with persons living in Sweden. This was remedied when the requirement for authorization for intermediary bodies was introduced in 1979. Under section 1 of the Act (1979:552) on international adoption assistance, international adoption assistance could only be provided by a non-profit organization authorized by the National Board of Health and Welfare. However, this did not apply to assistance in individual cases, such as a missionary or expatriate worker who placed a child in one or more cases.²⁷⁴ Anyone who provided international adoption assistance without authorization could be fined (Section 9).

In 1979, the AC's representative in Chile expressed concern that missionaries were bringing adopted children to Sweden. Reportedly, 20 children had come to Sweden outside the AC contacts, but only six could be found in the statistics.²⁷⁵ Notes from a meeting between AC and NIA in 1980 show that the Swedish pastor who ran the orphanage in Lautaro had placed children with Swedish families. A family that had received a child through the pastor had recently had their documents stopped by the Swedish Embassy in Chile, which meant that he had a child for whom he was looking for parents. It also says that escorts arrive from Chile with eight children at a time. "Children are said to have come to Belgium as small tourists from Chile." At the chancery meeting it was agreed that the NIA would ask the Mission Council for a copy of the letter sent to the missionaries, since in Latin America missionaries have referred to this letter as proof that they are allowed to work with adoptions.

We cannot see from the archive material whether and, if so, what further measures the NIA took to stop the Swedish pastor's brokering activities. We cannot, for example, see that the NIA filed a police report.

²⁷³AC. Letter to the President of the AC. *Concerning adoption of Ethiopian children*. 1973-06-12. In AC's archive box "Adoption Center Ethiopia Country binder E4a, 1973-83".

²⁷⁴Ds 1978:6 *International adoptions. Guidelines and organizational proposals*, p. 45 and Bill 1978/79:108 *on the organization of international adoptions etc.* p. 12 f.

²⁷⁵NIA. Minutes 1979-10-31.

²⁷⁶NIA. Notes from a meeting between AC and NIA on August 22, 1980 and Notes from a meeting between AC and NIA on August 21, 1980.

4.7.11 Adopted persons belonging to a minority or an indigenous people have not had their rights respected

In our file review, we have only noted in six percent of the files that the child is likely to be a minority or indigenous person. This is given as the explanation that it is not possible to find a national solution because Chilean couples do not want to have a child with indigenous features. On the other hand, the child's place of birth is indicated in about 80% of the files. In these files, 29% of the children were born in the Temuco area (including Lautaro, Freire and Tolten), 13% of the children were born in Concepcion and 7% were born in Talcahuano. These localities are located in the regions of Auracania and Biobio, which are the original home of the indigenous Mapuche people.²⁷⁷ Chileadoption.se estimates that about half of the people adopted from Chile to Sweden belong to the Mapuche.²⁷⁸ Our file review shows that this estimate may be reasonable. A document we have seen at AC from 1990 states that many children can be placed nationally, which means that they are Mapuche for international adoption.²⁷⁹

The Chilean Parliamentary Commission did not consider that there were ethnic reasons for international adoptions, although many of those who have been adopted internationally belong to a minority. Their assessment was that the reason for adoption was poverty and that many of the parents were illiterate, which made it easier to mislead the parents.²⁸⁰ At the Commission's meeting with a judge in the family court in Temuco, she stated three risk factors for a child to be adopted internationally: that the family lived in the countryside, that the family lived in economically difficult conditions and that they belonged to an ethnic minority.²⁸¹

²⁷⁷ There are officially nine indigenous peoples in Chile, the largest being the Mapuche.

²⁷⁸ See also Second Chamber of Parliament Chile (2019), p. 85.

²⁷⁹ AC. *Notes from meetings with persons during visits to Chile. 9/11-13/11 1990.* 90-11-19. AC E4 Chile Landpärm 1975-87.

²⁸⁰ Meeting with Boris Barrera in Santiago 2022-10-28.

²⁸¹ Meeting with judges of the Family Court of Temuco (Juzgado de Familia de Temuco) on 2022-10-27.

Adoptees have lost their rights as indigenous peoples and have difficulty reclaiming their identity as Mapuche

Adoptees belonging to the Mapuche indigenous people have lost their name, language and culture through adoption to Sweden. They therefore have very little chance of reclaiming their cultural traditions and identity as Mapuche.²⁸² Moreover, many adoptees have the names of their Swedish adoptive parents on their birth certificates and not the names of their original parents. This means that they may find it difficult to prove their identity as Mapuche in Chile.²⁸³ In order for a person to obtain a so-called indigenous certificate (*certificado de acreditación de la calidad indígena*), certain requirements must be met,²⁸⁴ including that the person has an original parent belonging to one of the ten indigenous groups specified in the law. This can be demonstrated, for example, by having a surname that belongs to an indigenous group or by being able to prove their origin at least three generations back. This means that the person must prove their origin through, for example, birth certificates (their own and possibly their parents'/previous generations').²⁸⁵ If the adopted person cannot prove that they are Mapuche, they cannot claim their special rights as an indigenous person, such as access to land and financial support.²⁸⁶

Swedish actors have been responsible for ensuring the rights of adopted children as indigenous people

According to Article 30 of the Convention on the Rights of the Child, a child belonging to a minority or an indigenous people has the right to his or her own cultural life, religion and language. The Convention came into force in Sweden in 1990. The majority of children adopted from Chile have remained children, i.e. under 18 years of age, even after 1990 and have thus been covered by the rights arising from the Convention. It is also important to recall the close link between Article 30 of the CRC and

²⁸²Information from a meeting with families in Temuco, Chile 2022-10-27 and Alina Namuncura Rodenkirchen (Mapuche activist adopted to Germany).

²⁸³ Second Chamber of Parliament Chile (2019), p. 85.

²⁸⁴Ley 19253 Establece normas sobre protección, fomento y desarrollo de los indígenas, y crea la corporación nacional de desarrollo indígena.

²⁸⁵E-mail to the Adoption Commission from the Swedish Embassy in Chile 2024-05-10.

²⁸⁶Information from a meeting with families in Temuco, Chile, on October 27, 2022 and Alina Namuncura Rodenkirchen (Mapuche activist adopted to Germany).

Article 27 of the UN Covenant on Civil and Political Rights (ICCPR), which Sweden signed in 1967.²⁸⁷ The ICCPR also states that those belonging to ethnic, religious or linguistic minorities shall not be denied the right to enjoy their own cultural life, to profess and practise their own religion and to use their own language in community with other members of their group.

According to Article 2(1) of the CRC, States Parties shall respect and ensure to every child within their jurisdiction the rights set forth in the Convention without distinction of any kind, irrespective of the child's or his or her parent's or guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The Preamble also expresses the responsibility of States Parties to take due account of the importance of the traditions and cultural values of each people in the protection and development of the child. There is no requirement for States Parties to have officially recognized indigenous peoples in order for them to exercise their rights.²⁸⁸ Article 3(1) provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. What is meant by public or private social welfare institutions is not defined in the Convention. According to the Committee on the Rights of the Child, the concept of social welfare institutions should not be interpreted narrowly or limited to social institutions in the strict sense. Instead, the Committee considers that the term encompasses all institutions whose work and decisions affect children and the realization of their rights. In the primary sector, this includes institutions that are involved in providing services that are crucial to a child's rights. This applies regardless of whether the institution is for-profit or not-for-profit, and whether it operates on behalf of the public or alongside it.²⁸⁹

We therefore consider that both Swedish authorities and the AC had a responsibility under the Convention on the Rights of the Child and the ICCPR to safeguard the rights of adopted children as indigenous peoples.

²⁸⁷Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Children belonging to indigenous peoples and their rights under the Convention*. Translation December 2012, p. 16. ²⁸⁸Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Children belonging to indigenous peoples and their rights under the Convention*. Translation December 2012, p. 19.

²⁸⁹SOU 2020:63 p. 188 f.

Swedish actors have not taken any measures to enable adopted children to maintain their identity as mapuche

The archival material we have studied at AC shows that there was an awareness that several children were Mapuche. However, there is nothing to indicate that the Swedish actors reflected on whether there could be political reasons for the high representation of Mapuche among the children adopted to Sweden from Chile.²⁹⁰ The high proportion of children from Mapuche families has been explained by the fact that these children were not as attractive to the American adopters.

There is also no evidence that the responsible actors have acted to ensure the rights of these children to their cultural traditions and identity as mapuche under Articles 7, 8 and 30 of the CRC. Article 20(3) requires States to give due regard to continuity of the child's upbringing and ethnic, religious, cultural and linguistic background in adoption. According to the Committee on the Rights of the Child, due regard means giving children access to the culture (and, where possible, the language) of their country of origin and family, as well as the opportunity to obtain information about their biological family.²⁹¹ States must ensure that children belonging to an indigenous people can be given traditional names chosen by their parents in accordance with their cultural traditions, and the right to maintain their identity.²⁹² The Committee on the Rights of the Child has emphasized that the specific references in the Convention to children belonging to indigenous peoples reflect a recognition of the need for special measures to enable them to fully enjoy their rights.²⁹³ States should always ensure that the principle of the best interests of the child is paramount when placing children belonging to indigenous peoples in alternative care. In particular, if a child is placed in care outside his or her local community, the State Party should take special measures to

²⁹⁰The Committee on the Rights of the Child has expressed concern that children belonging to indigenous peoples are at high risk of becoming victims of trafficking, see Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Indigenous children and their rights under the Convention*. Translation December 2012, p. 72.

²⁹¹Ombudsman for Children. *General Comment No. 14 (2013) of the Committee on the Rights of the Child on the right of the child to have primary consideration given to the best interests of the child*. Translation March 2014, p. 56. ²⁹²Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Children belonging to indigenous peoples and their rights under the Convention*. Translation December 2012, p. 44. See also SOU 2020:63 *The Convention on the Rights of the Child and Swedish law*, p. 1174.

²⁹³Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Children belonging to indigenous peoples and their rights under the Convention*. Translation December 2012, p. 5.

ensure that the child can maintain his or her cultural identity.²⁹⁴ States must also take specific measures to ensure that adoptive parents are aware of how to protect and preserve the child's identity. This may include, for example, cultural training for the adoptive parents.²⁹⁵

In 1984, a Chilean sociologist visited Sweden to investigate the situation of Chilean children in Sweden. In his report, he wrote that several families he visited had expressed a desire for more information about Chile. He wrote that since many of the children were Mapuche, several families requested specific information about this ethnic group. According to the report, the AC needed to make an effort to meet the request, for example by asking the Latin American Institute to organize lectures on the various minorities in Chile, instructing the AC representative in Chile to collect information and purchasing books on the Mapuche.

Despite adoptive parents asking for more knowledge, the responsible Swedish actors did not take any awareness-raising measures, nor can we see any awareness of these children's right to their language: mapudungun.

4.7.12 Processing of Swedish adoption decisions and Swedish citizenship

In the sample of files from Chile that we examined, it took an average of seven months from the child's arrival in Sweden to a decision on adoption by a Swedish court. However, this varies from one month to almost 16 months. Since the Chilean court decided to transfer custody of the child, the prospective adoptive parents were the guardians of the child during this time.

²⁹⁴Ombudsman for Children. *Committee on the Rights of the Child General Comment No. 11 (2009) Children belonging to indigenous peoples and their rights under the Convention*. Translation December 2012, p. 48.

²⁹⁵J. Tobin (2019), *The UN Convention on the Rights of the Child. A Commentary*, p. 804 f.

²⁹⁶Report on the visit to Sweden by Francisco J. Pilotti, sociologist from Chile, dated July 31, 1984, U-68 83/84 R 34.

On average, the child has acquired Swedish citizenship one year after arrival in Sweden

Information on when the child became a Swedish citizen was found in 30 percent of the files we reviewed. It took an average of one year before the child acquired Swedish citizenship. However, the time varies from just over two months to almost four years. One of our interviewees said that he or she came to Sweden at the age of three months but obtained Swedish citizenship only at the age of 11. The adoptive parents discovered that the child lacked Swedish citizenship when they were about to travel abroad and needed to apply for a passport for the child.

4.7.13 The adoption authority has not audited the activities - neither while it was ongoing nor afterwards

The NIA never traveled to Chile during the period when adoptions from Chile mainly took place. Although the NIA was not responsible for supervising adoption agencies until 1979, its tasks included monitoring international developments in the field and processing applications for the adoption of foreign children. The NIA made several trips to other countries in the 1970s. However, the NIA did not travel to Chile in connection with the police investigations into AC's activities in the 1970s. Neither did the NIA travel to Chile after it was given supervisory responsibility, despite information that Swedish missionaries were arranging adoptions from Chile in violation of the prohibition on brokering, extensive trafficking in children and that Swedish parents were registered as biological parents of Chilean children.

In the early 2000s, AC and NIA received information about irregularities in adoptions from Chile

It has been reported in the media that an adoptee called AC as early as 2000 to inform that her Chilean mother had told her that she had been stolen.²⁹⁷ In the summer of 2003, the journalist Ana María Olivares contacted NIA. She informed that she was doing an investigation on intercountry adoptions from Chile and wanted to get information about the children adopted to Sweden. She wrote to us

²⁹⁷SVT. UG reference: *De stulna barnen*, published 2021-06-16.

dare that she had a lot of information that she wanted to share with the NIA. In its reply, the NIA provided general information and referred AC to more specific questions.²⁹⁸ The NIA informed AC of the contact.²⁹⁹ Later that year, Olivares and Pablo Soto published a paper based on testimonies from mothers who had reported the disappearance of their children during the dictatorship. The paper described a network of people who took children from their mothers in various ways and then took the children out of Chile. It was not about individual cases but a pattern.³⁰⁰ AC received the paper in November 2003³⁰¹ and parts of the paper were published in the Chilean newspaper *Siete* in December 2003.³⁰² AC translated the paper and then carried out an internal investigation of the activities in Chile, where they concluded that no errors had been committed.³⁰³ From the archive material we cannot see that the paper was discussed in the NIA's board and there is nothing in the NIA's annual report for 2003. On the other hand, the records show that a translated copy of the article in *Siete* was received by the NIA in March 2004.³⁰⁴

The NIA thus remained passive to the information about irregularities in Chile. This was despite the fact that the issue of irregularities in international adoption activities was highly topical at the agency. In 2003, the NIA was allocated SEK 100,000 by the government to help adoptees from Thailand to trace their origins. The background to this was that in 2002 there had been reports on TV and radio of irregularities in adoptions from Thailand between 1974 and 1978.

²⁹⁸ NIA. E-mail from Ana María Olivares to the NIA of July 8, 2003, ref. 72:278:1/03 and 72:278:4/03.

²⁹⁹ NIA. E-mail from the NIA to the AC of July 8, 2003, ref. 72:278:2/03 and 72:278:03/03.

⁽³⁰⁰⁾ A. M. Olivares and P. Soto (2003), *Adopciones internacionales: ¿un acto de amor? Centro de Adopción Sueco en Chile (19/3-1992)*.

³⁰¹ L. Wool-Rim Sjöblom (2022), p. 33 ff.

³⁰² AC. *Memo on the activities of the Adoption Center in Chile*. 2004-03-11.

³⁰³ AC. *Memorandum on the activities of the Adoption Center in Chile*. 2004-03-11 and *Comments on individual statements in the paper (2004 - Ana María Olivares and Pablo Soto)*, received by MFoF on August 23, 2016, dnr 1103.6:256:11/15.

³⁰⁴ MIA. Translation of an article in the Chilean newspaper *Siete* published on 2004-01-09, received by the MIA on March 8, 2004, ref. 69:771/04.

MFoF assessed that they had no mandate to investigate historical irregularities

In 2015, the organization Nos Buscamos contacted the Swedish Embassy in Chile and informed them that they had ten family reunifications, all of which were illegal adoptions, for example, one woman reported that the doctor told her that her child had died and that she never saw the body or received any papers. Nos Buscamos also had contact with 10 to 15 people in Sweden who needed help from the right authority in Sweden to investigate their adoptions.³⁰⁵ The Embassy referred to MFoF who initiated a dialogue with the relevant authorities and NGOs in Chile. However, the MFoF was clear that it did not have a mandate to investigate information about historical irregularities.

In 2018, SVT, in collaboration with Chilean television, broadcast a report showing how children in the 1970s and 1980s may have been taken without their mothers' consent for adoption. SVT had been in contact with 25 adults in Sweden who had been adopted from Chile. In 16 of these cases, there were indications that the adoption had not been carried out correctly. Either through contradictory information in the documents or through testimony and information from the relatives in Chile. In five of the cases, there was information from mothers or close relatives who claimed that their children were taken from them against their will. In all cases, the AC had mediated the adoptions.³⁰⁶ The MFoF's supervision report on the AC in 2018 states that adoptees had contacted the MFoF and stated that they did not trust the AC as an organization. This was partly due to the information about irregularities that had come to light and partly due to the way the AC had acted and communicated.³⁰⁷ In May 2018, MFoF visited Chile to initiate a dialogue with the Chilean central authority with the aim of ensuring that adopted persons seeking their origin had access to as much information as possible.⁽³⁰⁸⁾ In the autumn of 2018, the AC requested that MFoF initiate a supervision to clarify whether the AC had complied with the applicable rules for adoption during the period in question. The MFoF replied that its supervision is about

³⁰⁵Ministry of Foreign Affairs, e-mail from the Swedish Embassy in Chile to the Ministry of Foreign Affairs, November 26, 2015, dnr AD 3.6:256:1/15.

³⁰⁶SVT News. *Sweden at the center of illegal adoptions involving Chilean children*. Published 2018-01-29.

³⁰⁷MFoF. *Supervision report 2018, May 22, 2018*, dnr 3.3.6:17/18, dnr 3.3.6:17/18, dnr 3.3.6:58/18.

³⁰⁸MFoF. *Travel report - Chile, May -9, 2018*, 2018-06-05, dnr 4.2.2:1043/17.

assessing current brokerage activities, not investigating past conditions.³⁰⁹

In 2021, SVT's Uppdrag granskning again took up adoptions from Chile in two investigation programs "De stulna barnen". DN's investigative series, which began publication in February 2021, further deepened the reporting.³¹⁰ In 2022, the MFoF again traveled to Chile. The purpose of the trip was to inform about and facilitate the implementation of three ongoing missions: to help internationally adopted persons in Sweden to search for their origin, to provide adoption-specific counseling and to be the national contact point for those seeking information about irregularities in international adoptions. MFoF also wanted to know how the Chilean criminal investigation was progressing³¹¹.

³⁰⁹ MFoF. *Request for supervision*. 2018-10-05, dnr 3.38:658/18.

³¹⁰ Dagens Nyheter. *Children at all costs*.

³¹¹ MFoF. *Travel report Chile*. 22 June 2022, dnr 2022:394.

5 Irregularities in adoption activities in Colombia

5.1 The mission

The purpose of the investigation assignment is, among other things, to clarify the occurrence of possible irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to possible irregularities based on the responsibilities and roles of each actor.

Colombia is the third largest country of origin for adoptions to Sweden. It has been operating from 1972 to the present day. The majority of adoptions from Colombia took place in the 1970s and 1990s.

The Adoption Center (AC) still has placement activities in the country. Our review of adoptions from Colombia included documentation from authorities and the three adoption agencies that were involved in adoption mediation in the country and interviews with these actors. We also interviewed people adopted from Colombia. During a visit to Colombia in the fall of 2022, we also interviewed a number of birth parents. In addition, 101 adoption files for adoptions mediated by AC and the adoption association La Casa during the period 1973-2021 have been reviewed. Adoptions from Colombia have also been reviewed by other countries that have received children from the country and we have taken note of the observations made in these reviews. We have also had an exchange with the Norwegian inquiry into adoption activities in Colombia.

5.2 Assessment

The investigator's assessment: The investigation shows that there have been irregularities in Colombia's adoption activities. These include trafficking in children and inadequate documentation of the children's background and how the children became available for adoption. Swedish actors have taken great risks by operating in Colombia, not least by paying high donation and care fees to private orphanages. Swedish authorities and organizations have accepted procedures that have made it difficult and in some cases impossible to assess whether an adoption is in the best interests of the child.

In particular, we have noted the following during our audit.

- Private adoptions to Sweden were part of the trafficking of children uncovered in Colombia in 1981. It is unclear how many Swedish adoptions were involved, but unconfirmed reports put the figure at around 20 children.
- The Swedish adoption organizations that have cooperated with private orphanages in Colombia have paid high donation and care fees to the orphanages. The orphanages have also had maternity homes as part of their activities, which has increased the risks of children were given up for adoption under false pretences
- There are shortcomings in the documentation of how children were assessed to be in need of international adoption and how and why the children became available for adoption. This applies in particular to the early adoptions from Colombia. It is not always clear which actor has assessed that the child is available for adoption and it is unusual for it to be stated in the file that a national solution was sought for the child before international adoption. Swedish actors have therefore not sufficiently ensured that the adoption was in the best interests of the child. The lack of information has consequences for adopted persons' right to their identity and origin.
- There is often no documented consent from the child's mother. Sometimes the social report states that the mother has given consent without there being a signed consent document in the file. Where there is a specific consent document

document, it is often stated that the consent relates to adoption, but it is very rare that it is stated that the consent relates to intercountry adoption.

- In many cases, children have come to Sweden without a final Colombian adoption decision. Sometimes it has taken a long time before a final adoption decision was made in Colombia. This was particularly common in the 1970s and 1980s. The child's legal status could therefore have been uncertain for too long. In several cases, adoption decisions were made in Sweden while awaiting the final adoption decision in order to give the child legal parents. The problem diminished after 1989 when Colombia tightened its legislation.
- In one case, a child whose mother was killed in the armed conflict in the country was adopted to Sweden, and the responsible actors in Colombia did not adequately investigate whether there were any remaining relatives who could take care of the child. The case highlights the risks involved in carrying out adoptions from countries in conflict or disaster situations.
- The proposed cooperation agreement between Sweden and Colombia, developed in the mid-1980s with the aim of strengthening the regulation of private adoptions and reducing the risk of irregularities, was rejected by the AC on the grounds that it would adversely affect their intermediation activities. The government or the NIA did not subsequently proceed with the agreement.
- The Swedish supervisory authority, despite being aware of abuses concerning child trafficking and information about the problems associated with high donation and adoption fees to private orphanages and maternity homes, has not acted sufficiently. In the case of donation fees, the Authority did not act at all and continued to approve the fees despite stricter regulation and increased fees. The supervisory authority also did not sufficiently follow up on information to take action or ensure that proposed measures were effective.

5.3 Sweden's adoption activities in Colombia

Colombia is Sweden's third largest adoption country with a total of approximately 5,700 completed adoptions from 1973 until today. Adoptions have been carried out continuously throughout the period. The absolute majority of adoptions were carried out in the 1980s (over 40 percent) and 1990s (30 percent).

Table 5.1 shows the total number of adoptions from Colombia to Sweden per year 1973-2024.

Table 5.1 Number of adoptions from Colombia per year, 1973-2024

Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of
1973	36	1983	233	1993	200	2003	90	2013	22	2023	7
1974	60	1984	249	1994	164	2004	71	2014	21	2024	3
1975	31	1985	320	1995	157	2005	54	2015	23		
1976	40	1986	289	1996	136	2006	47	2016	18		
1977	108	1987	276	1997	107	2007	39	2017	23		
1978	121	1988	232	1998	90	2008	41	2018	21		
1979	203	1989	175	1999	109	2009	50	2019	17		
1980	252	1990	186	2000	110	2010	71	2020	2		
1981	199	1991	188	2001	138	2011	79	2021	7		
1982	194	1992	225	2002	122	2012	40	2022	9		

Statistics from Statistics Sweden showing children born outside the Nordic countries who immigrated for the purpose of adoption. This includes children adopted both via adoption organizations and via individual adoptions.

Source: MFoF.

The total number of intercountry adoptions from Colombia, according to statistics from the Colombian authority Instituto Colombiano de Bienestar Familiar (ICBF), amounts to approximately 51,000 for the period 1997-2021.¹ However, this figure is estimated to be on the low side.² In an interview with representatives of the ICBF central office, the number of adoptions from Colombia was estimated to be approximately 100,000.³ The share of national adoptions in the total number of adoptions is relatively low in comparison with other countries - 52% for 2019.⁴

¹Swedish Foundation for Human Rights and Plan Angel (2022), *Report about irregular inter-country adoptions of Colombian children linked to the armed conflict*, pp. 29-30.

²Meeting with representatives of Plan Angel on 2022-11-25 and meeting with representatives of the MR Fund on 2022-11-30.

³ Meeting with representatives of the ICBF central office in Bogotá on 2022-10-31.

⁴State Treasury (2021), *Organization of international adoption activities*.

Private adoptions

There is no overview of the number of private and individual adoptions from Colombia to Sweden over time. If the adoptions carried out through authorized organizations are excluded from the total number of adoptions from Colombia, it appears that approximately 500 private and individual adoptions have been carried out during the period 1973-2023, which corresponds to approximately 10 percent of the total number of adoptions from Colombia. There are no statistics before 1973.

During the period 1976-1984, the National Board for Intercountry Adoption (NIA) monitored the number of adoptions by country of adoption that did not go through an authorized organization.⁵ Approximately 70 percent of private adoptions from Colombia took place during this period. However, the statistics have been recorded in different ways and it is unclear whether they are comparable between years. The NIA reported in 1981 that the majority of privately arranged adoptions came from the orphanage La Casa de la Madre y el Niño.⁶ The number and proportion of private adoptions from Colombia in the period 1976-1984 are shown in Table 5.2.

Table 5.2 Number and proportion of private adoptions from Colombia 1976-1984

Year	Number of	Andel	Year	Number of	Andel
1976	29	56 %	1981	43	22 %
1977	40	37 %	1982	34	18 %
1978	53	44 %	1983	27	12 %
1979	40	20 %	1984	12	5 %
1980	74	29 %			

Note: Private adoptions are those that did not go through an authorized organization or NIA. Percentage refers to the number of private adoptions out of the total number of adoptions from Colombia per year.
Source: NIA.

⁵NIA, statistics according to data from RSV on children under 10 years of age who immigrated for the purpose of adoption 1976-1978, statistics compiled 1980-09-11 on foreign prospective adoptive children reported after the time of church registration, report to NIA meeting 84-06-20 and NIA-meeting 85-02-27.
⁶NIA, Report of visit to Bogotá, Colombia 1981-05-31-06-03.

5.4 Background on international adoptions from Colombia

5.4.1 Protracted armed conflict and large social gaps⁷

Since the Second World War, Colombia has been characterized by major social problems and contradictions, making it one of the most violent countries in the world with widespread human rights violations. In the 1960s, armed guerrilla movements emerged and in the 1970s several drug cartels were established, gaining political, social and economic influence. From the late 1980s, a peace process with the guerrillas began, paving the way for political reforms and the democratization of the country. However, it took until 2016 for the majority of guerrilla groups to endorse the peace agreement. Some groups still engage in armed activities today. According to a Colombian government investigation, 260 000 people have been killed in the half-century-long civil war. Violence remains a problem in society and social tensions are high. A truth commission was set up in 2016 to clarify what happened and lay the foundations for peaceful coexistence. The commission published its report in 2022.⁸ One of the interim reports describes the situation of Colombians in exile, including the group of adoptees.⁹

Welfare in Colombia has been and remains unevenly distributed, and the gap between rich and poor is among the largest in the world. There has been extensive migration from the countryside to the big cities and many poor people live in shanty towns on the outskirts of the big cities. These areas are characterized by high unemployment and overcrowding. Many people live in unstable conditions and domestic violence is common⁽¹⁰⁾.

According to one estimate, around 75% of the population is Catholic. The Catholic Church has a strong position in society, not least on moral and social issues. A previous total ban on abortion was relaxed in 2006 and in 2022 abortion was decriminalized up to the 24th week of pregnancy. Opposition from conservative

⁷This section is based on the Swedish Institute of International Affairs' country guide, <https://www.ui.se/landguiden/lander-och-omraden/sydamerika/colombia/> retrieved 2024-02-29 unless otherwise stated.

⁸Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (2022). *Hay futuro si hay verdad - Informe Final. La Colombia fuera de Colombia. Las verdades del exilio.*

⁹ Meeting with representatives of the Colombian Truth Commission, 2022-11-02.

¹⁰Hoelgaard, S. (1998), *Cultural determinants of adoption policy - a Colombian Case Study*, International Journal of Law, Policy and the Family 12, pp. 206-208.

However, the Catholic Church remains an obstacle to abortion.

Taken together, these factors have contributed to children being taken into care or abandoned.

5.4.2 Adoption - from family affair to state child protection measure¹¹

For a long time, adoption was a private arrangement based on informal contracts. Orphans and abandoned children were cared for locally by family, church or private charities.

During the 1960s, the state health and welfare system was built up in Colombia, and adoption began to be used as a more systematic child protection measure. A special department for child protection was set up within the Ministry of Justice, which also included a special adoption unit. A central authority for family protection - ICBF - was established in 1968.

These changes transferred responsibility for orphans and abandoned children to the state.

State adoption activities for abandoned and institutionalized children were subsequently expanded by licensing private orphanages (casas) to support adoption activities. The government agency also established contacts with Western adoption organizations to promote the placement of Colombian children abroad.

In 1968, the number of adoptions (both national and international) was around 100, by 1974 it had increased to over 800 and peaked in 1981 with 3 900 adoptions when the adoption program was established. The share of foreign adoptions in the total number of adoptions increased sharply during the 1980s.

In 1991, the number of foreign adoptions amounted to almost 2 300 adoptions. The private orphanages have mediated adoptions to foreign families to a greater extent than the state orphanages. In 1994, 93% of the total number of mediated adoptions from private orphanages were

¹¹The section is based on Hoelgaard, S. (1998), pp. 202-209, 240-241.

foreign adoptions. The corresponding figure for state orphanages was 57%.

5.5 Actors, regulation and the Swedish adoption process in Colombia

5.5.1 Swedish adoption organizations that have been active in the country

Three Swedish adoption organizations have been active in Colombia. The Adoption Center (AC) started its activities in 1972 and is still active in the country. The Family Federation for International Adoption (FFIA) was active from 2000-2014 and the Adoption Association La Casa from 1997-2015. The Swedish organizations have cooperated with the state authority Instituto Colombiano de Bienestar Familiar (ICBF) and with all licensed private orphanages in the country.

Adoption Center (AC)

AC has been active in Colombia since 1972. They established early contact with the (ICBF) in Colombia. In the 1980s, AC was invited by ICBF to visit ICBF's regional offices in the country and report on their activities. Contacts were established in some 20 cities in different parts of the country. At its peak, AC worked with 24 contacts in 17 cities. As the business grew, AC engaged more staff for day-to-day contacts with the ICBF regional offices and to assist adoptive parents. Interpreters were engaged in the major cities as well as lawyers for the court procedure. AC has worked with all authorized private orphanages in Colombia. They have had several contact persons in the country. The current contact person has worked for AC since 1980¹².

By 2024, AC had placed a total of 5 006 children from Colombia. The most children were placed in 1985¹³

¹²A-C Gudmundsson et al (2015) *Adopted from another country. On cooperation with children's countries of origin*, pp. 274-282 and meeting with AC 2022-09-08.

¹³Adoption Center, Number of mediated adoptions by country 1970-2018
<https://www.adoptionscentrum.se/app/uploads/2023/01/1970-2018-antal-adoptioner-per->

Family Federation for International Adoption (FFIA)

FFIA started working with Colombia in 2000. They were active in the country until 2014, when FFIA decided to discontinue all its mediation activities. In total, 70 children have been placed through FFIA. The highest numbers of children were placed in 2002, 2005 and 2010. Initially, two children came from a private orphanage (La Casa de Maria y el Niño), but after that FFIA only cooperated directly with ICBF. The children came through ICBF's various regional offices in the country and had usually been cared for in foster homes before being adopted. FFIA had one or more representatives in Bogotá who were responsible for contact with ICBF centrally and locally and for all organization related to the implementation of the adoption. Sometimes the representative traveled with the adoptive family to the region¹⁴.

La Casa Adoption Association

La Casa Adoption Association operated in Colombia from 1997 to 2015, facilitating adoptions from the La Casa de la Madre y el Niño orphanage in Bogotá. The association was founded by parents who had adopted on their own from Colombia. La Casa has only mediated adoptions from the orphanage La Casa de la Madre y el Niño. There is no exact figure for the number of children placed through La Casa, but people involved in the association estimate that it amounts to a few hundred children in total¹⁵.

5.5.2 The role of Swedish authorities in adoptions from Colombia

The first formal contacts are made with Colombia in 1969

The first explorations of the possibilities of establishing organized adoption activities from Colombia were made in 1969 when the Social Child and Youth Welfare Office at the National Board of Health and Welfare sent a request to the Ministry for Foreign Affairs for help in investigating the prerequisites

utlandskontakt.pdf and number of adoptions per month and country 2019-2024 and Statistics - Adoption center, retrieved 2025-03-25.

¹⁴Meeting with FFIA's former head of operations, 2022-09-19 and <http://www.ffia.se/laender/landoeversikt/colombia.aspx>.

¹⁵Meeting with former employees of the Adoption Association La Casa on September 26, 2022.

the conditions for adoption activities. Attached was a memorandum prepared by the Ministry of Social Affairs which briefly described the conditions for adoption from Colombia. It stated that there appeared to be no obstacles for foreigners to adopt Colombian children. A lawyer had to present the adoption case to a civil judge and an adoption document was issued. The adoption could take about three months and cost about 3 000 pesos (1 000 crowns). There were several homes for orphans¹⁶

The Swedish Embassy in Bogotá returned to the National Board of Health and Welfare with a statement from the responsible authority in Colombia. The statement stated that the ICBF was "particularly interested in starting a large adoption campaign" and that one of their objectives was adoption. ICBF stated that it was pleased that other countries were willing to adopt Colombian children and that it was confident that the children selected for adoption would have many advantages. ICBF commented on some of the questions raised by the Embassy. These included the fact that the ICBF understood that the Swedish side preferred orphans. The ICBF emphasized that the major problem was instead those children who had been abandoned by their parents and who had no family, and they recommended that these children be adopted. The ICBF went on to explain the rules in force and referred to a number of institutions (orphanages) in Colombia that could be contacted, including La Casa de la Madre y el Niño in Bogotá. The ICBF went on to say that "the adopted child may leave the country with his or her future parents without the adoption being finalized, but in that case the institution should give its consent on condition that the case is closed in the best interests of the child."¹⁷

Swedish authorities

The National Board for Intercountry Adoption (NIA), the Agency for Intercountry Adoption (MIA) and the Agency for Family Law and Parental Support (MFoF) have granted authorization for the organizations' activities in Colombia. They have also exercised supervision over the activities.

¹⁶ National Board of Health and Welfare, submitted to the Ministry of Foreign Affairs on July 3, 1969, No. R34, Vco, 225:36.

¹⁷ Swedish Embassy in Bogotá, submitted to the Ministry of Foreign Affairs 1969-11-11, dnr R34, Vco, 10:249.

The Swedish Embassy in Bogotá has issued passports for the children adopted to Sweden. The Embassy has also provided information in connection with changes in regulations and processes and when information has emerged about irregularities in Colombian adoption activities, and has participated in meetings on cooperation agreements.

Until 1998, adoption decisions were made in Colombia and approved by the NIA. During the 1980s, however, in several cases decisions were also made in Swedish courts because the final adoption decision from Colombia was delayed or did not arrive at all. From 1998, after Colombia ratified the 1993 Hague Convention, the Colombian adoption decision was automatically recognized in Sweden.

5.5.3 Stakeholders in Colombia

Instituto Colombiano de Bienestar Familiar (ICBF)

In 1968, the Colombian State Institute for Family Welfare - Instituto Colombiano de Bienestar Familiar (ICBF) was established.

The ICBF is responsible for all child and family-related matters in the country, including adoption (national and international adoption) and is the central authority under the Hague Convention. The ICBF has been under the Ministry of Social Affairs since 2011, before that it was under the Ministry of Justice. The ICBF issues guidelines for adoption activities and supervises both orphanages and foreign adoption organizations through a licensing procedure.

The agency operates at national, regional and local levels, with 33 regional offices and 215 local centers throughout the country. Bogotá is home to the ICBF's central unit for adoption activities in the country. They handle all adoption applications and distribute adoption cases among the local ICBF offices. It is the local ICBF that decides on the appropriate family for each child from the applications received from the ICBF central unit. The ICBF can place a child in a foster home or in an institution (state or private orphanage). In the first instance, the child should be placed in a foster home.¹⁸ Foster homes often have several children and are paid per child.

¹⁸Article 59 of Law 1098 of 2006.

Private Orphanages (Institucion Autorizada para desarrollar el Programa de Adopciones)

In Colombia, private orphanages play an important role in the international adoption process. The orphanages are called "Institucion Autorizada para desarrollar el Programa de Adopciones", IAPA. They are licensed by the ICBF and carry out various activities on behalf of the ICBF within the adoption program and the international adoption work. The orphanages have had maternity homes linked to their activities.

In total, eight orphanages have been licensed by ICBF over time. They are: FANA (founded in 1972 in Bogotá), CRAN (founded in 1979 in Bogotá, their first collaboration was with AC), Ayúdame (started in 1977 in Bogotá, AC started collaborating in 1980), Los Pisingos (started in 1968 in Bogotá, AC became the first collaborating organization in 1979 and the largest recipient of children), Chiquitines (founded in 1978 in Cali), Casita Nicolás (founded in 1978 in Medellin), Casa de Maria y el Niño (founded in 1980 in Medellin) and La Casa de la Madre y el Niño (founded in 1942 in Bogotá, cooperated with La Casa association).¹⁹

Initially, orphanages managed much of the adoption process themselves. From 1981 onwards, governance was tightened and ICBF took on a more prominent role in adoptions and in relation to orphanages. In the early 2000s, ICBF started placing children in private orphanages. The ICBF pays a care fee but, according to the orphanages, this does not cover the full cost of the placement. The orphanages are therefore dependent on the income generated by donations and partnerships with the private sector⁽²⁰⁾.

Courts of law

Family courts in different parts of the country make adoption decisions. Until 1989, the court made decisions in two stages, the final adoption decision often being made when the child was in their new country of origin. This changed with the new law in 1989 and the court now makes its decision before the child leaves Colombia.

¹⁹ A-C Gudmundsson et al (2015), pp. 280-281.

²⁰ Meeting with the directors of the CRAN and Chiquitines orphanages on 2022-11-01 and 2022-11-03.

5.5.4 Regulation before 1975 - adoption is a civil law contract without state intervention

The first regulation of adoption is found in the Colombian Civil Code of 1887.²¹ From 1960, adoptions were regulated in a specific chapter of the Code.²² However, there was no specific regulation for inter-country adoptions in the Civil Code. Before 1975, an adoption could be approved by a notary without control by any state actor. If the parents wanted to give their child up for adoption, this could be arranged administratively by a notary, with or without a lawyer. The child could then be registered under a new name at the registry office. It was a civil law contract that could be canceled by the parties. Adoptions were not centrally documented, as they were still subject to private law and there was no state control. The documentation of the adoption was kept in notary offices around Colombia²³.

There were two different types of adoption: strong and weak adoption. A strong adoption meant that all legal ties to the biological parents ended. In weak adoptions, the child sometimes kept one of the biological parents' two surnames and had only limited rights of inheritance from the adoptive parents. This difference remained until 1989.

Adoptions approved by notaries have never been recognized or approved by Swedish authorities, but the adopters have been referred to apply for adoption before a Swedish court. It is not known, however, whether the courts have considered themselves able to accept the information in such documents on the basis of the Swedish law's requirement for consent to adoption and an investigation into the child's background²⁴.

²¹ Colombian civil code, 1887, lag 57.

²² Law 140 of 1960.

²³ Committee on the Investigation of Inter- country Adoption (2021).

(²⁴) O. Hellberg (1988), *Recognition of international adoption decisions*, p. 74 f.

5.5.5 1975 rules for international adoption are introduced

In 1975 a new Adoption Act came into force which also regulated inter-country adoption.²⁵ There were still two forms of adoption: weak and strong adoption. A legal distinction was made between the administrative and the judicial adoption procedure. The administrative procedure, handled by the ICBF, required a declaration of abandonment of the child, the absence of information about the child's parents or the existence of parental consent to adoption. The legal procedure involved a court making a decision on the adoption. The consent of the mother alone was no longer sufficient for adoption, but it was also required that the ICBF had assessed that the child was available for adoption. Adoptive parents living abroad had to come to Colombia and appear in person at the ICBF or in court²⁶.

From 1981 onwards, children could only be placed for adoption through the ICBF. Previously, individual applicants had been able to contact the ICBF regional office directly, but now all applicants had to go through the ICBF centrally. Applications were then sent to the ICBF regional office for approval and then to the local family court. The ICBF also authorized private orphanages to carry out adoption activities. However, applications to the private institutions could still be sent directly to the authorized private institutions. Orphanages initially accepted children from all over the country, but in the mid-1980s it became illegal to move children from one region to another.²⁷ Found abandoned children were handed over to the ICBF, which tried to trace relatives by advertising in newspapers and searching residential areas. Other children were handed over directly by the mother to the ICBF or to an orphanage. If no one visited or asked about the child, ICBF could declare the child officially abandoned and an adoptive family would be appointed.²⁸ ICBF had three months to investigate the child's situation, did not search the child's entire network, and the adoption process was very quick.

The court took a two-step decision: in the first step, the court approved the adoption application and the documents for the child. The ICBF issued a

²⁵ Act 5 of 1975.

²⁶ Letter from the Swedish Embassy in Bogotá 1976-02-25 with information about the new law.

²⁷ A-C Gudmundsson et al (2015) p. 276.

²⁸ Meeting with representatives of the ICBF regional office in Cali on 04/11/2022.

permit for the child to travel to Sweden. The second step, the adoption decision itself, was taken in court when the child was often in his or her new home country. The child's birth certificate was changed and the child was registered with the surname of the new parents. The NIA approved the adoption.

Sometimes it could take several years before the adoption order was sent from Colombia even though the adoption had been completed. It also happened that the judgments were archived and never sent to Sweden. In the absence of an adoption decision that could be recognized in Sweden, the child's legal status was uncertain and the adoptive parents could not apply for Swedish citizenship for the child. To solve this problem and give the child legal parents, the adoptive parents applied for adoption in Swedish courts instead of waiting for Swedish approval of the Colombian order²⁹.

5.5.6 From 1989, the rights of the child in the adoption process are strengthened

In 1989, the Minors' Code (Código del menor) came into force and the 1975 Adoption Act was repealed. The focus shifted from the rights of the original family to the rights of the child. Weak adoption was abolished and only strong adoption became possible. Adoption was defined as a protective measure. The mother's consent to adoption could only be given after the birth and the mother could withdraw her consent within one month of giving it. All adoptions had to be done through authorized agents, both in Colombia and in the receiving country. The adoption process included an administrative process where the ICBF investigated the child's background and a legal process where the court decided whether the child could be adopted.

The law was supplemented in 1994 with new guidelines, including that children under the age of 18 must be declared abandoned in order to be adopted, or alternatively, the parents or defensor de familia must have consented to the adoption (Art. 92). Consent to adoption from those with parental responsibility had to be given in person to the defensor de familia, who would provide information on what adoption entailed³⁰.

²⁹ A-C Gudmundsson et al (2015) p. 279 and NIA 42:18/84.

⁽³⁰⁾ (Resolución No. 1267 of 1994), Articles 92 and 94.

Unlike before, the final adoption decision would also have to be approved by the court before the child left Colombia³¹.

Under the law, neither the ICBF nor the private institutions were entitled to claim direct or indirect compensation for a child. The same provision stipulates that parents cannot be compensated for handing over children for adoption and that they cannot be pressured to give their consent to adoption. For the authorization of private institutions, it was assumed that the institutions were not operated for profit and that they were under the control of the authorities. The ICBF could demand full access to the institutions' accounts, archives and documents, and also have a representative on the institutions' boards.³²

Colombia ratified the Convention on the Rights of the Child in 1991 and the Optional Protocol on the sale of children, child prostitution and child pornography in 2003. In 1993 Colombia signed the 1993 Hague Convention and the Convention was ratified in July 1998. It entered into force in Colombian law on November 1, 1998.

5.5.7 From 2006, stricter consent requirements and a ban on donations to private orphanages

In 2006, legislation was further tightened regarding both national and international adoptions. The law on minors was repealed and replaced by the Children and Adolescents Code (Código de la Infancia y la Adolescencia).³³ Following a 2003 ruling by the Colombian Supreme Court, the requirements for informed consent in adoption were tightened and community support for single mothers was to be strengthened. The background was a case where the mother had given her consent shortly after giving birth, but regretted her decision shortly afterwards. By then, the child had already been adopted by a foreign couple. Another change was that expectant mothers under the age of 18 could no longer be admitted to the maternity homes run by the private orphanages. Instead, they would receive support and assistance through various ICBF programs.³⁴ Rules on donations to orphanages were also tightened. There was a total ban on donations from foreign persons or institutions to Colombian orphanages as compensation for the adoption of children, adoptive

³¹ Letter from the Swedish Embassy in Bogotá to NIA 1990-11-01.

³² Código del Menor, No 2737 of November 27, 1989, Articles 120, 125 and 127.

³³ Law 1098 of 2006.

³⁴ MIA, Report of the MIA inspection mission to Colombia, March 15-24, 2006, ref. 74:19:40/06.

parents could no longer make a donation to the orphanage before the adoption.³⁵

The adoption process still consists of the administrative process managed by the ICBF and the legal process which takes place in court. The administrative process can last a maximum of 18 months and should lead to a decision on whether the child can be returned to the biological family or whether the child is available for adoption.³⁶ The investigation is carried out by the ICBF and the private orphanages, which have special adoption committees consisting of a representative of the ICBF, the director of the orphanage, a social worker and a psychologist. private orphanages.³⁸ If the child's parents do not agree with the decision, it is the court that decides whether the decision is right. The court collects evidence, visits the family and talks to the child. This is part of the administrative process. In the judicial process, the court checks the investigation of the child and that the adoptive parents meet the requirements of Colombian law. The parents are given custody of the child for a probationary period of two to three weeks before the court decides on the adoption.³⁹ Once the adoption decision has become final, a certificate is issued proving that the adoption has been completed in accordance with the 1993 Hague Convention. The child's new surname is entered in the civil register of the city where the child was previously registered, which is usually the child's city of birth. The child is issued with a Colombian passport in the city where the child is adopted. The adoptive parents then apply for a Swedish passport at the Swedish Embassy in Bogotá⁴⁰.

According to a precedent-setting decision of the Constitutional Court in 2013 concerning children of parents who lost legal custody of their child, the ICBF was required to search for sixth-degree relatives before the child could be declared available for adoption.⁴¹ As this led to very lengthy investigations and children remaining in institutions, the requirement was changed in 2016 to search for fourth-degree relatives. In 2013, foreign applicants for adoption were required to be open to children with special needs

³⁵ Article 74 Law 1098 of 2006.

³⁶ Meeting with representatives of the ICBF Regional Office in Cali on 2022-11-04.

³⁷ Article 73 Law 1098 of 2006.

³⁸ Meeting with representatives of the Chiquitines orphanage in Cali 2022-11-03.

³⁹ Meeting with judges from the Family Court de la Mesa on 2022-11-02.

⁴⁰ MIA, Report of the MIA mission to Colombia, May 22-31, 2013.

⁴¹ MIA, Report of the MIA mission to Colombia, May 22-31, 2013.

(Resolución 4274). This was due to the fact that the needs of the children being considered for adoption were different than before. The requirements for applicants have also been tightened⁴²

5.6 General information on irregularities in Colombian adoption activities

There have been reports of irregularities in Colombia ever since intercountry adoptions increased in number in the second half of the 1970s. There have been a few audits in Colombia of intercountry adoption activities. There have also been reviews in the Colombian media and there are examples of criminal investigations and court cases concerning irregularities in intercountry adoption. The Dutch Commission of Inquiry examined adoptions from Colombia and found that there were various types of irregularities in the Dutch adoptions.⁴³ The French inquiry has also reported on irregularities in Colombia.⁴⁴ In January 2025, an interim report from the Norwegian inquiry was published, which describes, among other things, irregularities in the Norwegian adoption activities in Colombia.⁴⁵

In this section, we review the general findings on irregularities in international adoptions from Colombia.

5.6.1 Widespread corruption and illegal adoptions

Corruption in Colombia is a widespread problem in society. Various factors have contributed to this, including the drug trade, the armed conflict, weak government regulation and oversight, and ineffective law enforcement. A high level of corruption may indicate that there is also a risk of low legal certainty in the country's adoption system, although this is not necessarily the case.

⁴² Information from AC 2024-06-24.

⁴³ Committee on the Investigation of Inter- country Adoption (2021).

⁴⁴ Gouvernement, *Mission interministérielle relative aux pratiques illicites dans l'adoption internationale en France, Rapport définitif*, Octobre 2023.

⁴⁵ Intercountry Adoption Review Committee. Interim report on Ecuador and Colombia 2025-01-22.

⁴⁶ State Treasury (2021), p. 83.

descriptions that corruption in the country is widespread.⁴⁷ Despite well-developed adoption legislation, there is a risk of irregularities even in the international adoption business as a result of the widespread corruption.⁴⁸

A background report to the Colombian Truth Commission describes that the growing interest in international adoptions from Colombia in the 1970s contributed to an increase in the availability of children for adoption. Lack of state control, coupled with armed conflict, favored the growth of an adoption market and thus illegal adoptions. Economic incentives have been a driving force, leading to the establishment of networks looking for children and facilitating the process of making children available for adoption. This has taken several forms, such as kidnapping of children, falsification of adoption documents and express adoptions that do not comply with the law. There have also been shortcomings on the part of the ICBF, the police and the judicial system in terms of

searching for the children's families before they are declared abandoned and available for adoption. Public officials from Colombian authorities and the judiciary have been part of this. Many incidents linked to illegal adoptions have taken place without those responsible being held accountable. Links between orphanages and the political elite are believed to have facilitated the international adoption activities of orphanages. All in all, the adoption business has been described as a "business" that generates large amounts of money⁴⁹.

The Committee on the Rights of the Child⁵⁰ has commented on intercountry adoptions in several reviews of Colombia's compliance with the CRC. In a 2006 review, the Committee expressed concern about the high number of intercountry adoptions and that only half of the adoptions were administered by the ICBF. The Committee was particularly concerned about the private orphanages, that they increased the risk of financial gain from adoptions and that they were in violation of Article 21 of the Convention.⁵¹ In its 2010 review, the Committee reiterated

⁴⁷ Meeting with Defensoría del Pueblo 2022-11-02 and meeting with Chiquitines 2022-11-03.

⁴⁸ Meeting with Defensoría del Pueblo 2022-11-02.

⁴⁹ Swedish Foundation for Human Rights and Plan Angel (2022).

⁵⁰ The UN Committee on the Rights of the Child in Geneva monitors compliance with the Convention. Each State Party reports to the Committee every five years. After considering all reports, the Committee draws conclusions and makes recommendations to States on how to implement the CRC (concluding observations).

⁵¹ Committee on the Rights of the Child, Forty-second session, June 8, 2006, Concluding observations: Colombia.

The Committee was concerned that not all adoptions were administered by the ICBF. They also pointed out that private orphanages operated homes for pregnant women which, according to the Committee, could influence women's decisions to consent to adoption and promote the sale of children for adoption. The Committee recommended that all national and international adoptions be administered by the ICBF and that Colombia prohibit adoption through private homes for pregnant women.⁵² In its 2015 review, the Committee noted that the number of international adoptions remained high and that national adoptions were not prioritized. It reiterated that not all adoptions were directly administered by the ICBF and that private orphanages continued to broker adoptions, increasing the risk of undue financial and other gains, including the sale of children for adoption. The Committee recommended that Colombia, inter alia, strengthen efforts to prioritize domestic adoptions, ensure that all national and international adoptions were administered through the ICBF, and prohibit adoptions through private orphanages where there was a risk of undue financial or other gain⁵³

5.6.2 Adoptions in crisis situations increase the risk of irregularities

Natural disasters, conflicts and other serious situations leading to the separation of children from their parents can be misused to carry out international adoptions.

In Colombia, the protracted armed conflict in the country has increased the risk of children being taken or separated from their parents. This is described in the report of the Colombian Truth Commission⁵⁴ as well as in a background report⁵⁵ to the Truth Commission. According to the reports, the armed conflict of the 1970s and 1990s resulted in many children becoming orphans. Female guerrillas could become pregnant involuntarily and were unable to care for their children. Although it is not possible to establish a direct causal link

⁵²Committee on the Rights of the Child, Fifty-fourth session 25 May-11 June 2010, Concluding observations: Colombia.

⁵³Concluding observations on the combined fourth and fifth periodic reports of Colombia (CRC/C/COL/4-5) at its 1955th and 1957th meetings (see CRC/C/SR.1955 and 1957), held on 20 and 21 January 2015, and at its 1983rd meeting, held on 30 January 2015.

⁵⁴ Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (2022).

⁵⁵Swedish Foundation for Human Rights and Plan Angel (2022).

between the armed conflict and international adoptions, there are examples of irregularities linked to the effects of the war and the situation of the population in the country. The report describes a number of examples of children adopted internationally after their parents were abducted or killed in the conflict. One example concerns a boy who was declared abandoned after his mother was abducted and murdered by a paramilitary group and then adopted in Sweden in 1993. Another example is of a boy who was taken from his home with his siblings in 1995 by unknown men in military uniform. The mother was abducted and murdered. The children were then adopted by a couple in the USA.

Another example of a crisis situation is the Armero disaster, where the town of Armero was buried by a landslide following a volcanic eruption in 1985. More than 20 000 of the town's 29 000 inhabitants died. The total death toll from the disaster amounted to 23 000 people. Rescue efforts were late and poorly organized. Adults and children were taken to the nearest regional town, but registration of survivors was poor. According to the Fundación Armando Armero, which is actively working to find and reunite adult child survivors with their parents, children were abducted and sold by criminal organizations. They now have 524 registered adults who, based on documentation, video footage and testimonies on the ground, are believed to have survived the disaster. They suspect that many of these may have been adopted internationally.⁵⁶

5.6.3 Lawyers have been at the forefront of child trafficking

In the 1970s, it was possible for lawyers in Colombia to place children with foreign families under the legislation in force at the time. By having direct contact with the children's mothers, lawyers could find children for foreign families and help them through the adoption process until the adoption was finalized. For this they could be well paid.

One such example came to light in Colombia in 1981. A lawyer was accused of stealing and kidnapping around 500 children from their parents since the mid-1970s. Poor mothers had been persuaded to sell their children. The lawyer was accused of collaborating with the Colombian Civil Registry, with the Supreme Child Protection Authority (ICBF) and with pediatric clinics. The lawyer

⁵⁶Meeting with representatives of Fundación armando Armero, 2022-11-02.

ten was said to have had contacts within the Colombian Ministry of Foreign Affairs and with a consul in Spain, where the children were first taken. The lawyer was also said to have had agents in Sweden. The children were allegedly sold to adoptive parents in Sweden, France, Spain and the USA through the lawyer and his organization. The organization had contact with two children's clinics in the poor part of southern Bogotá where they received poor or single pregnant women who were convinced, among other things, that their children had died at birth. As the availability of children decreased in Bogotá, children had been kidnapped in the villages around the city. The lawyer had five houses where children were taken to wait for adoptive parents. The adoptive parents had to pay 365 crowns a day for the children's upkeep. There were usually 15 children 'in reserve' for sale. The children were registered with the authorities by a woman under a false name and with false papers. Adoption was then arranged with an adoptive family who paid between USD 7 500 and 15 000 for a child. The same woman who appeared on the birth certificate acted as the mother before the Colombian authorities in order for the adoption to be approved. The secretary of the adopter had been listed as the mother of 15 of the children. During the investigation, which was led by a judge, nuns, nurses and elderly and married women who also acted as mothers of the children were called in⁵⁷

The Colombian authorities took steps to reduce the power of lawyers. In 1981, the rules on how adoptions should be carried out were tightened. Under the new requirements, all adoptions had to go through the ICBF and certain licensed orphanages. This would reduce the ability of lawyers to make money from private adoptions outside the system.⁵⁸

5.6.4 Unclear how children became available for adoption

There has been some confusion about how children in Colombia became available for adoption. Although it may appear correct in the documents, the child may have been made available in an irregular manner. For example, a child may have been declared abandoned without adequate investigation or a mother may have been forced to consent to the care or adoption of her child. Some notable

⁵⁷ DN 1981-07-22, Colombian lawyer kidnapped 500 toddlers.

⁽⁵⁸⁾ C. Lindgren (2010) *International adoption in Sweden. Policy and practice from the sixties to the nineties*. Swedish Intercountry Adoption Authority, pp. 107-108, 112.

In the case of adoption decisions, the Constitutional Court carried out an investigation into the work of the ICBF, which concluded that the ICBF had not carried out sufficiently thorough investigations into the background of the children before declaring them available for adoption.⁵⁹ There are also examples of mothers being informed that their child had died at birth and that the child was then adopted abroad. This is also described in the Dutch Commission's review report⁶⁰.

Children declared abandoned without further investigation

Our interviews with various actors in Colombia revealed that many children were taken into custody and declared abandoned by the authorities in Colombia in the 1970s and 1980s. Children were said to have been found outside churches or in the street. In other cases, the mother had left the child with a relative or acquaintance and then not returned to take care of her child. A mother could also leave incorrect contact details so that she could not be reached. Children often lacked birth certificates or other documentation. There are also examples of children of abusive parents who were abandoned when the parents were admitted to a clinic for treatment. At the time, the responsible authorities did not always carry out sufficient investigations to find out whether there was someone in the child's family who could take care of the child. The process was often fast. The child was abandoned and passed on for international adoption⁽⁶¹⁾.

Children in care are given up for adoption

Interviews with indigenous parents in Colombia also revealed examples of children being taken into care by the social services or private orphanages and then left for adoption. In some cases, the mother of the child, having been informed that she would be able to see the child on an ongoing basis or that the care was for a period of time, has given her consent to the care (not consent for

⁵⁹ MIA, Report of the MIA mission to Colombia, May 22-31, 2013.

⁶⁰ Committee on the Investigation of Inter-country Adoption (2021).

⁶¹ Meetings with the AC contact person in Colombia, 2022-10-31 and with representatives of the ICBF regional office in Cali, 2022-11-04.

adoption). When the mother has come to see the child, she has been informed that she is not allowed to do so and that she has given her consent to give it up. In other cases, the child has been declared abandoned when the mother has not visited the child for some time. The child has then been given up for adoption⁽⁶²⁾.

Consent to adoption is missing, false or improperly obtained

In the adoption scandal uncovered in Colombia in 1981, people falsely claimed to be the mother of a child and gave their consent to adoption. The children were then adopted internationally. According to a representative of a regional ICBF office, poverty has not been a valid reason for giving consent to adoption. However, in practice, it has been interpreted as consent when the mother has expressed that she is unable to care for her child, for example because of poverty. There are also examples of hospital staff signing the consent document instead of the mother.⁶³ We also heard the testimony of a woman who gave birth in hospital when she was 16. She was not allowed to see her child after birth and believed for a long time that the child had died. The child had been adopted internationally. After searching for and finding her adult child, the adoption documents revealed that the woman was declared to be 18 at the time of birth, which was an age requirement for giving consent, and that she had given consent for the adoption of the child. The adoption was not registered in any court⁶⁴.

Maternity homes have required young mothers to give up their children for adoption

The private orphanages have received children in different ways. Initially, orphanage social workers could go out into the provinces and bring back looked-after children who had been left in 'nunneries'. This was later banned, but instead mothers could go to one of the private orphanages and leave their children there⁶⁵.

⁶² Meeting with indigenous parents in Bogotá, 2022-11-01.

⁶³ Meeting with representatives of the ICBF regional office in Cali on 2022-11-04.

⁶⁴ Meeting with indigenous parents in Bogotá, 2022-11-01.

⁶⁵ Meeting with one of AC's former country managers in Colombia 2024-04-10.

Several of the private orphanages that are or have been licensed by the ICBF have operated maternity homes where expectant mothers are housed during pregnancy and receive care during childbirth. This has been seen as a way to help young and often poor women who have become pregnant. However, maternity homes are also described as an example of young women being forced to give up their babies. The maternity home has told the woman that it is her choice whether she wants to keep the baby or give it up after birth. Once the child is born and the mother wants to keep the child, the maternity home has told her that she must pay for her own costs and those of the child for the time she has been in the maternity home. If she doesn't pay, she has to give up the baby. Most mothers have not been able to pay and have had to give up their child. Maternity homes have been accused of exploiting young women's vulnerability and lack of money. Women have had little opportunity to influence their situation.⁶⁶This is also described in the Norwegian report.⁶⁷Today there are no maternity homes left.

5.6.5 Concealment of origin

Concealing the child's origin can be a deliberate act to cover up an irregular adoption. This can be done, for example, by giving a false name and place of birth on the birth certificate or falsely stating that the child's parents are unknown. In the case of adoptions before 1975, it may also be because the mothers had the right to remain anonymous.⁶⁸The mother herself may also have made false statements on the birth certificate in order to hide the child from her family or because she was afraid of being punished by the authorities.⁶⁹Abandoned children have been given a name and an estimated date of birth by the ICBF. In Colombia, a new birth certificate is issued in connection with an adoption, giving the child the name of the adoptive parents and sometimes a new first name. If the original birth certificate is not kept, it makes it difficult to trace the original family. The Plan Ángel Foundation states that in nine out of ten of the cases they work on, the history of the adopted child does not match the original birth certificate.

⁶⁶Meeting with original parents in Bogotá, 2022-11-01, meeting with Swedish adoptee from Colombia, 2022-10-31.

⁶⁷Intercountry Adoption Review Committee (2025).

⁶⁸Swedish Foundation for Human Rights and Plan Angel (2022), p. 21.

⁶⁹Meeting with representatives of the ICBF regional office in Cali on 2022-11-04.

have in their adoption documents. Many are therefore unable to find their families through the documentation. Plan Ángel therefore works with DNA tests in its origin searches⁷⁰.

5.6.6 Shortcomings in the ICBF's monitoring of private orphanages

The Procuraduría General de la Nación in Colombia, which is comparable to the Swedish Chancellor of Justice, published an audit report in 2012 on the adoption activities of the ICBF and the private orphanages. The purpose of the audit was to ensure that the ICBF fulfilled its requirements as the central authority for the adoption program at national and international level and that the private orphanages involved in the adoption program complied with the ICBF's requirements and guidelines. According to the report, the ICBF's mission in the adoption program is to grant licenses to the private orphanages and to provide supervision and advice to the orphanages. In this way, the ICBF ensures the quality of the adoption program and guarantees the rights of children and adolescents in the activities carried out by the orphanages on behalf of the ICBF.

The audit report concluded, *inter alia*, that

- The licenses between the ICBF and the private orphanages were unclear and the ICBF had not renewed the licenses in time. It was also not clear how often the ICBF would visit the orphanages for supervision.
- The ICBF had not carried out an annual inspection of the orphanages. The last inspection was carried out in 2007 (five years ago) when the licenses of the orphanages were renewed. The explanation given by the ICBF staff was that they did not carry out monitoring through annual monitoring visits, but on a case-by-case basis when the ICBF participated in the adoption committees of the orphanages. Procuraduría stated that this was not how supervision should be carried out.
- Shortly after Procuraduría visited the orphanages in April 2012, ICBF carried out monitoring visits to all orphanages. ICBF's inspection notes revealed several shortcomings at the orphanages. These included inadequate competence in the orphanages' adoption committees, inadequate administration, lack of clarity regarding adoption costs and donations, and inadequate accounting. Procuraduría found that the shortcomings could

⁷⁰Meeting with representatives of Plan Ángel Foundation 2022-11-25.

have existed since the last inspection, five years ago, without being addressed.

- Shortcomings in the orphanages' documentation of adoption cases. Procuraduría pointed out that relevant documents must be available at the different stages of the adoption process.
- Lack of governance of adoption costs. There was confusion about the costs of the adoption program, whether they met the requirements of the activity and who decided what the minimum standard of the activity was. The ICBF website showed the fees for administrative costs but not how they were regulated.
- Donations are an important source of income for orphanages. The way in which donations were accounted for varied between orphanages, with some orphanages being more transparent than others.

Procuraduría made several recommendations in the report, including that ICBF should carry out annual inspections of orphanages and that ICBF should tighten up its control of administrative costs and accounting for orphanage funding⁷¹.

5.7 Irregularities in Swedish adoption activities and how Swedish actors have acted and behaved

5.7.1 Introduction

In this section, we review the irregularities that have emerged in Swedish adoption activities in Colombia, what Swedish actors knew about irregularities and how they acted to prevent or deal with irregularities.

From the material we have gathered and analyzed, we can conclude that the biggest problems in the 1970s and 1980s were related to private adoptions and child trafficking through lawyers. As long as adoptions were carried out through the Swedish authorized adoption organizations, the activity in Colombia was seen as a pre

⁷¹Procuraduría General de la Nación (2012), *Informe de Vigilancia Superior sobre el Programa de Adopción*.

legislation and with a central authority controlling adoption activities. However, problems have gradually emerged in the organization of international adoption in Colombia, where private orphanages and maternity homes are financed by high donation and care fees.

The Swedish supervisory authority has made six visits to Colombia: 1981, 1985, 1992, 1994, 2006 and 2013. Not all of the visits have been pure supervisory visits. Our review of archive material shows that it was not until the 2000s that the supervisory authority began to impose more stringent requirements on adoption organizations in connection with applications for authorization. This mainly concerned the reporting of adoption fees.

5.7.2 Problems with private adoptions

When adoptions from Colombia started in the early 1970s, it was in the form of private adoptions. As described in section 5.3, the number of private and individual adoptions from Colombia is estimated to total approximately 500 from 1973 to the present. Approximately 70% of private adoptions took place in the period 1976-1984. Until the early 1980s, it was possible for lawyers to find children of applicants through direct contact with mothers and help them to complete an adoption. Some orphanages also preferred to have direct contact with applicants and not to cooperate with any adoption organization, such as La Casa de la Madre y el Niño in Bogotá. The NIA noted during a visit to Colombia in 1981 that privately mediated adoptions from this orphanage accounted for the majority of private adoptions from Colombia⁷².

The archive material contains several examples in the 1970s and early of the 1980s, when Swedes contacted the Swedish Embassy in Bogotá with questions about the possibility of adopting children from Colombia. The Embassy explained the conditions for adoption, that under Colombian law there are no formal obstacles for foreigners adopting a child privately but having to hire a lawyer to complete the legal procedure. This is relatively expensive and time-consuming. The Embassy therefore recommends contacting the AC.⁷³ There is also an example

⁷² NIA, Report of visit to Bogotá, Colombia 1981-05-31-06-03.

⁷³ For example, Swedish Embassy Bogotá, Concerning Adoption in Colombia, 1979-07-10, no. R34:12/84 and letter to adopters 1978-04-06, no. R34: 12/109.

where individual embassy officials are asked for direct assistance in connection with adoption⁷⁴

In 1975-1977, the NIA ran an experiment in which it requested information from the social services of the municipalities concerning data on foreign children who had arrived in Sweden without the involvement of the NIA and the AC. The NIA had developed a special form that the municipalities could fill in. Not all municipalities reported and the extent of reporting varied. For Colombia, a total of six children were reported to have arrived via private contacts in 1975-1977. In two cases, a private contact had brought them together with a lawyer in Colombia who brought them together with the child.

In two other cases, adoptions were made through private contacts directly from orphanages or from child welfare authorities. A couple living abroad had been helped by friends and the Swedish Embassy to adopt a child. Another example was a couple who, through a Swedish person working in Medellín, got in touch with a Colombian doctor who knew of various orphanages⁷⁵

At an international adoption symposium in Bogotá in 1979, Colombian stakeholders highlighted the lack of control over how adoptions were carried out, as an adoption did not need to be approved by the ICBF, but could be done through a lawyer who could handle the formalities in court. It was seen as a known fact that there was bargaining about children being adopted. One way to increase control was to give the ICBF decision-making power in all adoption cases⁷⁶.

In 1982, the Embassy had a meeting with the ICBF, which had received information that 150 single Swedes intended to privately adopt children from Colombia because it was so expensive to go through the AC. The ICBF representatives were afraid that private adopters did not have "their papers in order" or came to Colombia with "false papers" in that they were not checked by the AC. The ICBF's concern was primarily that there was a lack of control of adoptive parents in Sweden, not that there might be ambiguities in how children became available for adoption in Colombia.⁷⁷In 1984, the ICBF requested reports from the NIA on all Swedish cases where Swedish med-

⁷⁴ Swedish Embassy Bogotá, 1978-03-17, dnr R34:12/92.

⁷⁵NIA, Attempted statistics on children arriving without the involvement of NIA and AC 1975 to first quarter 1977, dnr 49:1071/75.

⁷⁶Swedish Embassy Bogotá, Adoption Symposium in Bogotá December 10-14, 1979, dnr R34:nr 43.

⁷⁷Swedish Embassy Bogotá, Adoption of Colombian children, 1982-03-30, dnr R 34: Vco 15/60.

citizens received children for adoption from Colombia alongside AC's mediation. The ICBF had understood that this type of adoption was mediated by the NIA and the Swedish social services. In its reply, the NIA stated that neither the NIA nor the social welfare boards were intermediary bodies, that they did not mediate adoptions that went beyond the AC and that they therefore had no insight into the intermediary stage in this type of independent adoption case. However, because the NIA wanted to accommodate the ICBF and contribute to safe adoptions, they promised to collect the requested data from the municipalities⁷⁸.

As part of its efforts to increase control over private adoptions, the NIA also received information via the social services and the AC about individuals in Sweden who were suspected of brokering adoptions from Colombia. Two cases were uncovered. In one case, it was learned through AC that a meeting had been organized for prospective adoptive parents where information material was distributed with tips and advice on how to proceed to adopt on their own through the local ICBF office in Manizales. According to the AC, a lawyer in Manizales had reported that 120 children had come to Swedish families through this channel over the years (8-10 years).⁷⁹ The NIA considered different ways of dealing with this; informing the Ministry of Social Affairs, contacting the police or making direct contact with the persons concerned. The NIA chose to contact the individuals individually by letter, informing them that they had become aware that the individuals were brokering children from Colombia. In both cases, the individuals replied that they had not engaged in any brokering activities but had merely shared their own experiences with other adoptive parents. The NIA then left the cases without further action.⁸¹ In its annual report for 1979/80, the NIA writes that, through the reports from the municipalities, it had gained a relatively good overview of the routes by which children come to Sweden for adoption.⁸²

Gaining control over private adoptions was thus the focus of both the Swedish and Colombian actors.

⁷⁸NIA, Reporting in private adoption cases concerning Colombian children, 1984-10-15, dnr 72:221/84.

⁷⁹ NIA, official note 1983-07-11, dnr 49:194/83.

⁸⁰ NIA, Placement of adopted children from Colombia, 1983-10-26, dnr 49:194/83.

⁸¹NIA, Statement in response to your letter No 49:194/83 and NIA, Placement of adopted children from Colombia, 1983-10-26, No 49:194/83.

⁸²NIA, Annual Report July 1, 1979 to December 31, 1980.

5.7.3 Swedish adoptions part of child trafficking in the early 1980s

The first adoption scandal in Colombia is revealed in 1979

At the same time as discussions on increased control of adoption activities were under way, the first adoption scandal in Colombia was revealed. In February 1979, the Swedish Embassy in Bogotá contacted the Ministry of Foreign Affairs and AC regarding information on the sale of Colombian children to other countries. A Colombian newspaper article was attached, stating that a lawyer working as Defensoria del menor at the ICBF in Boyacá had been accused of stealing a child from a hospital. When the mother asked for her child back, she was given another child instead. The lawyer, who had worked for the ICBF for six years, had disappeared but another person involved said the child was in a European country, possibly France. Further investigation had shown that this was not the first time this had happened and it was thought that up to ten children could have disappeared in the same way⁽⁸³⁾.

The archive material does not show that any action was taken by Sweden in response to the information.

A wider adoption scandal is revealed in 1981

A wider adoption scandal was revealed in 1981. As we describe in section 5.6.3, the Colombian press reported in July 1981 that a lawyer who had worked for the ICBF in the mid-1970s had been arrested for stealing and selling 300-500 Colombian children for adoption to Sweden and elsewhere. The operation had been going on for about four years⁸⁴.

In an article in DN, AC's head of office is interviewed about the scandal. She says that "It is difficult to find methods to stop illegal adoption (sic) but according to Swedish law you cannot charge for adopting a child. The same law applies in Colombia."⁸⁵In a follow-up article, AC's country manager in Colombia is interviewed and says that Swedish authorities have known about the lawyer for a long time and that he has cooperated with the orphanages FANA and CRAN, with which AC cooperates.

⁸³ Swedish Embassy Bogotá, Adoptions in Colombia, courier mail 1979-02-21, dnr R34.

⁸⁴El Tiempo, 500 bebés colombianos robados venden en Europa, 1981-07-19 and El Tiempo Registro civil se hacía en oficinas del abogado, 1981-07-22.

⁸⁵DN 1981-07-22, Colombian lawyer kidnapped 500 toddlers.

working with. The lawyer had also contacted AC and offered them children, but AC had declined. According to the country officer, AC had wondered where the lawyer got the children from and that they perceived that "he was only after money". The article also states that in 1980, the NIA registered five adoptions through the lawyer. In the same year, a total of 178 children were adopted through AC and 74 children were adopted privately from Colombia. However, the NIA did not know how many adoptions had previously taken place via the lawyer to Sweden⁸⁶.

The Swedish Embassy in Bogotá contacted the Ministry of Foreign Affairs and the NIA shortly after publication, enclosed the articles and provided a summary of the events.⁸⁷ The Embassy later returned with further information. The lawyer, through contacts at a notary office in Bogotá and within the judiciary, had arranged for false birth certificates and other necessary documentation for the adoptions. The lawyer's secretary had also been arrested for involvement in child trafficking. The lawyer had admitted to placing 300-500 children abroad. The embassy also writes that they have been in contact with ICBF and received information that ICBF had become aware of a case of child trafficking in 1979 that the lawyer had mediated and that they then contacted the security police and asked them to investigate the lawyer's activities. According to the ICBF, there were strong suspicions of similar activities against at least five other lawyers. The ICBF emphasized that they were very keen to try to regulate and control adoptions, preferably through agreements with the countries concerned, which was also one of the main points at the international adoption seminar in Bogotá in December 1979 in which Sweden participated.

NIA received information about child trafficking before the scandal came to light

In early June 1981, just a month before the adoption scandal was revealed, NIA had visited Colombia and met with representatives of ICBF, AC and the orphanages FANA and Casa de la Madre y el Niño. In its travel report, NIA writes that Colombia had been subjected to heavy pressure in terms of requests and demands for children for

⁸⁶ DN 1981-07-23, Myndighet varnar för privata förmedlare.

⁸⁷NIA, Letter from the Swedish Embassy in Bogotá, Trade in adopted children from Colombia, 1981-07-22, dnr 72:174/81.

⁸⁸NIA, Fax from the Swedish Embassy Bogotá 1981-07-22, dnr 72:174/81.

adoption and that child trafficking and child abduction were occurring with the involvement of lawyers. Colombia was therefore one of the first countries to speak openly about the problems of child trafficking and the need for appropriate countermeasures and regulation. The ICBF expressed to the NIA that they had major problems with the trafficking of children. The ICBF also saw it as problematic that they were not involved in the placement of children who were not abandoned or in care. It was also noted that private adoptions were taking place on a large scale from Colombia to Sweden and that some of them were suspected of being illegal. There was a desire to put an end to private adoptions and for all adoptions to go through authorized organizations. Contract regulation was one way to achieve this. The NIA's conclusions from the trip were that there were large-scale private adoptions from Colombia to Sweden as well, some of which were suspected to be "illegal", that all adoptions should go through an authorized organization in both countries, which required legislative changes. Proposed measures included that the NIA should pay particular attention to private adoptions from Colombia and that a draft agreement between Sweden and Colombia should be prepared⁸⁹.

Swedish Social Affairs Minister says private adoptions must be prevented

Shortly after the revelation of the adoption scandal, the Minister for Social Affairs, Karin Söder, commented in a press release on the reports of children being kidnapped and sold for adoption in countries such as Colombia and Indonesia. The Minister's statement said that "we must urgently consider what measures are needed to prevent privately brokered adoptions of this inhumane kind". Two measures were indicated: improved information to prospective adoptive parents and a follow-up of the rules governing applications for residence permits for foreign children to be adopted in Sweden. The Minister of Social Affairs further stated that "it is absolutely necessary to get a better control and overview of the activities that go alongside the authorized organizations. Otherwise, respect for our entire system of rules for international adoptions could be undermined and serious adoptions made more difficult." She said that "one

⁸⁹NIA, Report of visit to Bogotá, Colombia 1981-05-31-06-03.

must of course reject any form of child trafficking. I would advise all parents who intend to travel to other countries on their own solely to privately bring a child home to Sweden for adoption." The Minister of Social Affairs pointed out that the eight organizations authorized by the NIA had a much better knowledge of the countries than individuals could acquire. "It is often difficult for an individual, without knowledge of a country and its system, to know what are reliable contacts when it comes to placing children and what are reasonable costs for, for example, legal assistance and for the child's upkeep. It is therefore important that people who want to adopt a child contact the organizations. Waiting times have been significantly reduced." The NIA sends the press release to the Ministry of Foreign Affairs for forwarding to all Swedish embassies in the adopting countries and the countries' missions in Sweden⁹⁰.

Several of the children had come to Sweden but it is unclear how many

The reporting in connection with the adoption scandal revealed that the lawyer had also placed children in Sweden. The question was how many children were involved. There is information from a former employee of the NIA that some 20 children came to Sweden through the lawyer.⁹¹ However, we have not been able to confirm this information. In the archive file we can see that in a meeting with the Swedish Immigration Service (SIV) in October 1981, the NIA discussed practical procedures for residence permits for foreign adoptive children and how to control private adoptions. In a memorandum, SIV wrote that during the summer of 1981, it had come to light that child trafficking had occurred in Colombia and that a lawyer had been accused of selling children to gullible adoptive parents. The NIA was aware that some children had come to Sweden via the lawyer in question⁹².

In the NIA travel report from May 1981, an addition was made afterwards (March 1982). It describes that the lawyer mentioned in the report was arrested for kidnapping and child trafficking but that no legal proceedings had yet begun. Several of the children were said to have come to Sweden. The ICBF promised on the spot that some children would not be auto-

⁹⁰NIA, Press release from the Ministry of Social Affairs 1981-07-24 with comment by Minister of Social Affairs Karin Söder, dnr 72:174/81.

⁹¹C. Lindgren (2010), p. 112.

⁹²NIA, memorandum from the Swedish Immigration Service, Adopted children in Sweden, 1981-10-16, dnr 40:225/81.

would be systematically recovered. On the other hand, the NIA should be prepared to request specific reports in individual cases⁹³.

The Swedish Embassy in Bogotá contacted the Ministry of Foreign Affairs in June 1982 with updated information on the matter. The official informed that the Director General of the ICBF had stated at a meeting that the press reports that 300-500 Colombian adopted children had been sold abroad were considerably exaggerated. It was probably around 100 children. However, it was very difficult to establish the correct number because there were cases that the ICBF was not aware of. According to the Director General, the largest number of children had been sold to Spain, but he could not indicate how many were destined for Sweden. None of the adopted and sold children had been recovered from their biological parents. The embassy official had also received a list of names of two lawyers (one of whom was already known) against whom charges had been brought. The charges related to "non-regular activities in connection with adoption cases", which, according to the embassy official, amounted to child trafficking. The official had also been given a list of six people - lawyers and officials - who were involved in the investigation. There was no conviction yet. The official concluded that there was every reason for the Swedish side to act with as much caution and care as possible in relation to adoptions of children from Colombia. This had also been emphasized by the official on several occasions in meetings with NIA and AC.⁹⁴

Swedish authorities never get full clarity on the case

Our review of the archives does not reveal any further information about the number of children who came to Sweden through the lawyer or whether there was a conviction for those involved in child trafficking. It was not clear to the Swedish authorities how the case was investigated in Colombia. The NIA made information about the children adopted to Sweden available to the Colombian authorities, but the authorities never requested it.⁹⁵ The NIA's annual report for 1981 states about the adoption scandal that the ICBF had presented a draft agreement to the NIA and that in April 1982

⁹³ NIA, Report of visit to Bogotá, Colombia 1981-05-31-06-03.

⁹⁴ UD, Child trafficking, letter from the Swedish Embassy in Bogotá, 1982-06-09, dnr R34, Vco.

⁽⁹⁵⁾ C. Lindgren (2010), p. 112.

In a memorandum from 1983, the NIA describes the problems of inappropriate adoptions, citing Colombia as an example. The NIA writes that the measures taken in Sweden have not been sufficient to deal with illegal and inappropriate adoptions. NIA also writes that representatives from responsible authorities in Colombia, among others, at meetings with the Ministry of Social Affairs and NIA, have called for help from the Swedish authorities to deal with child trafficking by private intermediaries ⁹⁷.

A child abduction case is handled in 1982

In July 1982, the Swedish Embassy in Bogotá reported a case of child abduction to the Ministry of Foreign Affairs. This time it concerned a 3-year-old girl who had been abducted from her home in the city of Cali, Colombia, and who had not been found despite intensive investigations. The parents, fearing that the girl had been kidnapped for illegal adoption abroad, had approached the Embassy requesting assistance and that the Swedish immigration authorities be informed. The Embassy requested that Interpol and the border authorities be notified so that they could intervene if someone tried to smuggle the girl for adoption or under other cover.

Thereafter, correspondence took place between the NIA and the SIV. The SIV wrote that there was nothing to indicate that the child had come to Sweden. According to the SIV, a child would not be able to leave the country in person without "forgery".

In a normal adoption case, there would either be a full court order or a special exit permit issued by the ICBF. The SIV also wrote that they had been informed of an example of a Colombian "mother" who would have traveled with a child to Sweden for adoption by a Swedish court. The SIV official had received a number of anonymous telephone calls from a person who prepared and carried out the adoption. According to the SIV, this had happened in more than one case, including with the detained lawyer (the scandal was then

⁹⁶ NIA, Annual Report 1981/82.

⁹⁷ NIA, Memorandum "Concerning inappropriate adoptions", 1983-02-15, dnr 49:48/83.

⁹⁸ Ministry of Foreign Affairs, Barnarov, letter from the Swedish Embassy in Bogotá, July 29, 1982, no. R34 and NIA 72:323/82.

not yet investigated and finalized). The SIV's suggestion was to inform the Ministry of Justice and the National Courts Administration "since Swedish courts apparently make adoption decisions in Colombia cases despite the scandal".⁹⁹The NIA's office suggested to the Board that Swedish district courts should be informed through the National Courts Administration that "the utmost vigilance is required if an application for adoption of a Colombian child is submitted to a district court. In case of doubt, the NIA can be contacted."¹⁰⁰Nothing further is stated thereafter.

Data on child trafficking to Sweden and elsewhere in 1999

In December 1998, NIA was contacted by the National Criminal Police regarding questions about trafficking in children from Colombia. The National Criminal Police wanted information on the number of children adopted from Colombia to Sweden in 1995-1998, the adoption process and the follow-up of the children.¹⁰¹The reason was information from Interpol that 2,000 children had been illegally adopted from Colombia, 1253 of them to European countries in 1996-1997 without being registered by the ICBF. Sweden, France and Italy were identified as the countries receiving the largest number of Colombian children. According to Interpol, between USD 30 000 and USD 80 000 was paid for a child and the police had discovered several gangs selling children to those couples who failed to adopt children legally through the ICBF. The modus operandi would be for the adoptive parents to simulate pregnancy, stay in Colombia for more than nine months and go to a maternity hospital where they would have a child registered as their biological child. Immigration authorities could do nothing because all the documents were legal. Interpol therefore asked the receiving countries to report the number of adoptions so that it could be compared with the ICBF's figures. The Swedish Embassy in Bogotá contacted the Ministry of Foreign Affairs and the Swedish Immigration Service and said that they found it hard to believe that it would be attractive for Swedish couples to spend such a long time in Colombia waiting for a birth and then register the child as their own. According to the embassy, the reason for the difference in figures could be due to the fact that it has been possible to

⁹⁹ NIA, official note Colombia child abduction, dnr 72:324/82.

¹⁰⁰ NIA, official note 1982-10-18, dnr 72:324/82.

¹⁰¹ NIA, fax from the National Criminal Police to the NIA 1998-12-09.

private adoptions not registered by the ICBF.¹⁰²The NIA reviews the figures with the AC and concludes that the figures from Interpol and the ICBF are not correct.

In September 1999, a report from ECPAT identified Sweden as one of four countries receiving children from Colombia for trafficking, i.e. illegal adoption. The other countries are Italy, Denmark and the Netherlands. According to ECPAT, it is likely that some of this trafficking is for sexual purposes as the adoptions are illegal and do not follow the adoption process.¹⁰³The NIA states in a letter to ECPAT International that they recognize the information from previous Interpol reports and that it is based on a misunderstanding. According to NIA, the reason for the inaccurate figures was that ICBF had not received reports of completed adoptions to Sweden from the regional ICBF offices and the eight private orphanages that brokered adoptions internationally. NIA also writes that since the information in the report could cause concern to families in Sweden who had adopted children from Colombia, as well as to their children, it was important for NIA to know if there was anything that required further investigation. Shortly thereafter, the NIA writes to the National Criminal Police and refers to the ECPAT report. The NIA states that they believe they have control over the number of children coming for adoption from Colombia, but despite this, the ECPAT report states that Sweden is one of the largest markets for illegal child trafficking with Colombia. NIA has tried to send material to Interpol but has not succeeded. The NIA therefore asks the National Criminal Police for help in forwarding the information to Interpol.¹⁰⁵No further information on the case is available in the NIA's archives.

5.7.4 Cooperation agreements have been discussed to avoid illegal adoption activities

Increased regulation and control of adoptions was thus seen as important to reduce illegal adoption activities and stop private adoptions. A cooperation agreement was one way to do

¹⁰²NIA, Fax to the Ministry of Foreign Affairs from the Swedish Embassy in Bogotá 1999-04-28, received by NIA 1999-05-04, dnr 72:150/99.

¹⁰³ECPAT Sweden, Press release 1999-09-21 and report A Step Forward, p. 10 (1999).

¹⁰⁴NIA, Letter to ECPAT International 1999-10-11, dnr 79:309/99.

¹⁰⁵NIA, Fax to the National Criminal Police Service 1999-10-15, dnr 79:309/99.

this. In fact, work on drawing up a cooperation agreement between Sweden and Colombia in the field of adoption began early on. As early as 1977, Colombia had expressed its wish to conclude an adoption agreement with Sweden in order to obtain a guarantee against illegal adoptions. An agreement could also benefit Swedish adoption applicants if competition arose between applicants of different nationalities. Colombia discussed adoption agreements not only with Sweden but also with the Netherlands and France¹⁰⁶.

Agreement could increase control of private adoptions

In the dialogue on cooperation agreements, Colombia was informed of Sweden's adoption agreement for South Korea, among others, and the ICBF requested specific points that Sweden wanted to see included in an agreement. The NIA's aim was to regulate the way and the paths that would be used if a child was considered for adoption to Sweden. The NIA wanted as concrete an agreement as possible with a description of administrative procedures, requirements for application documents, etc. The NIA also asked AC for its views on an agreement. AC stated that an agreement would solve three problems, one of which was private adoptions. Some of the private adoptions were from the same orphanages that AC worked with, and AC wanted the adoptions to be concentrated at AC so that a more uniform approach could be achieved. This could, according to the AC, help to increase confidence in Sweden as an adoption country and the risk of pressure on certain contacts could be eliminated.¹⁰⁷

Unclear form and content of the agreement

However, work on the cooperation agreement was slow and the NIA noted in December 1979 that it was more difficult to reach an agreement than both the NIA and AC had thought. According to the ICBF, an agreement had to be ratified by the Colombian Congress, which was considered a long way off. AC, which was authorized for Colombia in 1979, proposed instead that an agreement be concluded between ICBF

¹⁰⁶Swedish Embassy Bogotá, International Adoptions Colombia, submitted to the Ministry of Foreign Affairs on November 22, 1977, No. R34 Vco 11/201.

¹⁰⁷National Board of Health and Welfare NIA, Discussions on adoption agreement Colombia, submitted to the Ministry of Foreign Affairs on October 3, 1978, no. R34, Vco, 220/656a.

and AC. Something similar was discussed with a Dutch adoption organization¹⁰⁸.

The issue of cooperation agreements continued to be discussed in the coming years, both in terms of form and content. One of the issues raised by the NIA was that it could not contribute to the return to their home country of children who had been brought to Sweden for adoption purposes with the consent of their home country. This was due to the fact that

The draft agreement stated that if the adoption decision was not upheld in court, the contracting parties would undertake to return the child to the country of origin.¹⁰⁹ A more practical issue was which actor to contract with. Sweden wanted the NIA to be the contracting party, while Colombia wanted an agreement at government level¹¹⁰.

New draft agreement discussed in 1984

A new draft agreement was submitted to the NIA in 1984. The agreement had then been amended so that it would be applied reciprocally, i.e. that it also covered the adoption of Swedish children to Colombia.¹¹¹ Sweden saw this as problematic. On the basis of the new draft agreement, the NIA demanded, among other things, that there should be a final adoption decision (*sentencia*) from a court in Colombia before the child could be granted an exit permit. The reason was that several children adopted to Sweden had not received their adoption decisions or had to wait several years for them, which meant that they could not be granted Swedish citizenship.

In a meeting between the head of ICBF and the Swedish Embassy in February 1985, which was also attended by a representative of AC (with the approval of NIA), ICBF expressed its agreement with NIA on a requirement for a final adoption decision. The Swedish Embassy had also received a copy of the letter from the ICBF to the Ministry of Foreign Affairs stating this requirement. After the meeting with the ICBF, the Swedish Embassy summarized to the NIA what had emerged from the meeting as well as AC's views after the meeting. AC stated that after discussions with the orphanages with which they cooperated in Colombia, they had understood that if

¹⁰⁸NIA, Memorandum concerning adoptions, 1979-12-17. Fax from the Swedish Embassy Bogotá 1978-10-06, dnr R34, 3:259.

¹⁰⁹NIA, Proposal for a treaty between Sweden and Colombia concerning international adoption matters, 1984-05-09, dnr 70:160/81.

¹¹⁰ Swedish Embassy Bogotá, fax to NIA 841031, ref. R34 Vco.

¹¹¹NIA, Memorandum Brief background on adoption agreement with Colombia, 1985-03-18, dnr 70:160/81.

an adoption agreement requiring a final adoption decision (sentencia) would go through, it would mean that it was no longer possible to cooperate with Sweden. The orphanages could not let the children wait to travel with sentencia but would prefer to cooperate with other countries. The AC further described that "currently the children are allowed to leave the country after a prior approval of the adoption by the court. The sentencia comes afterwards and the time varies from six months upwards and in some cases can take several years. Only from 4 out of the 18 towns where AC works, the family receives the sentencia directly. About 15 out of a total of 240 children came from these cities in 1984. The courts in Colombia are independent and thus determine the form of work."¹¹²

AC recommends that an agreement not be concluded

In May 1985, the AC also sent a letter to the Ministry of Social Affairs concerning the Colombia Agreement, with a copy to the NIA. AC argued that the conditions for an agreement had changed significantly, that private adoptions had declined and that a bilateral adoption agreement would have little impact on further reducing private adoptions. AC argued that the requirement that adoptions be finalized in court through an adoption decision (sentencia) before the child could leave Colombia would make it impossible for Colombian authorities to place children in Sweden. The best interests of the child would suffer, the costs of care would increase and it would be impossible in cost terms to have an adoption activity on such terms. If the proposed agreement were to be implemented, the number of adoptions from Colombia would fall from 250 to 15 per year. Almost 1/3 of adoptions through AC would cease. AC emphasized that an agreement according to the current proposal would be a severe blow to adoptions to Sweden and to AC. It was therefore urgent that Sweden prevent the agreement as it was written from being finalized.

AC thought it would be best if there was no agreement at all. AC

¹¹²Ministry of Foreign Affairs, Telex from the Swedish Embassy Bogotá 1985-02-13, dnr R34, Vco and NIA dnr 70:160/81.

felt great concern and were keen to be given the opportunity for information and consultation in any further contract discussions¹¹³

The contract case is closed

The issue of the agreement was subsequently raised in connection with the NIA's visit to Colombia in September 1985, but it is not clear from the archive material what was said. We cannot see from the archive material that the agreement was raised again after that. No agreement was ever reached.

5.7.5 Lack of information and delayed Swedish action in a case where the adoption was annulled in Colombia

In our interviews in Colombia, we have been told that in the 1970s and 1980s, the responsible authorities did not always investigate thoroughly enough whether there was someone in the child's family who could take care of the child. The child was declared abandoned and adopted abroad; the process was often rapid.¹¹⁴ This is particularly problematic in the light of the fact that the protracted armed conflict in Colombia has increased the risk of children being taken or separated from their parents.⁽¹¹⁵⁾ A clear example of this is directly linked to Sweden.

A child's grandmother is suing to get her grandson back

The case concerns a 1 ½ year old boy from Popayán who was adopted through AC to a family in Sweden in June 1993. According to a telex sent by the Swedish Embassy to the Ministry of Foreign Affairs in June 1995, the boy had been found abandoned in December 1992 after the boy's mother and a relative had been abducted by a group of paramilitaries in south-western Colombia. The boy was temporarily taken into the care of a family and then declared abandoned by a court in Pasto. The court subsequently decided to adopt the boy to a Swedish family. According to information, the applicable

¹¹³NIA, copy of letter to the Ministry of Social Affairs concerning the Sweden-Colombia agreement on international adoptions, received NIA 1985-05-14, dnr 70:160/81.

¹¹⁴Meetings with the AC contact person in Colombia, 2022-10-31 and with representatives of the ICBF regional office in Cali, 2022-11-04.

¹¹⁵Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (2022), *Hay futuro si hay verdad - Informe Final. La Colombia fuera de Colombia. Las verdades del exilio.*

rules on finding minors. At the end of 1993, the boy's grandmother learned that her grandson had been adopted by a couple in Sweden and, with the support of Asfaddes (the association of relatives of detainees and missing persons), brought an action for annulment of the adoption before the Court of Pasto. On June 9, 1995, the court declared the adoption invalid. The reason for the court's decision was that the declaration of abandonment was not recognized. The adoptive family appealed against the decision. At about the same time, in June 1995, the grandmother had been invited by the Norwegian Refugee Council to talk about her daughter's disappearance and the adoption. In connection with this, she traveled to Sweden to meet the boy and the adoptive parents. AC attended the meeting¹¹⁶.

Adoption declared invalid in Colombia

More facts appear in a report by the Inter-American Commission on Human Rights (IACHR).¹¹⁷ It describes that the boy and his mother were kidnapped on December 9, 1992. The boy was found abandoned in Pasto (25 miles from Popayán) on December 17, 1992, and was taken into the care of a couple who delivered the boy to the ICBF in Pasto. On December 18, 1992, the ICBF announced in the local media in Pasto that an abandoned child had been found. On three occasions in January 1993, the ICBF advertised for the boy's parents via the local radio station. The name given for the boy was not his real name but the name of the person who found him. ICBF did not do a search to match with missing children in other regions.

On February 4, 1993, the ICBF declared the boy abandoned, and on June 4, 1993, the ICBF completed the adoption process of the child to a

Swedish couple. The boy left Colombia with the adoptive parents on June 20, 1993 and on August 4, 1993 the NIA approved the adoption in Sweden. In September 1993, the grandmother received an anonymous phone call in which someone promised to return her grandson in Pasto. No child was ever returned but the grandmother managed to contact the couple in Pasto who had found the boy and learned that the child had been taken into care by ICBF. When the grandmother learned that the child had been given up for adoption, she requested that the adoption be annulled. In February 1994, the Supreme Court of Pasto annulled the secrecy surrounding the adoption.

¹¹⁶ Swedish Embassy Bogotá, cryptogram to the Ministry of Foreign Affairs 1995-06-21, dnr R34, Vco, 139.

¹¹⁷ IACHR, Report No. 309/20, Petition 1521-10. Report on admissibility, October 16 2020, OEA/Ser.L/V/II.Doc 326.

and ordered the ICBF to provide information about the boy, the adoptive family and the country in which the boy was located. On June 9, 1995, the Supreme Court of Pasto annulled the adoption and ordered ICBF to take the necessary steps to return the boy to his grandparents in Colombia. The boy was then four years old and it had been two years since the boy was adopted and became a Swedish citizen.

AC knew early on the circumstances of the child but did not inform the NIA

A 1996 article interviewed, inter alia, the grandmother and her lawyer as well as representatives of AC and NIA about the case. It gives various details of when AC and NIA became aware of the case and what action they took¹¹⁸.

According to the grandmother and her lawyer, AC had received early information about the circumstances of the child's background. They stated that the ICBF in Pasto received information on September 26, 1993 that the boy and his mother had been kidnapped and that the mother had disappeared. In connection with this, AC is also said to have received the information. At the end of 1993, the grandmother and the lawyer visited AC's contact person in Bogotá and it emerged that AC knew the background to the kidnapping and that the adoptive family had hired a lawyer. The contact person advised the grandmother not to contact any authorities and that AC would make every effort to return the child and speak to the adoptive parents. In Bogotá, the grandmother and the lawyer also visited the Ministry of Foreign Affairs and were told that they could not help them because it could damage relations between Colombia and Sweden.

The article also interviewed a representative of AC in Sweden. She gave a different description than the grandmother. According to AC, it was not until February 11, 1994 that they learned that the child had been kidnapped. AC would then have informed the NIA verbally and in April 1994 AC informed the Swedish Embassy in Bogotá about the case. A summary of the proceedings in AC's archives shows that the lawyer contacted AC by telephone on February 11, 1994 and that he visited AC's office in Bogotá alone on February 18, 1994.¹¹⁹

¹¹⁸ Folket i Bild, Stolen child, 6-7/96.

¹¹⁹ AC, Summary 1996-10-02 of the course of events.

An NIA official interviewed in the article said that the NIA first received information about the case in January 1995, not from AC but from a Swedish person working for Peace Brigade International (PBI) in Colombia who had learned through the organization Asfaddes that a kidnapped Colombian boy had been adopted in Sweden. The NIA also received the information by letter on February 2, 1995. The NIA wrote to the AC on February 3, 1995, asking them to explain what had preceded the adoption. According to the article, AC did not reply to NIA in writing until February 17, 1995. In its reply, AC states that it had been in contact with the ICBF and had been advised to support a dialog between the grandmother and the adoptive parents. On February 24, 1995, the NIA contacted the Swedish Embassy in Bogotá, which was already aware of the case. However, the Embassy first informed the Ministry in June 1995. Our review of NIA archival material on the case confirms this picture.

In the article, the grandmother claims that AC and ICBF deliberately delayed the process so that reunification would not be possible. AC, on the other hand, argues that the adoption would never have taken place had the circumstances been known, but that it is not possible to return a child adopted in Sweden because a Swedish adoption cannot be revoked¹²⁰.

Swedish actors argue that a foreign adoption approved in Sweden cannot be revoked and the child is not returned

In connection with the grandmother's visit to Sweden in 1995, an associate professor of private international law spoke about the case. She says that she has never heard of a similar case but that it seems that there is no obligation for Sweden to react to an invalidation of an adoption decision in Colombia. She is also convinced that sending the boy back is completely out of the question¹²¹.

The NIA archives show that the NIA investigates what happens when an adoption is annulled in another country. A caseworker at the NIA writes that if the adoption is annulled, the person who is to be regarded as the guardian can turn to the county court¹²² in Sweden with a request for enforcement or other measure under

¹²⁰ Folket i Bild, Stolen child, 6-7/96.

¹²¹ Västervikstidningen 1995-06-30.

¹²² Now the Administrative Court.

Chapter 21. FB. The Colombian decision would then be invoked and the county court would have to decide what effect the decision would have in Sweden. NIA also points to a provision in FB on refusal of enforcement, which could be of significance if the annulment were deemed to apply in Sweden.¹²³In August 1995, AC informs NIA that the adoptive parents had lost in the higher court in Colombia, that the possibilities of appeal had thus been exhausted and that the decision in Colombia would come into force.¹²⁴The file also contains a letter from the Swedish Ministry of Justice to the Ministry of Foreign Affairs. It states that the Colombian consulate has requested to be informed of the Swedish adoption legislation and provisions concerning the annulment of adoptions. The Ministry of Justice notes that the LIA does not contain any provisions on the annulment of an adoption, but that there are statements in the preparatory works to the LIA that may be applicable. The conclusion of the Ministry of Justice is nevertheless that the question of whether a foreign decision to annul an adoption can and should take effect in Sweden must be decided in the application of the law and assessed according to the grounds that generally apply to the effect in Sweden of foreign decisions in status matters.¹²⁵The Ministry of Foreign Affairs forwards this reply to the Colombian consulate.¹²⁶There is no document in the NIA's archive material that definitively establishes what applies regarding annulled adoptions. AC writes in a comment to the newspaper *Arbetet* regarding the case that even if the adoption is declared invalid in Colombia, this does not mean that the adoption is invalid under Swedish law, since adoptions cannot be annulled in Sweden⁽¹²⁷⁾.

The boy was not returned to Colombia. With the support of the Colombian consulate and with the advice and assistance of AC, a joint agreement was reached between the grandmother and the adoptive parents which included allowing the boy to stay in Sweden under certain conditions. AC informed NIA in 2000 that the Procuraduría de la Nación had investigated the proceedings of ICBF and the Colombian Ministry of Foreign Affairs. The Procuraduría notes that the Colombian Consulate has hired a lawyer and that legal difficulties were found in Sweden to have the child extradited. They also note that the adoptive parents have complied with the agreement. The Procuraduría concludes that the ICBF and the Ministry of Foreign Affairs have fulfilled their

¹²³ NIA, Regarding the annulled Colombian adoption, 1995-07-06.

¹²⁴ NIA, letter from AC to NIA 1995-08-31.

¹²⁵ NIA, letter from the Ministry of Justice to the Ministry of Foreign Affairs, September 18, 1995.

¹²⁶ NIA, Letter from the Ministry of Foreign Affairs to the Consulate of Colombia 1995-09-27, dnr R34 271:001.

¹²⁷ NIA, Fax from AC to the newspaper *Arbetet* 1995-12-15.

the way that best served the interests and fundamental rights of the boy. They therefore decide that the case is closed.¹²⁸

Report of the Inter-American Commission on Human Rights (IACHR)

The grandmother and the adoptee and family in Colombia filed a petition with the Inter-American Commission in October 2010 on Human Rights (IACHR). The applicants declare that the Colombian State is responsible, *inter alia*, for the disappearance of the mother and the illegal adoption of the child. The responsible authorities did not investigate the disappearance of the child and the mother in an independent and effective manner, which led to the adoption of the boy. The IACHR has examined the petition and presented its report in October 2020. It states that the case is appropriate to be examined against the following rights under the American Convention on Human Rights: Article 17 (right to family), Article 18 (right to a name), Article 19 (child's right to protection). The report sets out the Colombian State's response to the petition. The State claims that the process by which the adoption was annulled by the Colombian court in 1995 was carried out correctly. Following the court decision, the Ministry of Foreign Affairs took steps to return the child to Colombia. However, the particular circumstances of the case made it impossible in practice to implement the measures decided, *i.*¹²⁹ to return the child

5.7.6 Poor administration and documentation in adoption cases

Inaccuracies in adoption documents

As described in section 5.6.4, there are ambiguities in how children in Colombia have become available for adoption. This may be because there is a lack of background information about the child or because the child was incorrectly made available for adoption. Many of the children adopted from Colombia are in the care of the social authorities and

¹²⁸ NIA, Letter from AC to NIA 2000-03-21, dnr 69:31/95.

¹²⁹ IACHR, Report No. 309/20, Petition 1521-10. Report on admissibility, October 16 2020, OEA/Ser.L/V/II.Doc 326.

there are reports of children being adopted internationally instead of being given the opportunity to grow up in their biological family. Adoptees we interviewed say that there are inaccuracies in their adoption documents and that there is a lack of information, for example, on the parents of origin.

One of our interviewees, who was adopted from Colombia in 1984, has discovered many inaccuracies in her documents after being reunited with her family of origin. There is inaccurate information about how and by whom the child was given up for adoption. The documents state that the child's mother was poor and gave the child to the orphanage. However, the mother herself has said that the nuns at the orphanage where she was staying took the baby immediately after birth and announced that it was gone. The nuns had already told her during her pregnancy that there was a family in Sweden willing to take care of her child, and the nuns offered her a job if she gave up the child. The social investigation and consent document give an incorrect name for the mother. The consent is signed by another woman with a different name. There is also a witness who signed the consent. The mother's place of birth and address are also incorrect. There are different dates of birth on different documents, the one on the birth certificate is correct. Our interviewee is aware of a similar case from Colombia where it emerged that the family was not poor at all and that the adoptee had been stolen. The interviewee is also aware of two cases where adoptees from Colombia have traced their origins and found that the information in the adoption documents is correct.

The adoption decision from Colombia was missing in many cases in the 1980s

Our review of the archives shows that, at least during the 1980s, there was a recurring problem with the final adoption decisions (*sentencia*) from Colombia. In many cases, the decisions came several years after the child had left Colombia and in some cases no decision was made at all. The lack of a final adoption decision meant that the NIA could not approve the adoption and that the child could not become a Swedish citizen. The child continued to have Colombian citizenship and a Colombian passport. Adoptive parents contacted AC who tried to obtain the decisions through lawyers, orphanages and ICBF. But while waiting for the decisions, AC recommended adoptive parents

to turn to a Swedish district court to have the adoption decided in a Swedish court. Several district courts therefore contacted the NIA for guidance on how to proceed. The matter was dealt with at an NIA meeting in May 1984, where it was concluded that, for the sake of the children, it was reasonable that families who had not yet received the Colombian adoption decision one year after the child's arrival in Sweden should

be able to apply to the Swedish district court for a Swedish adoption order. However, AC would not cease its efforts to obtain a valid adoption order in Colombia.¹³⁰ In January 1984, adoption orders were missing in 189 cases; by the end of 1985, this had been reduced to 69 cases.¹³¹ This problem was also recognized in Norway, which discussed the issue with the ICBF. However, the ICBF advised Norway not to make a decision on adoption before the issue was legally settled in Colombia, which Norway respected.¹³²

A judge at a family court in Bogotá said that the fact that children could leave the country without a final adoption decision was a basis for irregular adoptions.

The new law of 1989 required the final court decision to be confirmed and the child's new birth certificate registered before the child left the country.

The extent of documentation and background information varies

According to the AC, the background information on children has evolved over time. There is a big difference between adoption files from the 1970s and 1980s compared to today. Initially, documentation was very sparse, whereas today it is very comprehensive. One of AC's former country managers for Colombia says in an interview that in the beginning there were very uneven background descriptions, some were very sparse. She therefore wrote down the information she heard by hand. AC's understanding is that children who come through ICBF generally have less background information than children who come through one of the private orphanages⁽¹³³⁾.

¹³⁰NIA, memo to NIA meeting 1984-05-23, Adoption in Sweden of Colombian minors , dnr 42:18/84.

¹³¹NIA, Unfinished adoption cases, dnr 42:18/84.

¹³² Inquiry Committee on Intercountry Adoptions (2025). p. 141 f.

¹³³Meeting with AC on 2024-03-20 and with a former AC country manager in Colombia on 2024-03-22.

In our review of the archives, we cannot see that the issue of children's background information has been specifically addressed by the supervisory authority or the adoption organizations.

In a Danish inspection report from 2007, the Adoptionsnaevnet reviewed 37 adoption files from 2006 prior to an inspection visit to Colombia. Adoptionsnaevnet found that the extent of the children's background information in the files varied, as did the way in which the children became available for adoption. The children who came via the ICBF were either abandoned or taken into care by the social authorities. For these children, there was generally more information about their background and parents. Most of the children who came through one of the private orphanages were born to women in maternity homes or were part of maternal assistance programs. For some children, there was no information on who had left them in the orphanage. Information on consent was sparse, especially for some of the private orphanages. Background information on the mother differed between orphanages, for some orphanages there was no information at all. The Adoption Board concluded that the Colombian adoption system was reassuring but was aware that there were likely to be a significant number of illegal adoptions each year⁽¹³⁴⁾.

In connection with the 2017 authorization procedure, MFoF carried out a systematic survey of the adoption process in all authorized countries. As part of the mapping, MFoF reviewed all child reports for children adopted to Sweden in 2017. Among other things, MFoF reviewed the child's background investigations and looked at what information was available about the child, how the child was found, information about parents, how relatives were searched for as well as information about consent. In total, the MFoF reviewed 238 files, of which 23 were for Colombia. The mapping was never compiled in a report and it is therefore difficult to read out what specifically emerged for Colombia. MFoF notes that the reason why the parents cannot take care of the child but not whether the parents had given their consent. The overall conclusion of the survey was that MFoF needed to acquire more in-depth knowledge and a better overall picture of, among other things, the child's background investigation and compliance with the principle of subsidiarity⁽¹³⁵⁾.

¹³⁴ MIA, Adoption Board mission to Colombia September 8 - September 14, 2007, dnr 72:283/08.

¹³⁵ MFoF, Supervision of children reports January 2018, 2017-12-20, dnr 3.3.6:19/18.

Our review of adoption files

We reviewed a total of 101 files for adoptions from Colombia brokered by AC, FFIA and La Casa during the period 1973-2021.

Description of the children's background

The file review shows that children come from different parts of Colombia, but the vast majority of children come from Bogotá and Cali. From 2000 onwards, approximately 80% of children originally come from Bogotá or Cali. Children adopted from Colombia generally do not have any special needs. In the sample, less than 10% of children had any kind of injury, illness or special need. The children were on average 1 year and 9 months old when they arrived in Sweden, the youngest child was just over 1 month old and the oldest child was 12 years old. Half of the children in the sample were under one year old when they arrived in Sweden.

In the adoption files we examined, 75 percent of the children had lived in an orphanage before coming to Sweden. Just over 20% of the children had lived in a foster family. Of the children who had lived in a private orphanage, most had lived at Chiquitines in Cali, followed by FANA, CRAN, Los Pisingos and La Casa de la Madre y el Niño in Bogotá. Children ranged in age from one day to seven years when they arrived at the orphanage, but half of the children were less than one week old and

65% less than one month. The children had been in the orphanage for an average of one year before the adoption decision was made. More than a third of the children spent less than six months in the orphanage and 60% of the children spent less than a year in the orphanage before the adoption decision was made. About 10% of children had been in an orphanage for more than two years when the adoption decision was taken.

Lack of information in adoption files

In 20 percent of the files we examined from Colombia, there is no information on where the child was born. However, information on the child's date of birth is found in almost all files. Health descriptions are completely absent in almost 40 percent of the files and, where they are present, they are very brief.

As regards information on the parents, one third of the files contain no information on the mother. In 55% of the files, the mother's first and last names are given, while the father's name is only given in 12% of the files. It is very unusual for the parents' address to be given. The mother's age is given in just over 40 percent of the files, for the father only in 12 percent. In those cases where there is a description of the mother, it is briefly stated about her life situation, for example her marital status, how many children she has, what she does for a living or that she is studying. It is relatively common to find descriptions that the mother has social or mental health problems, that she has not been able to take care of the child, is not interested in the child, has tried to harm it, or that the mother abuses drugs, is prostituted or homeless. In some cases, it appears that the child was conceived through rape. Only in a third of the files is there any information about the father's situation, usually stating that the father left the mother before the child was born, that he does not recognize the child or that it was a temporary relationship. In a few cases it is stated that one of the child's parents is dead, usually the father.

Most children have been given up by a parent or ICBF for adoption

In contrast to adoptions from China, for example, children placed for adoption from Colombia have rarely been abandoned. Only six percent of the children in our sample were abandoned children. The children had been left in various places, such as churches, bus stops, or the mother had left the child at a hospital or nursery and not returned to pick it up.

Instead, in Colombia, it is common for the mother and sometimes both parents to leave the child for adoption, as is the case in more than half of the files we reviewed. The reason is usually that the parent or parents cannot take care of the child. The most common reason is that the father of the child has left the mother during pregnancy and the mother does not have the financial means to care for the child. Often the mother already has children. In some cases, it is a young mother who became pregnant in a casual relationship or the father of the child does not want to acknowledge the child. Economic reasons are given in 30% of cases. There are also other reasons why children are given up for adoption, such as neglect at home or the death of the parents. In the

early adoptions from Colombia, however, the reason for the adoption is rarely given. In some cases, someone other than the child's parent has also given the child up for adoption, for example the child's grandmother or aunt or some other person. In just over 40 percent of the files, it is instead the ICBF that was involved in giving the child up for adoption. In just over 10 percent of the files, it appears that the child being adopted has been taken into care by social authorities in the country, but only

In a few cases, it is clear that the child has been forcibly removed. In many cases, it is unclear whether the child has been taken into care or not.

In many cases, there is a lack of consent from the child's mother, information on how the child became available for adoption as well as what national solutions were sought

In a third of the files we examined, it is not clear which agency investigated the child's background. In the files where it is clear, ICBF investigated the child's background in just over half the cases. It is also common for private orphanages to investigate the children's background, such as Chiquitines, FANA, CRAN and La Casa de la Madre y el Niño.

In 70 percent of the files, it is not clear which actor decides that the child is available for adoption, but in those cases where it is clear, it is the ICBF that decided this. However, as far as we can tell, there is very rarely a written decision that the child is available for adoption (in four percent of the files). Only in five percent of the files does the documentation in the file indicate that a national solution was sought for the child before international adoption. From the 2000s onwards, it appears in just under ten percent of files.

In cases where children are abandoned, there is often no information that the original parents have been searched for. When there is information that the parents have been searched for, there is usually also information about when and where it was announced that the child had been found. This was usually in a particular newspaper and in a few cases it was also announced on the radio.

Documented consent from the mother is found in only twelve percent of the files. In cases where there is a full name of the mother (which is in just over half of the files), there is a documented consent from the mother in every fifth file. In some cases, the file shows that the mother has given consent, but without there being any separate consent document in the file. A consent from a parent

may also have been obtained, even if it has not been documented and kept on file. However, in many cases, Swedish operators have not ensured that consent has been obtained.

In the files where there is a specific consent document, in about two thirds of the cases it is stated that the consent relates to adoption, but it is almost never stated that it relates to intercountry adoption. In one third of the files it is not stated at all that the consent is for adoption. For a period in the 1980s, the FANA orphanage had a pre-printed consent form with a standard statement about why the mother was giving the child up for adoption. It read "She does not have the financial means to care for the child. The child's father abandoned the mother even before the child was born." FANA simply entered the mother's and child's names and the mother signed the form.

In more than half of the adoptions from FANA where reasons for adoption are given, this is the reason for adoption even when the pre-printed form is not used. This raises questions, but does not necessarily mean that it was done incorrectly.

As regards birth certificates, 30% of the files contain an original birth certificate. Half of the files contain a birth certificate issued in connection with adoption. In these birth certificates, it is most common for the child's Colombian first name to be registered together with the Swedish surname. In every third file, the child's Colombian surname also appears, either in the original birth certificate or in the birth certificate issued in connection with adoption. In every fourth file, only the child's Swedish name appears on the birth certificate issued in connection with adoption. We have also seen examples of Swedish names being entered on birth certificates even before adoption decisions have been made in Colombia.

In the files we examined, it is very rarely clear which actor made the match between children and adoptive parents. In the cases where it is stated, the matching is usually done by one of the private orphanages in Colombia.

Half of the children have come to Sweden without a final adoption decision from Colombia

The file review shows that children from Colombia sometimes arrived in Sweden before and sometimes after a final adoption decision was made in Colombia. Slightly more than half (56 percent) of

children came to Sweden after a final adoption decision had been made. The remaining 44% of the children came to Sweden without a final adoption decision. The Colombian adoption decision was usually made a few months after the child arrived in Sweden, but it varies from a few days to almost two years after arrival.

After the children arrived in Sweden, it took on average up to seven months before the adoption was approved or decided in Sweden. After a decision was made in Colombia, in 25% of cases it took more than six months before the decision was approved in Sweden. There are also examples where adoption decisions were made by a Swedish court before a Colombian court made a final adoption decision.

This is related to the problems of delayed final adoption decisions in Colombia until the end of the 1980s, which Sweden solved by having Swedish courts decide on adoption.

Since 1999, all files from Colombia contain Hague certificates.

Other ambiguities and signs of irregularities

There are also other examples of ambiguities and signs of irregularities in the files examined. We have seen several examples of the wrong person claiming to be the child's mother, and where the mother has provided incorrect information. In a couple of cases, it appears that the child was given up for adoption against the parents' wishes. In one case, the child's mother objected to the declaration of abandonment. In another case, the child's mother left the child and then returned with the child's father to get the child back but could not prove that they were related. There are also some examples of contradictory information in different documents.

5.7.7 Swedish stakeholders have not problematized the link between maternity homes and adoption activities

The UN Committee on the Rights of the Child has on several occasions expressed concern that women in private orphanages risked being influenced in their decision to keep or give up their child for adoption and that orphanages have promoted the sale of children for adoption. This has also been described by the Norwegian investigation. All of the eight private orphanages that have been licensed by the ICBF over time and with which the Swedish adoption organizations have cooperated have conducted

maternity homes. The maternity homes have been financed, among other things, by the donations and care fees paid by the adoption organizations per adoption.

Our archival material shows that the Swedish actors have been well informed by both the orphanages and the ICBF that maternity homes have been important for the orphanages and the international adoption activities. According to AC's country report from 2004, the orphanages state that they are opposed by ICBF and that the most difficult issues are the size of the donations (care fees) and the link between maternity homes and orphanages financed by donations. The number of mothers enrolled in the maternity home program had decreased, which was due to more mothers choosing to keep their children, but according to the orphanages, it was also due to ICBF caseworkers refusing to accept mothers' consent for adoption. One orphanage director said that it was ethically difficult to defend a maternity home directly adjacent to the orphanage, which she had also said at a meeting between the orphanages and the ICBF and was criticized for afterwards. The orphanage had had two cases where mothers had lodged complaints (*tutelas*) because they had been forced to give up their children. However, according to the director of the orphanage, the allegations were false. AC also had meetings with ICBF representatives who said that they were not opposed to orphanages running maternity homes but that some orphanages needed to do a better job of informing mothers of all the options available to them ⁽¹³⁶⁾.

During an inspection visit in 2013, MIA met with representatives of several orphanages. One orphanage director expressed that there was no longer a reason to run maternity homes when international adoptions were decreasing ¹³⁷.

AC says that private orphanages have historically been the only ones to offer support to single mothers in Colombia. AC's experience, after visiting mothers' and children's homes annually since the 1970s, is that the homes offered the mothers a fine and thoughtful care and treatment. AC has met both mothers who have chosen to keep their children and mothers who have given their children up for adoption.

AC's perception is that they were treated with great respect¹³⁸

¹³⁶ NIA, travel reports AC Colombia, dnr 69:386/03.

¹³⁷ MIA, Report of the MIA mission to Colombia May 22-31, 2013.

¹³⁸ AC, comments on draft text Colombia 2024-09-05.

Eight percent of the files we reviewed indicate that the child's mother stayed in one of the maternity homes Chiquitines, FANA, CRAN or La Casa de la Madre y el Niño. However, there may be more people who have stayed in maternity homes, as in most cases it is not clear whether the mother has stayed in a maternity home or not. In the cases where the mothers stayed in a maternity home, this took place between 1985 and 2013. Where it is stated that the mother stayed in a maternity home, it is the child's mother who gave the child up for adoption and the children's home has investigated the child's background. The mother's name and age are given, and in some cases she has also given the father's name.

5.7.8 Sweden has accepted high donation and care fees to private orphanages

Sweden has cooperated with all licensed private orphanages in Colombia

Private orphanages have traditionally been part of adoption activities and international adoptions in Colombia. The orphanages have had a very independent status and have been financed by fees from adoption organizations and donations from adoptive parents who previously adopted from the orphanages. Over time, eight orphanages in Bogotá, Medellín and Cali have been licensed by ICBF. Sweden has cooperated with all orphanages through the adoption organizations. According to information from the ICBF in 2006, the fees varied between the orphanages, from USD 6 000 to USD 12 000 per adoption¹³⁹.

Already in the early 1980s, a Swedish nurse who lived in Colombia and had experience from orphanages in different parts of the world expressed views and questions to the National Board of Health and Welfare about one of the primary orphanages in Colombia. The person had followed the development of the orphanage and seen that the number of children in the orphanage had increased significantly in just a few years. "From a small, well-run institution to a big operation with international adoptions, mainly to Sweden." She said that there was a lot of "business" around the adoption orphanages, that the children were treated as objects for sale and that the orphanages rather persuaded the mothers to give up the children instead of talking to them and avoiding a surrender. She also

¹³⁹MIA, Report of the MIA inspection mission to Colombia, March 15-24, 2006, ref. 74:19:40/06.

AC also claimed that the adoption centers paid the delivery costs if the mothers abandoned the children.¹⁴⁰ AC submitted a statement to the NIA rejecting the allegations and describing the actors and the process of adoption in Colombia. In its reply, AC also stated that the orphanage in question relied on donations from various actors and on the fees paid by the adoptive families. The fees were set annually by the orphanage's board, on which the ICBF had a representative. The AC received the financial statements and thus had a good picture of the orphanage's finances⁽¹⁴¹⁾.

The former director of FFIA says in an interview that FFIA cooperated with two private orphanages when it started its mediation activities in Colombia in the early 2000s. FFIA reacted to the agreements signed between the adoption organization and orphanages. "We didn't used to work like that. There was a lot of money involved, both costs for the orphanages and for lawyers' fees. It cost about 50-60 000 SEK more than in other cases. It was much more expensive than in other countries." FFIA carried out two adoptions through private orphanages, but then decided to work exclusively with ICBF¹⁴²

Different views on care fees and donations

The Colombian approach to fees and donations differs from the Swedish approach. While Sweden has accepted a reasonable fee for care costs but has been skeptical about donations, Colombia has expressed through the ICBF that adoptions should be free while accepting donations to orphanages. The explanation for this lies in how the Colombian state has chosen to finance the social welfare programs. Scarce government resources do not cover the great social needs that exist in the country and the state does not provide full cost reimbursement to the private orphanages that provide services for the ICBF. The orphanages are expected to find sponsors for their activities, often companies with local roots. The companies in turn receive tax reductions and there is a general expectation that the companies will contribute to

¹⁴⁰NIA, Letter from a private individual living in Colombia to the Director-General of the National Board of Health and Welfare, 1983-11-19, received by the NIA 1983-12-16, dnr 79:378/83.

¹⁴¹ NIA, Opinion from AC 1984-01-25 on letter to the National Board of Health and Welfare, dnr 79:378/83.

¹⁴²Interview with the former FFIA Director of Operations, September 26, 2022.

various social programs. In other words, donations and sponsorship are seen as a prerequisite for the development of the social sector¹⁴³.

Donations are being questioned from several quarters and some changes are being made but not in Sweden

In the early 2000s, donations to private orphanages in Colombia began to be questioned.

Report points to risks with donations

The Commission on Intercountry Adoption, which issued its final report in 2003, analyzed the costs and assistance involved in intercountry adoption. Among other things, they looked at the costs of the child's care and subsistence and other costs abroad, what was included in the costs and how they differed between countries. The fees charged to private orphanages in Colombia were highlighted as an example of fees charged in the form of a fixed amount, which included costs over and above the actual costs. The fee was determined by the agency contract and related to the child's share of the total activities of the contact. This could be compared to countries where there was no requirement to pay more than the actual costs, but where cooperation was still based on an expectation of extra contributions and countries that only required reimbursement of actual costs. The review pointed out that even if what was paid in excess of actual costs was put to good use, such a contribution should never be a condition for a child to become available for adoption. They also pointed to the risks of orphanages and other actors in the country of origin becoming dependent on large sums of money from intercountry adoption activities and that the income from these activities could lead to children becoming a commodity. The study proposed that the part of the cost relating to other than the actual cost of adoption, calculated on average, should gradually decrease and that the actual cost of adoption should be calculated from the time when the child is proposed¹⁴⁴

¹⁴³ MIA, Report of the MIA inspection mission to Colombia, March 15-24, 2006, ref. 74:19:40/06.

¹⁴⁴ SOU 2003:49, *Adoption - at what price?*, pp. 130-134 and 144-147.

In Bill 2003/04: 131 the government stated that:

It is important not to contribute to a situation where the countries of origin of the children become dependent on income from intercountry adoption activities. Where large sums of money are involved, in addition to reimbursement of actual costs, it may be more economically advantageous to place children for intercountry adoption than to provide support for the child to remain in his or her family environment or to be cared for appropriately in their home country. Such a situation may lead to a trend where more children are adopted to other countries than the situation in the country of origin justifies⁽¹⁴⁵⁾.

However, the Government considered that it should be possible to provide compensation for costs associated with the child even before the child proposal was made and that it was also reasonable to provide some compensation to an orphanage for the children remaining in the orphanage.¹⁴⁶ The result was that a statutory obligation was introduced for Swedish adoption agencies to report on the costs abroad and how they were distributed. A provision was also introduced to the effect that other activities carried out by the adoption organizations must not jeopardize confidence in the adoption activities.¹⁴⁷

Norway demands that donations are not paid to private orphanages

Problems and risks associated with donations to private orphanages in Colombia were also raised in Norway. This is described by the Norwegian inquiry in its interim report.¹⁴⁸ We have also received documentation from the Norwegian inquiry concerning Sweden.

The Norwegian Adoption Authority (now Bufdir) decided in 2002 to grant a limited brokerage license to the Norwegian adoption organization Adopsjonsforum for their cooperation with the private orphanages in Colombia. The reason was that the orphanages required high, mandatory and unspecified donations for adoption. The authority referred to the fact that the donations involved a mixture of aid and adoption mediation and that the donations were not in line with Article 32 of the Hague Convention, which states that only

¹⁴⁵ Prop. 2003/04:131, *International adoption issues*, p. 27.

¹⁴⁶ Prop. 2003/04:131, p. 27.

¹⁴⁷ SFS 2004:769.

¹⁴⁸ Inquiry Committee on Intercountry Adoptions (2025).

reasonable costs can be claimed or paid for an adoption. The authority required the Adoptions Forum to find another solution for cooperation with the private orphanages. The mediation license would not be renewed if a change was not made.

Adopjonsforum, which, like AC, began to mediate adoptions from Colombia in 1973, lodged a complaint with the Royal Ministry of Children and Family Affairs in 2002 to review the limited mediation permit. The organization argued that the adoption authority had a too narrow interpretation of Article 32, that the private orphanages were approved and controlled by the ICBF and that it was not the task of the Norwegian adoption authority to double-check approved organizations in other countries. Adopjonsforum described that the donation amount covered more than the actual adoption cost, funds went, among other things, to the orphanages' maternity program, which they thought was natural. They argued that it would be wrong to see the adoption agency as isolated from the maternity programs. The Adoption Forum also pointed out that private institutions played an important role in the care of children in many countries of origin and that they often worked on a non-profit basis with little government funding. It was therefore both ethically right and necessary for adoptive families to pay a "decency support" for adoption, as long as it was done within reasonable limits and taking into account the principle of subsidiarity. The Adoption Forum also referred to the fact that every adoption was decided in court.

In its examination of the case, the Ministry of Children and Family Affairs emphasized that it was important that the Norwegian Adoption Authority, in its supervisory role, examined the issue of adoption costs. They found that the amount of the donation was high, that it was used for other purposes than the adoption case itself, and that donations were necessary for the orphanage to operate. However, the Ministry considered that it would be too intrusive to stop the Adoption Forum from mediating adoptions through the private orphanages. They considered that the question of the application and interpretation of Article 32 of the Hague Convention had not been fully explored and was best dealt with through active exchanges between Central Authorities in the Convention countries and in meetings of the Hague Conference. The Department decided

therefore that the Adoption Authority should grant Adoptionsforum a full brokerage license until 2004, which they did.¹⁴⁹

In 2004, Adoptionsforum applied for a renewed brokerage license for the period 2005-2006. Bufdir contacted ICBF and was informed that the amount of donations to the orphanages amounted to USD 6 000 and that it should be increased to USD 6 500. ICBF pointed out that since adoption in Colombia was free, ICBF had not fixed the donation amounts, donations had to be voluntary and orphanages could not be required to make fixed donation amounts. The Adoption Forum was again required by Bufdir to find an alternative solution with the orphanages. The solution that was found meant that Adoptionsforum would pay approximately NOK 3,500 per child per month for the time the child spent in the orphanage prior to adoption. The cost would cover the difference between the cost of the child and the amount paid by ICBF to the orphanage. This was also approved by the ICBF. In May 2005, the Adoption Authority requested a placement license based on these principles¹⁵⁰.

In June 2006, however, Bufdir contacted the ICBF and informed them that they had decided to put a temporary stop to adoptions from private orphanages. The reason was that Bufdir had received information from Adoptionsforum that fixed donation amounts were still being paid. The difference was that the adoptive families paid part of the amount directly to the orphanages. In addition, for two of the three orphanages (CRAN and Los Pisingos), the donation amount had been increased to USD 9 000 per adoption. According to the Adoption Forum, both Los Pisingos and CRAN sent a letter at the end of each year stating how many adoptions the Adoption Forum could expect to receive in the first six months of the following year and asking them to pay an amount for the following year (i.e. an advance payment). Part of the payment was sent to the United States. This information had been given to the ICBF by the Adoption Forum in March 2006 at the request of the ICBF. The issue of private orphanages and international adoptions had also been debated in the Colombian Parliament and an audit of the orphanages had been initiated. In Bufdir's letter to the ICBF they wrote that if the audit showed

¹⁴⁹The Royal Ministry of Children and Family Affairs, Complaint against decision on limited processing permit for adoption of children from private institutions in Colombia, 2003-12-16, dnr 00304210-/HKBBU2.

¹⁵⁰Bufdir, Application for renewed placement permit for Colombia, 2005-01-14, dnr 04/8439:4. Bufdir, Renewed placement permit private children's homes Colombia JNR 04/8439, 2005-04-04, dnr 64/8439:7. Bufdir, Application for renewed placement permit for adoption from private children's homes in Colombia, 2005-07-02, dnr 04/8439:9.

that the organizations had violated Colombian law, the brokerage license of the Adoption Forum for the private orphanages would be withdrawn. Bufdir emphasized that the cooperation with ICBF worked very well and that it hoped that the audit of the orphanages would not affect the cooperation with ICBF.¹⁵¹ Bufdir decided in 2006 that adoptions could only be mediated through ICBF.¹⁵²

The Norwegian authority informs MIA about the situation

It appears from the Bufdir archives that it also informed the MIA of the situation. In an e-mail to MIA and the Danish Central Authority in June 2006, Bufdir described the temporary suspension of adoptions from the private orphanages and the reasons for it: investigations in Colombia concerning financial issues for the orphanages, that the orphanages continued to charge donations (amounts are stated) and that the issue had been raised in the Colombian Parliament. Bufdir clarified that the stop had been made in consultation with Adoptionsforum and that the organization had been honest with the facts both towards Bufdir and ICBF. The questions that ICBF had asked Adoptionsforum to answer had also been put to the adoption organizations in Sweden and Denmark. According to Bufdir, other foreign adoption organizations had replied to ICBF that the donations had never been compulsory or concerned a fixed amount; according to Bufdir, they had probably been in contact with the children's homes and had come up with a suitable wording. They did not know whether this applied to the Swedish and Danish adoption organizations. Bufdir also expressed shock that some of the donations had been transferred to accounts in the USA. Since there was suspicion of child trafficking, Bufdir had no alternative but to temporarily stop the adoptions until the situation was clarified. Bufdir wanted a continued exchange between the Norwegian authorities on the matter¹⁵³

The then Director General of MIA replied to Bufdir on the same day. She wrote that the information sounded worrying and asked if Bufdir had more detailed information about the claim that the orphanages

¹⁵¹Bufdir, Temporary suspension of the Adoption Co-operation between Adopjonsforum and the private Adoption Organizations in Colombia, 2006-06-28, dnr 04/8439. Bufdir, e-mail from Adopjonsforum to ICBF 2005-09-09.

¹⁵²Email from the Norwegian Committee for Investigation of Irregularities in Intercountry Adoption in Norway, 2024-05-07.

¹⁵³Bufdir, e-mail to MIA and the Danish Adoption Authority, 2006-06-29, dnr 04-8439/19.

requested that money be transferred to banks in the United States. She also asked at what stage there were suspicions of child trafficking. "Is it a question of whether the children are available for adoption at all, i.e. is it suspected that the children have been 'bought' from their parents, or is it suspected that the children have been 'bought' from the orphanages?" The representative of Bufdir replied that according to Adoption Forum, members of the debate in the Colombian Parliament had stated, among other things, that with donation amounts of USD 9,000, this meant that a real price tag was being put on children and that they were in practice being sold. Bufdir pointed out that the fact that part or all of the surplus amount paid to the orphanages was deposited in banks in Florida and New York reinforced the suspicion of gross violations of Colombian law and regulations. Bufdir did not know whether there was any suspicion that the mothers had received money to give consent to give up their children. However, as mothers in other countries were lured with money to give up children for adoption, it could not be ruled out in Colombia, especially when there was a lot of money involved in a country where adoptions by law should in principle be free. According to the Adoption Forum, the orphanages were also run by very influential families. The director of the CRAN orphanage was the daughter of a former president. The orphanages had therefore had a very strong position in Colombia and the ICBF had found it difficult to supervise the orphanages and stop irregularities. However, the situation would have changed after the last elections, when the ICBF was strengthened¹⁵⁴.

Bufdir reacted in an e-mail to the Director General of MIA the following day. The representative of Bufdir wrote that he recalled that at a Nordic meeting in 2005 he had had a conversation with a representative of AC who had been very critical of the solution that Bufdir had concluded with Adoptionsforum for cooperation with the private orphanages, i.e. an amount per child per month. The AC representative had expressed that it was completely wrong for Bufdir to interfere in the issue of donations and claimed that the system as it worked was an example of very good practice. The Bufdir representative wrote to MIA that AC was therefore likely to be critical of the way Adoption Forum had answered ICBF's questions. Adoptions Forum did not want to share its answer itself, but referred to the fact that it could be requested from ICBF. Bufdir therefore did not know whether AC had received Adoptions Forum's answer.

¹⁵⁴Bufdir, e-mail to MIA, 2006-06-30, dnr 04-8439.

Forum's response. The MIA was asked not to disseminate the material, but to use it only for its own possible actions towards adoption organizations¹⁵⁵.

As stated above, our review is based on material obtained from the Norwegian investigation. In our review of the MIA's archives, we have not found any corresponding correspondence in the archive material. There was no mention of receiving information from Norway about donations and risks of child trafficking. The then Director General of MIA said in an interview that they had a lot of exchanges with Bufdir and the Danish authority, but that she did not recall any exchanges about donations to the private orphanages ⁽¹⁵⁶⁾.

Colombia tightens requirements for donations to private orphanages

As noted above, the issue of donations to private orphanages was on the table both within the ICBF and the Colombian Parliament. AC's travel reports from 2004 show that there was great concern among the orphanages that the ICBF would limit the possibilities of making donations to the orphanages. AC writes that one of the orphanages had made demands to AC for higher compensation. The AC representative had described the situation in Sweden with the ongoing investigation into international adoptions and the forthcoming bill on adoption. The AC had also referred to the situation in Colombia with the bill and the criticism of donations and said that they "absolutely cannot increase right now anyway, let's wait a few months and see what happens." The representative from the orphanage agreed that this was the best course of action¹⁵⁷.

In 2006, Colombia tightened the rules on donations. A total ban was introduced on foreign donations to orphanages as compensation for the adoption of children. Adoptive parents could no longer donate to orphanages prior to an adoption.¹⁵⁸ Instead, the aim was to create partnerships in which recipient countries supported social sector activities in various ways.¹⁵⁹

¹⁵⁵ Bufdir, e-mail to MIA 2006-06-30, dnr 04-8439/20.

¹⁵⁶ Interview with the then Director General of MIA 2024-06-24.

¹⁵⁷ NIA, travel reports AC Colombia, dnr 69:386:10/03.

¹⁵⁸ Article 74 Law 1098 of 2006.

¹⁵⁹ MIA, Report of the MIA inspection mission to Colombia, March 15-24, 2006, ref. 74:19:40/06.

MIA takes no action - donations are called care fees instead

For the Swedish adoption organizations, however, the stricter rules in Colombia did not in practice mean any major difference compared to before. MIA took no action in response to the information from Bufdir or the stricter rules in Colombia. What were previously called donations were instead referred to as care fees. In an inspection report for AC in 2006, MIA concluded that the donations requested by the private orphanages from adoptive parents actually corresponded to fees for the child's care and attention and were therefore a care fee rather than a donation.¹⁶⁰ According to the then Director General, MIA analyzed the organizations' adoption costs, obtained information on what the costs were, saw that it varied, and made the assessment that it was reasonable.¹⁶¹

Big differences in adoption fees for adoptions through ICBF and private orphanages

We have reviewed the organizations' adoption fees for the period 2006-2020. It is not possible to follow the fees continuously for the whole period as there is no data for some years. From 2016, the adoption fee is stated generally and does not distinguish between fees for adoptions that go through the ICBF and private orphanages. The amount includes costs both in Sweden and in Colombia. The costs abroad are not always specifically reported and the care costs are not reported separately in the authorization applications.

¹⁶⁰ MIA, Inspection report AC 2006, dnr 67:639/06.

¹⁶¹ Interview with the then Director-General of the MIA on June 24, 2024.

Table 5.3 Fee per adoption through ICBF and private orphanages for AC, FFIA and La Casa 2006-2020

Year	AC ICBF	AC private orphanage	FFIA ICBF	La Casa private orphanage
2006	63 000	125 000	74 400	61 000
2007	-	120 000	92 000	69 000
2008	66 000	141 000	99 800	49 000
2009	100 000	188 000	108 500	87 000
2010	-	162 000	107 500	61 800
2011	139 000	170 000	105 000	72 000
2012	-	171 000	108 000	-
2013	-	196 000	113 000	-
2014	-	-	-	-
2015	-	-		-
2016	-	223 000		
2017	-	166 000		
2018	-	164 000		
2019	-	163 000		
2020	-	166 000		

Source: Authorization applications from AC, FFIA and La Casa for the period 2006-2020.

The amount includes costs both in Sweden and in Colombia. To this must be added the family's own travel and subsistence costs. A dash means that there is no information in the authorization application.

Table 5.3 shows that there are significant differences in the adoption fee for an adoption through ICBF compared to private orphanages. The fee for adoption through private orphanages is significantly higher. The large difference cannot be explained by different costs in Sweden as they are the same for one year regardless of whether the adoption was made through ICBF or a private orphanage. The fees between adoption organizations differ, which may be due to both differences in costs in Colombia and in Sweden. The fact that the fee for FFIA's adoptions from ICBF is higher than for AC is explained by FFIA as the organization had higher costs in general in Sweden that were distributed per adoption. The fee for adoptions through La Casa and the orphanage La Casa de la Madre y el Niño is lower than for AC's adoptions through private orphanages. This is explained by the fact that La Casa is mainly operated as a non-profit organization where the adoptive families do a lot of their own work and thus do not pay any administration fees

to the organization in Sweden. The fee relates to La Casa's costs abroad, including the fee to the orphanage.¹⁶²

MIA seeks transparency on healthcare fees

As we have described, the MIA did not take any action based on the information it received from Bufdir in 2006 or the stricter rules introduced in Colombia in the same year. However, it is clear from the archive material that from 2006 the MIA began to impose stricter requirements on the adoption organizations' reporting of care fees and other costs in accordance with the stricter provisions of the LIA. The fees are also subject to supervision. Adoption organizations do not explicitly disclose the amount of care costs and the breakdown of costs. The MIA has to ask a number of questions to clarify the cost of adoption, the amount of the care fee, what is included in the care fee and how it is distributed between different cost items.

The AC states that the care fee in 2006 amounts to USD 9 000 per adoption. In its reply to the MIA, the AC writes that it "together with the orphanages arrived at an average and reasonable care fee per case because the Swedish law requires it and this fee was also considered by the MIA after its visit to be reasonable based on the actual circumstances in the orphanages."¹⁶³In a supervision report for the AC in 2007, the MIA writes that it examined the conditions in Colombia with reference to the high care fees that exist for adoptions from private orphanages. No further action was taken as a result of the review.¹⁶⁴The fee was increased to USD 10,500 in 2008.¹⁶⁵La Casa reports a fee of EUR 3,000 per adoption.¹⁶⁶As of 2012, the orphanage also charges an administrative fee of EUR 1,200. The reason is that the orphanage's administrative costs have increased, partly due to the fact that the ICBF requires more accounting and reporting than before. The orphanage's legal costs have also increased as a result of an increased presence in the legal process in the event of an adoption.¹⁶⁷

¹⁶² Review of authorization applications for AC, FFIA and La Casa for Colombia 2006-2022.

¹⁶³ MIA, email from AC 2007-11-16, dnr 61:524:11/07.

¹⁶⁴ MIA, Inspection report AC 2006, dnr 67:639/06.

¹⁶⁵ MIA, email from AC 2009-10-19, dnr 61:499:4/09.

¹⁶⁶ MIA, email to La Casa 2014-03-27, dnr 3.1.2:493:22/13 and MIA, email from La Casa 2014-04-03, dnr 3.1.2:493:23/13.

¹⁶⁷ MIA, Report of the MIA inspection mission to Colombia, May 22-31, 2013.

In connection with the authorization review for AC in 2008-2009, MIA asked questions about the breakdown of the costs included in the care fee for the various children's homes. The MIA referred to what was emphasized in the preparatory works about gradually increasing requirements for transparency and itemization of costs and emphasized that they needed the data before making decisions. depending on whether the children were in foster care or in an orphanage. For children in foster care (there are no records for children in orphanages), direct costs were divided between clothing and food (35%), the foster family's costs for the child (5%), the orphanage's costs for the child (5%), and the foster family's costs for the child (6%). cent), administrative costs associated with adoption (10 percent), medical costs (10 percent), training and preparation of older children (5 percent). Indirect costs consisted of personnel costs (10 percent), costs of running the orphanage (8 percent), costs of other programs, including maternity homes (12 percent).¹⁶⁹This shows that the care fees have gone beyond the direct costs associated with the adoption of an individual child. They have also financed maternity home activities.

The MIA consistently granted authorization to adoption agencies.

MIA and adoption organizations have different views on whether care fees are allowed

In 2014, when the MIA handled authorization applications for AC and La Casa for the period 2014-2015, the issue of care fees was raised again. MIA was of the opinion that it was no longer allowed to pay care fees for adoptions from Colombia and referred to the ICBF's 2013 conference and to Article 5 of Resolution No. 4274 of June 6, 2013. The MIA considered making it a condition that care fees could not be charged to applicants. AC and La Casa were given the opportunity to comment.¹⁷⁰

AC replied that they and their partner organizations did not interpret Article 5 as prohibiting the payment of a fee for the child's

¹⁶⁸ MIA, Authorization application AC Colombia 2008-2009, dnr 61:524/07.

¹⁶⁹ MIA, email to AC 071115, dnr 61:524:10/07, MIA, email from AC 071116, dnr 61:524:11/07 and MIA, Decision authorization AC Colombia, dnr 61:524/07.

¹⁷⁰ MIA, email to AC 131119, dnr 3.1.2:511:6/13.

care and maintenance, but that the prohibition concerned donations and gifts in return for the surrender of a child for adoption. AC had also been in contact with a Supreme Court judge in Colombia, which argued that the ICBF had misinterpreted Article 74 of Law 1098 and issued the resolution on the wrong grounds; and in violation of the country's constitution. According to AC, the judge also stated that "the laws that regulate adoption activities in Colombia are so clear and set such high standards of transparency and ethical work that there is no risk of children becoming available for adoption for financial reasons." According to AC, the ICBF staff who drafted the resolution had been dismissed and no longer existed.¹⁷¹ MIA contacted the ICBF for clarification on whether Swedish adoption agencies were allowed to pay care costs or make donations to orphanages, but received no reply.¹⁷² They also contacted ISS, who referred them to the ICBF. The Swedish Embassy in Bogotá was also contacted, and they referred to a person at ICBF who replied that the resolution was valid. MIA again asked AC for a response, but AC referred to the orphanages holding meetings on costs etc.¹⁷³ MIA again contacted ICBF and this time received a response in which ICBF stated that it was necessary to reiterate the prohibition on payment provided for in Article 74 of Law 1098 of 2006.¹⁷⁴ Almost a year after MIA first raised the issue of costs, the Director General of MIA called the adoption organizations to a meeting. At the meeting, AC and La Casa maintained what they had previously argued, i.e. that care costs could be paid and that they related to the extra examinations carried out for the children available for adoption.¹⁷⁵ The MIA subsequently decided on the authorization of both AC and La Casa.¹⁷⁶

From the archival material we can note that the adoption organizations adapt the designation of the fees to what is approved by the ICBF. The fees to the private orphanages that were previously referred to as care fees are later changed to be called "other costs" or "project costs".¹⁷⁷ According to AC, the fees in 2024 amount to between 2,600-3,400 USD per adoption and relates to the administration of the orphanage.

¹⁷¹ MIA, email from AC 2013-12-09, dnr 3.1.2:511:12/13.

¹⁷² MIA, email to ICBF 2013-12-10, ref. 3.1.2:511:16/13 and 3.1.2:686:6/13.

¹⁷³ MIA, emails from AC 2014-01-29 and 2014-03-10, dnr 3.1.2:511:29-30/13.

¹⁷⁴ MIA, email from ICBF July 2014, dnr 3.1.2:511:45/13.

¹⁷⁵ MIA, Minutes of the meeting on Colombia on October 7, 2014, ref. 3.1.2:493/13 and 3.1.2:511/13.

¹⁷⁶ MIA, Decision on the authorization of AC Colombia 2014-2015, dnr 3.1.2:511/13.

¹⁷⁷ MFoF, Auktorisationsansökan AC Colombia 2018-2019, dnr 3.1.2 :636 :7/17.

and legal fees for the processing of an adoption. The fees include, inter alia, processing the adoption application, preparing the child for adoption, supporting the adoptive family before and when the child is handed over, preparing and filing the case in court, finalizing and filing documentation, and receiving and reviewing post-adoption follow-up reports¹⁷⁸

¹⁷⁸Information from AC 2024-06-24.

6 Irregularities in adoption activities in Ethiopia

6.1 The mission

The purpose of the investigation assignment is, among other things, to clarify the occurrence of possible irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to possible irregularities based on the responsibilities and roles of each actor.

Ethiopia is the tenth largest country of origin for children adopted to Sweden. It is the single largest African country from which children have come to Sweden. Adoptions of children from Ethiopia to Sweden took place from the late 1960s until today. A large proportion of adoptions of children from Ethiopia have been private and individual adoptions. The Adoption Centre (AC), the only organization that mediated adoptions from Ethiopia, started mediating children in 1971 and ceased its activities in 2015.

The review of adoptions from Ethiopia has included documentation from authorities, adoption organizations and interviews with those working in these. We have also interviewed adoptees. In addition, 40 adoption files between 1971 and 1990 have been examined. It is mainly private and individual files that have been examined, but 9 of the files examined from the 1970s concern adoptions mediated by the AC.¹The adoption work in Ethiopia has been examined

¹In many adoptions from Ethiopia in the 1970s, the file itself does not indicate whether it is a private or organized adoption. If the file was in AC's own archive and it also shows that AC has finalized the adoption, we have categorized it as an adoption via AC, and not as a private adoption.

of other countries that received children from there, and we have taken note of these reviews.

6.2 Assessment

The investigator's assessment: Our review shows that there have been irregularities in adoption activities from Ethiopia, mainly during the 1970s. These include adoptions being carried out without informed consent, inadequate documentation and sometimes incorrect information about the children's background and how they became available for adoption. In addition, it is clear that Swedish authorities and organizations have accepted procedures and acted in ways that have made it difficult and in some cases made it impossible to assess whether an adoption is in the best interests of the child. In particular, we have noted the following in our review:

- There have been inaccuracies in children's adoption files, mainly concerning the child's background, the parents' situation and how and why the child was made available for adoption. The private and individual adoption files we examined contain very little information about the child's background, how and why he or she became available for adoption. There is often no information about who investigated the child's background and who assessed that the child is available for adoption. This means that Swedish actors have not been able to ensure that the adoption was in the best interests of the child. It also undermines the right of adopted persons to know their identity and origin.
- In Ethiopia, birth parents have sometimes left children for adoption without understanding what adoption in the Western sense means, and that the child would not return to them when older and educated. There is therefore a high risk that the consent of the original parents was not informed in the way required for valid consent. Since 1982, adoption decisions have been made first in Ethiopian courts and then also by Swedish courts, applying the rules of the Parental Code. This means that the same legal requirements for consent have applied to the adoption of children from Ethiopia as from Sweden. Despite this, the Swedish court has not ensured that there was consent to

adoption from the child's parents. In private and individual adoptions in the 1970s and 1980s, a signed consent from the original parents is rarely included in the adoption documents, even when the mother is mentioned.

- In the 1970s, AC employed a social worker in Ethiopia to investigate the child's background. AC also hired a lawyer to represent the adoptive parents in court. Sometimes it was AC's representative in Ethiopia who represented the adoptive parents in court. This means that AC hired both the person who represented the child and the person who represented the adoptive parents. This presented an obvious risk of conflict of interest. AC's various representatives in Ethiopia have also been more or less involved in placing children with prospective adoptive parents, which has made it possible to meet the parents' special wishes regarding the child. In the 1970s and 1980s, other Swedes living in Ethiopia also played a central role in the practical work of placing children with parents, both in adoptions via AC and in private and individual adoptions. The regulator, in turn, has had great confidence in the AC and has not demanded transparency. Although adoptions from Ethiopia began in the 1960s, it was not until 2005 that Swedish authorities made a trip to the country. All in all, this means that the activities have been able to be carried out without external transparency.
- Despite the fact that MIA received information around 2010 that there were irregularities in adoption activities in Ethiopia, no action was taken to investigate whether this also applied to Swedish cases. With regard to individual adoptions, it can be noted in particular that an Ethiopian man who was involved in adoptions to Sweden in the 1970s and who was convicted in 1977 for illegal acts in connection with adoption mediation, has been able to continue to participate in individual adoptions in the 1990s without the Swedish supervisory authority reacting.

6.3 Sweden's adoption activities in Ethiopia

6.3.1 Adoptions from Ethiopia have been taking place for a long time

Sweden has a long history of adoption cooperation with Ethiopia. In total, almost 1 300 children were adopted from Ethiopia to Sweden during the period 1969–2020. More than 500 of these children were adopted during the 1970s. Since then, adoptions have been spread over the entire period.²In 1977–1982, it was not possible to operate in Ethiopia due to the war with Somalia.³Ethiopia is the tenth largest country of origin in terms of adoptions to Sweden, and the country in Africa from which Sweden has adopted the most children.⁴However, Sweden has not been one of the largest recipient countries for adoptions from Ethiopia, at least not one of the eight largest during the period 1998 to 2007.⁵

There were early contacts between Sweden and Ethiopia. The adoptions started when Swedish doctors and missionaries working in Ethiopia came into contact with orphans and adopted them. Interest then spread among other Swedes. The children initially came from the Ethio-Swedish Pediatric Clinic (ESPC) and the Kebebe Tshay orphanage. Ethiopia was also one of the first countries to which Sweden provided state aid from the mid-1950s, and aid workers have also been involved in adoptions⁶.

AC is the only Swedish adoption organization that has mediated adoptions from Ethiopia and they started their activities in the country in 1971.

A large proportion of adoptions from Ethiopia have been private and single adoptions, which have accounted for at least 44% of all adoptions from Ethiopia.⁷This was most common in the early days of child adoptions from Ethiopia, but declined in the 2000s. In the period 2003–2014, they accounted for only 13%.⁸The private and sole

²MFoF statistics, <https://mfof.se/sarskilda-innehallssidor/statistik/statistik-om-international-adoptions.html>. Retrieved 2023-09-05.

³C. Lindgren (2010), *International Adoption in Sweden: Policy and Practice from the Sixties to the Nineties*, p. 122.

⁴MFoF statistics.

⁵P. Selman (2009), The rise and fall of intercountry adoption in the 21st century, *International Social Work*, August 2009, Vol. 52, no 5, p. 589.

⁶A.-C. Gudmundsson et al (2015), *Adopted from another country: on cooperation with children's countries of origin*, pp. 120–121.

⁷Own calculation based on AC's and MFoF's data. A total of 1268 Ethiopian children were adopted to Sweden in 1970–2018. 713 of these were mediated by AC. At least 555 were thus private/individual adoptions.

⁸Own calculation based on the fact that 288 out of a total of 330 children from Ethiopia were adopted through adoption organizations, i.e. AC 2013–2014.

Various adoptions to Sweden have been carried out by Swedish missionaries and aid workers,⁹ among others

Table 6.1 shows the number of children adopted from Ethiopia by year during the period 1969-2021. It includes adoptions through adoption agencies as well as private and individual adoptions. A small number of adoptions from Ethiopia also took place earlier: one in the 1950s and eighteen in the 1960s.

Table 6.1 Number of adoptions from Ethiopia per year, 1969-2021

Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of
1969	7	1980	1	1990	38	2000	15	2010	30	2020	1
1970	31	1981	4	1991	17	2001	17	2011	31	2021	0
1971	64	1982	5	1992	31	2002	18	2012	19		
1972	66	1983	19	1993	11	2003	21	2013	15		
1973	67	1984	19	1994	15	2004	26	2014	4		
1974	68	1985	25	1995	16	2005	37	2015	0		
1975	113	1986	22	1996	15	2006	32	2016	3		
1976	106	1987	14	1997	21	2007	39	2017	1		
1977	3	1988	28	1998	24	2008	42	2018	3		
1978	0	1989	21	1999	15	2009	34	2019	1		
1979	2										

Source: MFoF.

6.4 The background to international adoptions from Ethiopia

6.4.1 Children have been given up for international adoption due to extreme poverty and illness

Adoption, on the Western model, basically did not exist in Ethiopia before 1960. The word adoption does not exist in the official Amharic language either. Therefore, when adoption was introduced into Ethiopian law in 1960, it was based on a European model. However, Ethiopia has a long cultural history of caring for orphans and abandoned children in the community. Different ethnic groups have had their own customs for caring for children who needed a new family. In rural Ethiopia

⁹A-C. Gudmundsson et al (2015); Meeting with the Association of Adopted Ethiopians and Eritreans (AEF) 2022-03-25; Appeal from the Association of Adopted Ethiopians and Eritreans, AEF, 2018-03-13 "There is no Swedish law that protects the right of internationally adopted persons to know their origin".

caring for a child was not seen as a burden for a relative because the child was an asset in the traditional peasant society¹⁰

When international adoptions from Ethiopia started in the 1960s, it was a result of extreme poverty in the country. Foreign actors visiting Ethiopia (such as missionaries, medical staff and aid workers) saw the great need for support and how children died in hospitals. Extreme poverty has continued to be one of the most common reasons for international adoption of Ethiopian children. Ethiopia was later hit hard by the AIDS epidemic, so illness has been a common reason for adoption. A parent left alone with many children after the death of the other parent could find it difficult to care for the children. Many large groups of siblings also became orphans. Children who were orphaned were often cared for within the extended family, but when extended families were also impoverished by HIV, international adoption could become an option⁽¹¹⁾.

In 1984 and 1985, Ethiopia was affected by extreme drought. Severe drought also affected mainly eastern Ethiopia in 2002 and 2003. This was a major setback for the economy and millions of people became dependent on foreign food aid for their survival. UNICEF estimated in 2005 that five million children had lost one or two parents due to AIDS and drought¹².

6.4.2 Adoptions increased rapidly in the 2000s

Adoptions from Ethiopia increased rapidly in the 2000s. They increased fivefold from 2003 to 2009, when 4 500 Ethiopian children were adopted internationally. In 2009 and 2010, Ethiopia was the second

(10) 'An informal memorandum by Mebrahtu Yohannes', submitted by AC to the Commission on 2023-09-08 and received by the NIA in 1973 under Minute 1973/74:4 1973-12-14; M. W. Ossa (2017), *International adoption of children in Ethiopia: A comparative analysis with South Africa*. Dissertation, Wolaita Sodo University, pp. 52-53.

(11) C. Lindgren (2010), p. 123; A-C. Gudmundsson et al. (2015); AC's application for authorization for Ethiopia 2005-2014; MIA's "Report from MIA's inspection trip to Ethiopia 17-26 March 2011 MIA dnr 74:754:55/10; AC's report to MIA "Notes from trip to Ethiopia 2010-10-02-10" received MIA 2010-11-08 dnr 64:308:12/10; AC's paper "Ethiopia - fascinating and different" received MIA 2011-02-10 dnr 74:754:20/10; Meeting AC 2023-09-05; Lecture "Unknown background" organized by AC via Teams 2023-04-03; S. A. Steenrod (2021), *The Legacy of Exploitation in Intercountry Adoptions from Ethiopia: "We Were under the Impression That Her Birth Parents Had Died"*, *Adoption Quarterly*. Vol. 25, No. 2, pp. 81-108.

¹²Data from the Foreign Policy Institute's country guide. <https://www.ui.se/landguiden/lander- and-countries/africa/etiopia/>. Retrieved 2023-07-06.

largest country of origin after China, internationally.¹³ The number of foreign adoption organizations in the country increased from about 20 to 70 between 2003 and 2008.¹⁴

While the root cause of Ethiopian child abandonment and international adoption has been extreme poverty and the AIDS epidemic, other factors have also contributed to the rapid increase in adoptions from Ethiopia in the 2000s. Researchers have pointed to various factors that may have been driving this. One such factor is that several countries of origin in Asia and Latin America (e.g. China, Russia and Guatemala) reduced or terminated their adoption activities during this period. The reduction of intercountry adoptions by these countries contributed to the increase in adoptions from Ethiopia.¹⁵ Researchers also highlight that Ethiopia became an attractive country to adopt from because it had not ratified the Hague Convention and was considered to have fewer barriers to intercountry adoption. Oversight was limited and adoptions were relatively cheap. The Ethiopian system was perceived to work well and children were usually young and healthy. In addition, some have pointed to the so-called 'Madonna effect'. Actress Angelina Jolie adopted an Ethiopian child in 2005 and pop singer Madonna adopted a child from Malawi a year later, drawing attention to the possibility of adopting from Africa¹⁶

6.5 Actors, regulation and the Swedish adoption process in Ethiopia

This section describes the actors in Ethiopia who have been central to intercountry adoption activities. It then describes the laws of 1969, 2000 and 2018 that regulated international adoptions, as well as the guidelines established in between to govern international adoption activities.

⁽¹³⁾ P. Selman (2012), The Global Decline of Intercountry Adoption: What Lies Ahead? *Social Policy and Society*. Vol. 11, No. 3, pp. 384-385.

¹⁴ Meeting AC 2023-09-05; E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?".

⁽¹⁵⁾ E. Loibl (2019), *The transnational illegal adoption market: A criminological study of the German and Dutch intercountry adoption systems*, pp. 230-234; M. W. Ossa (2017), p. 53; E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?". See also MIA Info 2/2011. ⁽¹⁶⁾ E. Loibl (2019), pp. 37, 52 and 230; K. S. Rotabi (2010), From Guatemala to Ethiopia: shifts in intercountry adoption leaves Ethiopia vulnerable for child sales and other unethical practices, *The Social Work and Society Online News Magazine June 2010*; E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?"; P. Selman (2009), p. 588.

6.5.1 Adoptionscentrum is the only Swedish organization that mediated adoptions from Ethiopia

AC began its activities in Ethiopia in 1971. One of AC's founders adopted a pair of siblings from Ethiopia, which was the start of their work in the country. AC had contact with a Swedish nurse who lived in the country and who helped to arrange the first adoptions. During the 1970s, AC had several different partners in Ethiopia who helped to place children for adoption. They also had special lawyers to help them, and also a social worker employed to investigate the children's background. From 1982, they had a Swedish employee and representative in Ethiopia who handled contact with the authorities and orphanages in Ethiopia and who helped the families who were to adopt. The representative was linked to AC through an assignment contract with a monthly payment¹⁷.

AC was authorized to mediate adoptions in Ethiopia from 1982 to 2015. In total, they have mediated 713 adoptions from Ethiopia in the period 1971-2014.¹⁸As mentioned earlier, there was a break in mediation activities in Ethiopia in 1977-1982.

In addition to AC, African Hope Adoptions (AHA) was also authorized to provide adoption services in Ethiopia for 1.5 years in 2008-2009.¹⁹However, they never provided any children.

6.5.2 The role of Swedish authorities in adoptions from Ethiopia

Since 1982, the NIA has authorized AC to mediate adoptions in Ethiopia and has exercised supervision. When, in 1985, the NIA was given the task of giving an opinion on the reliability of the intermediation method in connection with individual adoptions, this concerned, inter alia, adoptions from Ethiopia. In all cases, however, the only body authorized to mediate adoptions in Ethiopia was the Adoption Department of the Ministry of Labour and Social Affairs (MOLSA).

When the NIA was asked for its opinion on the added value of the

⁽¹⁷⁾ C. Lindgren (2010), pp. 122-123; A-C. Gudmundsson et al (2015); AC's application for authorization for Ethiopia 2005-2014; MIA's report from inspection trip to Ethiopia 17-26 March 2011, MIA dnr 74:754:55/10; Ppt presentation at meeting with AC 2023-09-05; Meeting with former AC representative 2023-12-06; Comments on draft text Ethiopia 2024-05-23.

¹⁸ AC, *Number of mediated adoptions by country* 19/0-2018.
<https://www.adoptionscentrum.se/app/uploads/2023/01/1970-2018-antal-adoptioner-per-utlandskontakt.pdf>. Retrieved 2023-09-05.

¹⁹ MIA Annual Report 2007; MIA Annual Report 2009.

²⁰From 2005, the MIA took over responsibility for authorization and supervision.

In the 1960s and 1970s, it was the Ministry of Justice that approved adoption decisions from Ethiopia. Sometimes, however, the Swedish court decided on the adoption. From the 1980s onwards, decisions on adoptions from Ethiopia have been made by Swedish courts.

In the 1970s, many children from Ethiopia came to Sweden as foster children. At that time, the Swedish Embassy in Addis Ababa had to certify to the Ministry of Justice that the applicant was suitable to receive an Ethiopian child as a foster child with the intention of later adopting him or her²¹.

6.5.3 Other Swedish actors active in Ethiopia

Many Swedes who have been in Ethiopia as missionaries, aid workers and health professionals have adopted children from Ethiopia themselves, and some of them have facilitated adoptions for others.

The Evangelical Fathers' Society (EFS) was active in Ethiopia, especially in the 1960s. The EFS cooperated with and helped to build the Ethiopian Evangelical Church Mekane Yesus in Addis Ababa.²² Several Swedish EFS missionaries in Ethiopia adopted children themselves in the 1960s and 1970s. Several also placed children for adoption in Sweden, both privately and through the AC.²³ Some of the missionaries were instrumental in the adoption of "quite a few" Ethiopian children to Sweden.²⁴

The Swedish Pentecostal Church also had activities in Ethiopia from the 1960s, but they were not active in Addis Ababa, but elsewhere. The Pentecostal movement did not run any orphanages, but there was an acceptance in the missionary corps for the activities and missionaries arranged adoptions on their own. For example, one missionary brought 16 children to Sweden in the 1970s. She herself has described that

²⁰NIA letter to the Swedish Embassy in Addis Ababa 1986-02-07 NIA dnr 72:54/86; NIA statement on the method of mediation in adoption 1988-10-17 NIA dnr 46:339/88; Swedish Embassy's reply to NIA 1986-04-10 "Adopted children from Ethiopia" NIA dnr 72:54/86.

²¹ See e.g. Addis Ababa Mission Archives volume F1i:5-6 (case R34).

²² Telephone conversation with ETUC representative 2024-01-26.

²³ Meeting AEF 2023-08-31; Meeting with former AC representative 2023-12-06; Meeting with AC 2023-09-05.

²⁴ Reply to the Adoption Commission from former ETUC missionary 2024-03-02, received 2024-03-06.

she was involved in the adoptions, that children were left on her doorstep or sat on her lap.²⁵ Prior to 1979, Swedes living abroad did not need the permission of the National Board of Health and Welfare to place children for adoption.

Some Swedes who have been in the country, for example accompanying Sida employees, have privately placed children or helped AC. One such person describes how she was contacted by AC before she went to Ethiopia. AC gave her names of families who wanted to adopt children. The children she placed came from the children's hospital and orphanages in the area⁽²⁶⁾.

Swedes who lived in Ethiopia for various reasons were also involved in the adoptions to Sweden in other ways. AC enlisted their help to take care of the children while waiting for the adoption to be finalized. For example, AC contacted the accompanying wives of Sida employees, who let children stay with them while waiting for the adoption to be finalized. They received no financial compensation for this, but were paid for expenses. Swedes who were in Ethiopia also helped AC to escort the children to Sweden. This could be AC staff, but also other Swedes who were in the country, such as missionaries, aid workers, Sida staff or their companions. Those who helped to escort children could have their travel to Sweden paid for²⁷

6.5.4 The actors in Ethiopia

The Ministry of Labor and Social Affairs (MOLSA) has played a central role in Ethiopia's adoption activities since the early 1980s. MOLSA's role has included receiving adoption applications from adoption organizations and individual applicants and writing opinions for the court's decisions. In 2006, MOLSA's adoption department was transferred to the Ministry of Women Affairs (MOWA), which in 2010 changed its name to the Ministry of Women, Children and Youth Affairs (MOWCYA).

²⁵D. Lindberg (2021), *International adoptions within the Pentecostal movement*; Interview with the person who conducted the investigation into international adoptions within the Pentecostal movement, 2024-03-07.

²⁶ Meeting with person who mediated adoptions via AC 2024-01-30.

²⁷ Meeting with former AC representative 2023-12-06; Meeting with person who mediated adoptions via AC 2024-01-30; Written answers to the Adoption Commission's questions to a person who took care of children awaiting adoption, received via e-mail 2023-12-11; Interview with a person who took care of children awaiting adoption 2023-12-19; "Tips from AEF on people who have been involved in adoptions from Ethiopia and Eritrea" received via e-mail 2023-10-13; D. Lindberg (2021) *International adoptions within the Pentecostal movement*.

From 2002, MOLSA, and later MOWA, was also in charge of accrediting the foreign adoption organizations that would be allowed to operate in the country. From 2010, the Ministry of Federal Affairs, Charity and Societies Agency (CSA) was in charge of this task. They were also tasked with licensing certain orphanages to mediate adoptions²⁸.

There have been many orphanages in Ethiopia that have facilitated adoptions. AC worked with the government orphanage Kebebe Tsehay, Missionaries of Charity (MOC) and Kids Care, among others²⁹.

Ethiopian court has decided on adoption after court hearing and based on opinion of MOLSA/MOWA/MOWCYA.

6.5.5 1960 law regulates international adoptions

When adoptions from Ethiopia to Sweden started in 1969, they were regulated by a federal law, the Civil Code, from 1960. The law makes no distinction between national and international adoption. Ethiopia applies weak adoption. Otherwise, the 1960 Act states, *inter alia*, that:³⁰

- Adoption may take place if there are good reasons for it and it brings benefits to the child.
- Where the parents of origin are living and known, both shall give their consent. If one of them is deceased, absent, unknown or unable to make a valid expression of will, the consent of the next of kin in the ascending line must be obtained. If there are none, consent must be obtained from the so-called family council, which consists of the child's older relatives and any adult siblings.
- An adoption contract must be drawn up between the prospective adoptive parents and the child's guardians, in cases where the child is under

²⁸MIA's "Report of the MIA mission to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10; AC's application for authorization for brokerage activities in Ethiopia 2012-06-12 MIA dnr 61:390:1/12.

²⁹This is evident from the annexes to AC's applications for authorization, e.g. Annex to AC's application for authorization to act as an intermediary in Ethiopia 2009-08-25 MIA dnr 61:502:1/09 and Annex to AC's application for authorization to act as an intermediary in Ethiopia 2007-08-28 MIA dnr 61:527:1/07. ³⁰The civil code of the empire of Ethiopia (Negarit Gazeta No 165 of 1960), book II, Title IV, Chapter 11, article 796-806. See also Chapter 1 on family ties, in particular Articles 556 to 559, and Chapter 12 on maintenance obligations, in particular Articles 808 and 823.

15 years. The adoption contract must be approved by a court to be valid.

- Adoption cannot be revoked. The exception is if the adoption took place before the birth of the child. In this case, the adoption can be revoked at the request of the mother before the child is three months old.
- Through adoption, the adopted child is incorporated into the adopter's family as the adopter's own child, but retains certain legal ties with his or her family of origin.
- The adopted person has maintenance obligations towards his/her biological relatives in certain cases. The maintenance obligation is reciprocal.

In the 1970s, the adoption process consisted of obtaining consent, a court hearing and the issuing of a passport. It was rare for the original parents to attend the court hearings. For the orphans, the court would advertise in the newspaper for the parents. The AC allowed Swedes living in the country to take care of the children while waiting for the adoption to be finalized. The children then traveled to Sweden with escorts. In the 1970s, it was unusual for adoptive parents to pick up their child themselves in Ethiopia³¹.

6.5.6 From 1982, Ethiopia requires all adoption applications to be approved by Ethiopian authority

During the period 1977-1982, it was not possible to carry out adoption activities in Ethiopia. The revolutionary regime announced by decree in August 1976 that the adoption of Ethiopian children abroad was prohibited in principle. The reason was that the number of inter-country adoptions had become so high that action was needed. Adoption was not always considered to be in the best interests of the children, who should instead be cared for within Ethiopia. Therefore, intercountry adoptions are stopped and a new

³¹Meeting with former AC representative 2023-12-06; Meeting with person who mediated adoptions via AC 2024-01-30; Written answers to the Adoption Commission's questions to a person who took care of children awaiting adoption, received via e-mail 2023-12-11; Interview with a person who took care of children awaiting adoption 2023-12-19; "Tips from AEF on persons involved in adoptions from Ethiopia and Eritrea" received via e-mail 2023-10-13.

adoption law would be developed.³²The war against Somalia is also cited as a reason for the interruption of adoption activities in Ethiopia.³³

In the fall of 1981, the NIA was informed that adoptions from Ethiopia were again possible and in 1982 adoptions to Sweden resumed.³⁴A draft agreement with Ethiopian authorities was submitted via the Swedish embassy.³⁵However, no agreement was ever reached. Ethiopia did not want an agreement because it would mean that other countries would also demand an agreement.³⁶

When international adoptions from Ethiopia resumed in 1982, according to the AC, only abandoned children were eligible for foreign adoption.³⁷At the same time, it was illegal to abandon children in Ethiopia.³⁸The AC has described that this led to many children being abandoned anonymously, either in the hospital immediately after birth or left anonymously in various places and then found and taken to an orphanage.³⁹The NIA wrote in a memorandum in 1986 that the possibility of adopting children whose parents are known is available only to Ethiopian adopters, while foreign adopters may only adopt orphans.⁴⁰The definition of "orphan" seems to have varied.⁴¹

In 1982, Ethiopia also decided that all adoptions should go through MOLSA, including individual adoptions. Abandoned children were registered with MOLSA. The newly established MOLSA Adoption Committee would review and approve adoptive families' adoption applications and then place children with approved families. In order for the Adoption Committee to approve the application, they required that a Swedish authority had carried out an adoption investigation and given the families consent to adopt. The adoption did not have to

(32) "Certificate" from the Chancellor of the Legal Department 1978-01-13 R34 Yab Ethiopia (dnr missing); Letter from Ethiopian Provisional Military Government 1976-08-20 R34 yab (dnr missing) received by the Ministry of Foreign Affairs 1976-09-15.

³³ C. Lindgren (2010), p. 122.

³⁴ AC's application for authorization for brokering in Ethiopia 2009-08-25 MIA dnr 61:502:1/09. Also authorization applications from 2005, 2007, 2011, 2012, 2013 and 2014; NIA minutes 1981-09-24.

³⁵ NIA minutes 1981-10-29.

³⁶ Ethiopia, example of individual case NIA dnr 72:206/81.

³⁷ Written answers from AC's representative to the Adoption Commission's questions, received by e-mail 2023-11-08; Swedish Embassy in Addis Ababa's letter to the Ministry of Foreign Affairs 1985-09-02 "Internatio- nella adoptionsärenden" dnr R34 135.

³⁸ Email response from AC to MIA 2009-11-06 MIA dnr 61:502:8/09.

³⁹ Meeting with AC and ppt-presentation 2023-09-05; Meeting with former AC-representative 2023-12-06; Lecture "Unknown background" organized by AC via Teams 2023-04-03; AC's publication "Ethiopia - fascinating and different" received MIA 2011-02-10 dnr 74:754:20/10.

⁴⁰ NIA's memo on legislation in Ethiopia March 1986. Dnr MIA 73:414/08. (Note, there is no further information about the document.)

(41) S. A. Steenrod (2021).

be done through an authorized Swedish organization, although this was seen as positive. Ethiopia required follow-up reports until the child was 18 years old⁴².

MOLSA advertised for parents or relatives of origin for 30 days. Then followed a court procedure where the custody of the child was transferred to the adoptive parents. The adoptive parents could have a legal representative represent them in court. Thereafter, the necessary administration took place to obtain entry permits to Sweden, exit visas from Ethiopia and passports⁴³.

6.5.7 Ethiopia ratified the UN Convention on the Rights of the Child in 1991, but has not signed the Hague Convention

Ethiopia ratified the UN Convention on the Rights of the Child on June 13, 1991. However, it was not until 2014 that Ethiopia ratified the Optional Protocol on Children in Armed Conflict and the Optional Protocol on Trafficking in Children, Child Prostitution and Child Pornography.⁴⁴ Ethiopia has not signed or ratified the 1993 Hague Convention. In 2010, there were advanced plans for Ethiopia to accede to the Convention, but that work stalled.⁴⁵ The UN Committee on the Rights of the Child has repeatedly recommended that Ethiopia ratify the Hague Convention.⁴⁶

⁴²) "Directives for the Adoption of Ethiopian Children" issued by MOLSA in 1982, see e.g. MIA dnr 73:414/08; Swedish Embassy in Addis Ababa's response to NIA's questions regarding international adoptions 1984-12-18 NIA dnr 9/95 R34; Written answers from AC's representative to the Adoption Commission's questions, received via e-mail 2023-11-08.

⁴³See e.g. NIA's opinion on the method of mediation in adoption 1988-10-17 NIA no. 46:339/8, application private adoption contact Ethiopia 1988-08-13 received by NIA 1988-08-23 no. 46:274/88; "Directives for the Adoption of Ethiopian Children" issued by MOLSA 1982, see e.g. MIA dnr 73:414/08.

⁴⁴The Committee on the Rights of the Child. *Concluding observations on the combined fourth and fifth periodic reports of Ethiopia*. CRC/C/ETH/CO/4-5. July 10, 2015.

⁴⁵AC's report to MIA "Notes from trip to Ethiopia 2010-10-02-10" received MIA 2010-11-08 MIA dnr 64:308:12/10.

⁴⁶The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.67. January 24, 1997; The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.144. February 21, 2001; The Committee on the Rights of the Child. *Concluding observations: Ethiopia*. CRC/C/ETH/CO/3. November 1, 2006.

6.5.8 Revised Family Law Act of 2000

In 2000, a new Family Code of Ethiopia, the Revised Family Code of Ethiopia, was enacted to regulate international adoptions. As before, adoption may only be carried out if there are good reasons and if it is in the best interests of the child, and an adoption contract must be drawn up and approved by a court to be valid. In addition, the adopted person must still maintain certain legal ties with the family of origin. The original parents must give their consent to the adoption if they are alive and known. However, if one parent is deceased, absent, unknown or incapable of making a valid declaration of intention, the consent of the other parent is sufficient, unlike under the 1960 Act. If the child has no parent who can give his or her consent, the court may approve the adoption agreement in the interests of the child⁴⁷.

The Family Law Act 2000 continues to provide that an unborn child may be adopted. The ISS has pointed out that this practice is not compatible with the Convention on the Rights of the Child or the 1993 Hague Convention.⁴⁸ The fact remains that an adoption cannot be revoked, with one exception. An adoption can be revoked if the adopter treats the child as a slave, causes the child to engage in immoral acts for the benefit of the adopter or treats the child in any other way that is detrimental to the child's future. In 2006, the UN Committee on the Rights of the Child expressed concern that the Family Code allows an adoption to be annulled, as this may leave the child without a guardian. The Committee has recommended that this provision be amended to ensure that the child always has a guardian⁴⁹.

In the year following the entry into force of the new Family Law, the UN Committee on the Rights of the Child recommended that Ethiopia take further legislative measures to protect and promote the rights of the child in the context of adoption. The Committee expressed concern that children in Ethiopia are at risk of having their rights violated in the context of intercountry adoption⁵⁰.

⁴⁷ The Revised Family Code (Proclamation No. 213/2000) chapter 10, articles 180-195.

⁴⁸ ISS (2010), "ETHIOPIA - Protection of the child deprived of, or at risk of being deprived of, the family of origin. COUNTRY SITUATION". Received MIA 2012-09-03 MIA dnr 61:390:15/12.

⁴⁹ The Committee on the Rights of the Child. *Concluding observations: Ethiopia*. CRC/C/ETH/CO/3. November 1, 2006.

⁵⁰ The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.144. February 21, 2001.

6.5.9 New adoption procedure guidelines 2002 - requirements for accreditation of adoption organizations and orphanages

In 2002, MOLSA introduced new directives for the adoption procedure aimed at implementing the provisions of the 2000 Family Law Act. Among other things, these directives introduced accreditation requirements. Foreign adoption agencies now needed a work permit approved by the Ministry of Justice.⁵¹ Some orphanages were registered and licensed to mediate adoptions. The orphanages took over the guardianship of the child, established the children's adoptability, proposed adoptive parents, signed the adoption contract and represented the children in court. They could only work with accredited adoption organizations. They were also only allowed to receive children from the police or local social services, not directly from the parents. A child was generally required to spend three months in an orphanage before being adopted internationally⁵².

The new 2002 guidelines stated that not only orphaned or abandoned children could be adopted internationally, but also children whose parents could not care for them because they were ill or in prison. From 2005, the AC describes in its country reports that Ethiopian police had started to accept mothers handing over children directly to the police. If the parents were known, an investigation was made into their ability to care for the child⁵³.

In 2006, the adoption department of MOLSA was transferred to MOWA, but the process was largely the same as before. The prospective adoptive parents would submit application documents to the MOWA adoption department, which also received a report on the child. MOWA reviewed these documents and wrote a report to support the court's decision. The adoptions were centralized in a single court in Addis Ababa. Children from other parts of the country were moved to orphanages in the capital⁵⁴.

⁵¹MOLSA's "Adoption Service Procedure Directives" 2002 (our time series, 1994 according to Ethiopian calendar) received by MIA via AC "EN: Ethiopia" 2015-01-28 MIA dnr 3.1.2:697:6/14.

⁵²AC's application for authorization for Ethiopia 2005-10-03 dnr 61:580:1/05, AC's application for authorization for Ethiopia 2007-08-28 MIA dnr 61:527:1/07; AC's application for authorization for mediation in Ethiopia 2009-08-25 MIA dnr 61:502:1/09; AC's country report Ethiopia 2007-05-15 received MIA 2007-06-05 dnr 64:355:1/07; D. Delepiere (2011), "ETHIOPIA: The challenges of a country that has experienced a too rapid increase in adoptions", International Reference Centre for the Rights of Children Deprived of their Families (ISS/IRC) *Monthly Review N° 3-4/2011 March-April 2011*, submitted to the MIA on 2012-09-03 under reference 61:390:15/12.

⁵³AC Country Reports Ethiopia 2005-2012.

⁵⁴AC's application for authorization for Ethiopia 2007-08-28 MIA dnr 61:527:1/07; AC's application for authorization for mediation in Ethiopia 2009-08-25 MIA dnr 61:502:1/09.

A similar procedure continued after 2010, although MOWA changed its name to MOWCYA⁵⁵.

6.5.10 New guidelines in 2008 - with explicit requirements for grants to facilitate adoptions

MOWA revised its guidelines in 2008. The new guidelines explicitly required adoption organizations wishing to work in the country to provide financial support for social development projects in the regions where they worked.⁵⁶ According to AC, there was also an expectation in the past to give this type of grant. It was a prerequisite for brokering adoptions in Ethiopia⁵⁷.

Another change in the new guidelines was that children of parents with financial difficulties could also be adopted internationally.⁵⁸ This has been interpreted by some as an acceptance of international adoption as an important part of the Ethiopian child welfare system, at a time when many children were abandoned due to poverty or the AIDS epidemic.⁵⁹

6.5.11 Revised guidelines for alternative childcare 2009

MOWA updated its Alternative Childcare Guidelines in 2009. A specific section deals with adoption (domestic and intercountry) and includes, among other things, the roles and responsibilities of adoption agencies, the role of the central adoption authority and the eligibility requirements of adoptive parents. It also describes the procedure for intercountry adoption, including child preparation, matching and follow-up procedures. It also clarifies which children can be adopted internationally and that ties to biological families do not end with adoption. It also defines illegal acts. Among other things, Ethiopian authorities

⁵⁵AC's country report Ethiopia 2011-05-27 MIA dnr 64:411:1/11. Also country reports 2012 and 2013.

⁵⁶MOWA's "Directive of Internal Procedure for International Adoption" 2008-05-31 received MIA 2011-02-22 dnr 74:754:28/10, see also dnr MIA 73:414/08; MIA's supervision report AC 2009.

⁵⁷MIA supervision report AC 2007; AC country reports 2007 and 2008; Meeting AC 2023-09-05.

⁵⁸MOWA's "Directive of Internal Procedure for International Adoption" 2008-05-31 received MIA 2011-02-22 dnr 74:754:28/10. See also MIA dnr 73:414/08; MIA Supervision Report AC 2009. ⁽⁵⁹⁾

⁵⁹Delepiere (2011), "ETHIOPIA: The challenges of a country that has experienced a too rapid increase in adoptions", International Reference Centre for the Rights of Children Deprived of their Families (ISS/IRC) *Monthly Review* N ° 3-4/2011 March-April 2011.

take action if they discover that there is false information about the child and his or her background, financial or other gain from adoption or that parents have been misled about the purpose of the adoption.⁶⁰

6.5.12 From 2011, Ethiopia started taking various measures to address problems in adoptions

Ethiopia began restricting adoptions and conducting thorough background checks

In 2011, following several reports of irregularities, Ethiopia started to take measures to limit intercountry adoptions. In March 2011, MOWCYA decided to significantly reduce the number of adoption cases per day to improve the quality of the procedure. MOWCYA would now only process five cases per day, compared to around 30 previously. This represented a 90% reduction in capacity.⁶¹ The intention was to allow time for more thorough investigations into the child's background and to ensure that all documents and information

in the case meet the legal requirements. MOWCYA (and sometimes the Court) often asked for additions and clarifications. The practice of processing only five cases per day continued for about six months. By the end of 2011, MOWCYA considered that there was no longer any reason to limit the number of cases to five per day, as cases were arriving at them more complete than before.⁶² They would simply work at their own pace.

Even later, MOWCYA and the court increased their demands for detailed information in the children's background investigations. In 2013, the AC describes more thorough checks being made of certificates from local authorities (e.g. parents' death certificates) and court officials having more in-depth conversations with any biological relatives of the child. From 2014, a certificate from the regional social welfare office (BOWCYA) is required stating that the child has not been able to find a permanent family within Ethiopia and can therefore be placed for international

⁶⁰Ethiopian Ministry of Women's Affairs (2009) *Alternative Childcare Guidelines on Community-based Childcare, Reunification and Reintegration Program, Foster Care, Adoption and Institutional Care Service*. See also ISS (2010); M. W. Ossa (2017), p. 57.

⁶¹Telegram from the Swedish Embassy in Addis Ababa to the MIA 2011-03-09 "Significant change in Ethiopia's adoption management" MIA dnr 74:754:47/10.

⁶²AC's country report Ethiopia 2012-05-16 MIA dnr 64:367:1/12.

adoption. Previously, such a certificate from the local social services office would have been sufficient⁽⁶³⁾.

Measures to control adoption organizations and orphanages

In 2011, Ethiopia started to develop new accreditation rules for foreign adoption agencies, with the aim of better controlling the agencies and limiting the number of agencies. In 2012, a more in-depth inspection of orphanages was launched. Some 15 orphanages had to be closed, mainly in the south of the country.

Dual court hearings introduced to ensure informed consent

Ethiopia introduced around 2011 (possibly some years earlier) a process of two court hearings to ensure informed consent and accurate background information. At the first court hearing, the original parents were called to court to confirm the consent they had given to the local court.

If a single mother wanted to give her child up for adoption, the court first had to establish that she was too poor or otherwise unable to care for the child. If the father was unknown, this had to be proven and certified by three witnesses. Most children adopted to Sweden had unknown parents. The court decided, based on MOWCYA's opinion, that the child could be adopted by the proposed family. At the second court hearing, the prospective adoptive parents were summoned to court. Based on a personal interview with the adoptive parents and on MOWCYA's report, the judge assessed whether the applicants would be good parents for the child and decided on the adoption. The adoptive parents must have met the child before the second court hearing took place⁶⁴.

⁶³AC's country report Ethiopia 2014-05-12 MIA dnr 3.3.2:343:7/14; AC's application for authorization for brokering activities 2014-12-17 MIA dnr 3.1.2:697:1/14; E-mail from AC "News from Ethiopia" to MIA 2013-11-29 MIA dnr 3.1.2:514:6/13.

⁶⁴AC's application for authorization for Ethiopia 2005-2014; Meeting with former AC representative 2023-12-06; Lecture "Unknown background" organized by AC via Teams 2023-04-03; A-C. Gudmundsson et al (2015); MIA Info 2/2011; MIA's "Report from MIA's inspection trip to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10.

Otherwise, the adoption process was much the same as before

Otherwise, the adoption process was more or less the same as before. For example, it was still the case that an adoption contract would be drawn up between the orphanage and the adoptive parents, and that the MOWCYA would write an opinion in support of the court decision after examining the child's background documents, the family's adoption application and the adoption contract.⁶⁵ As before, the child would generally have to have lived in the orphanage for three months before the court could make an adoption decision.⁶⁶ During that time, the police would search for the original parents. If the relatives could not be found after two months, the child could be investigated for adoption.⁶⁷ After the court made the adoption decision, a birth certificate and passport were issued. After arriving in Sweden, the adoptive family would apply for adoption in a Swedish court. The adoption procedure in Ethiopia took about 2-3 months in total, but the adoptive family stayed about two weeks in Ethiopia. Ethiopia also imposed continued reporting requirements, now up to the age of 15.⁶⁸

UNICEF supported Ethiopia in increasing domestic alternatives and preparing for accession to the Hague Convention

The UN Committee on the Rights of the Child has repeatedly recommended that Ethiopia ratify the 1993 Hague Convention and encourage domestic rather than intercountry adoption.⁶⁹ In 2010, Ethiopia began a determined effort to create better and more domestic options for caring for children. They took

⁶⁵AC's authorization applications; MIA info; MIA travel report from Ethiopia March 2011; MIA country summary of Ethiopia 2011.

⁶⁶AC's application for authorization for brokering activities in Ethiopia in 2005, 2007 and 2009; MIA Info 2/2011, MIA's "Report of the MIA mission to Ethiopia 17-26 March 2011 MIA dnr 74:754:55/10.

⁶⁷Email response from AC to MIA 2009-11-06 MIA dnr 61:502:8/09; AC's country report Ethiopia 2014-05-12 MIA dnr 3.3.2:343;7/14.

⁶⁸AC's authorization applications; MIA info; MIA trip report from Ethiopia March 2011; MIA country summary of Ethiopia 2011.

⁶⁹The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.67. January 24, 1997; The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.144. February 21, 2001; The Committee on the Rights of the Child. *Concluding observations: Ethiopia*. CRC/C/ETH/CO/3. November 1, 2006.

measures to increase the number of domestic adoptions, develop foster family systems and provide direct support to poor families.⁷⁰

The Ethiopian government began working with UNICEF in 2011 to create alternative domestic solutions, such as foster homes, for children in institutions.⁷¹ UNICEF was actively involved in providing direct support and advice to MOWCYA in this work. UNICEF worked with MOWCYA both centrally and regionally. The Permanent Bureau in The Hague and ISS had promised support and advice, including in the finalization of new Adoption Guidelines. This work was funded by UNICEF⁷².

In 2012, UNICEF made significant efforts and conducted several trainings for government and orphanage staff. The "Ethio Alternative Care Network" was established within MOWCYA. It was intended to act as a coordinator for all alternative care arrangements for children living outside their biological family. In 2014, efforts to strengthen domestic alternatives continued. Ethiopia then provided expanded support to vulnerable families. The authorities constantly emphasized that more and more efforts should be made to find permanent families for children within Ethiopia. UNICEF had an active advisory role and was involved in guiding Ethiopia towards accession to the Hague Convention⁷³.

However, the process of getting Ethiopia ready to sign the 1993 Hague Convention stalled in 2013. The issuance of new adoption guidelines was also halted by the Minister⁷⁴.

6.5.13 Legislative change in 2018 put an end to international adoptions

In May 2017, the Ethiopian Prime Minister's Office suspended international adoptions following reports of corruption, child trafficking and illegal practices, such as adoption agencies causing Ethiopian children to be given up for adoption despite not being orphaned. According to the AC, Ethiopia's decision to end intercountry

⁷⁰AC's country report Ethiopia 2014-05-12 MIA dnr 3.3.2:343:7/14; MIA Info 2/2011, MIA's "Report of the MIA's inspection mission to Ethiopia March 17-26, 2011" MIA dnr 74:754:55/10.

⁷¹ MIA Info 2/2011.

⁷²AC's country report Ethiopia 2012-05-16 MIA dnr 64:367:1/12; AC's country report Ethiopia 2013-05-06 MIA dnr 3.3.2:335:1/13.

⁷³ Ppt presentation at meeting with AC 2023-09-05.

⁷⁴Notes from ICA meeting 2014-01-21 MIA dnr 3.1.2:697:15/14; MIA supervision report regarding AC 2013.

In March 2018, Parliament passed a new law banning international adoptions.⁷⁶ The law also states that at least two children had been beaten to death in the US by their adoptive parents.

6.6 General information on irregularities in Ethiopian adoption activities

In this section, we review the general findings on irregularities in intercountry adoptions from Ethiopia.

In later sections, we analyze how Sweden's international adoption activities have been affected by irregularities.

6.6.1 Previous studies indicate widespread and systematic irregularities in Ethiopia's adoption activities

The UN Committee on the Rights of the Child has repeatedly expressed concern that the rights of the child may be violated in the context of intercountry adoption activities in Ethiopia.⁷⁷ The Dutch investigation concludes that there have been structural irregularities in adoptions from Ethiopia.⁷⁸ The organization Against Child Trafficking (ACT) conducted a study in 2009 in which they discovered irregularities in 19 out of 25 randomly selected adoption files.⁽⁷⁹⁾ Several researchers have also described the irregularities in Ethiopia's adoption activities as systematic and serious

⁷⁵Public statements from Ethiopia, as per AC comments on draft text Ethiopia 2024-05-23.

⁷⁶See e.g. E. Loibl (2019), p. 233; S. A. Steenrod (2021), pp. 81-108; A. Branigan in The Root 2018-01-11 'Ethiopia Moves to Ban All International Adoptions after High-Profile Abuse Cases'.

⁷⁷The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.67. January 24, 1997; The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.144. February 21, 2001; The Committee on the Rights of the Child. *Concluding observations: Ethiopia*. CRC/C/ETH/CO/3. November 1, 2006; The Committee on the Rights of the Child. *Concluding observations on the combined fourth and fifth periodic reports of Ethiopia*. CRC/C/ETH/CO/4-5. July 10, 2015.

⁷⁸Commissie onderzoek interlandelijke adoptie (2021), *Report Committee on the Investigation of Intercountry Adoption* (unofficial translation).

⁷⁹Wereldkinderen and Against Child Trafficking (2009), *Fruits of Ethiopia. Intercountry Adoption: The Rights of the Child, or the "Harvesting" of Children? A Study on Intercountry Adoption in Ethiopia*.

⁸⁰See e.g. N. Cantwell (2017), *The sale of children and illegal adoption*; D. Hailu (2017), *Children for Families: An Ethnography of Illegal Intercountry Adoption from Ethiopia*,

media have reported widespread irregularities in adoptions from Ethiopia. In some cases, this has also been confirmed through hearings and discussions in the Ethiopian Parliament.⁸¹ Documentary films have highlighted irregularities and in some cases contributed to countries suspending their adoptions from Ethiopia.⁸²

Reports of irregularities began to emerge in the late 2000s, as Ethiopia struggled to cope with the rapid increase in intercountry adoptions and the many foreign adoption agencies that began operating in the country.⁸³ The International Reference Centre for the Rights of Children Deprived of their Family (ISS/IRC) reported in 2011 that there were illegal activities in Ethiopia in relation to intercountry adoption and that what had been uncovered should be seen as the tip of an iceberg.⁸⁴ In addition, in 2012, the United Nations Children's Fund (UNICEF) warned of 'child export' from Ethiopia and expressed concern that Ethiopia was becoming a market for adoption

In particular, the combination of extreme poverty, high demand for children, and the opportunity to make money from the adoption business laid the foundation for these irregularities. Loibl (2019) argues that these structural weaknesses made adoptions from Ethiopia extremely risky. There was no assurance that the Ethiopian children had legally become available for intercountry adoption and that the children were truly orphans⁸⁶.

Adoption Quarterly. Vol 20, No 3; E. Loibl (2019); B. Mezmur (2010), "*The sins of the 'saviors'*": *Child trafficking in the context of intercountry adoption from Africa*. Paper presented at the Special Commission of the Hague Conference on Private International Law, The Hague, Netherlands, 17-25 June 2010, Information Document no. 2; S. A. Steenrod (2021), pp. 81-108.⁸¹ See Belgian Inquiry (2021), *Panel of experts on intercountry adoption. Final report*. They refer to the report of the hearing and discussion: <https://docs.vlaamsparlement.be/pfile?id=1482428>. Retrieved 2023-09-15.

⁸²A 2009 Australian television documentary, "Fly Away Children" and "Fly Away Home", prompted the Australian government to halt adoptions from Ethiopia in November 2009.

The Danish documentary film "Mercy Mercy - The Price of Adoption" created great debate in Denmark when it was released in 2012. In April 2013, the Danish Adoption Authority temporarily stopped DanAdopt's adoptions from Ethiopia. DanAdopt is one of the two Danish adoption agencies that brokered adoptions from Ethiopia, and the agency that brokers adoptions in the film.

⁸³See e.g. D. M. Smolin (2010), *Child Laundering and the Hague Convention on Inter-country Adoption: The Future and Past of Intercountry Adoption*, *University of Louisville Law Review*. Vol 48, No 3, p. 483; N. Cantwell (2017).

⁸⁴ISS/IRC "Africa and intercountry adoption from an African point of view" International Reference Centre for the Rights of Children Deprived of their Family (ISS/IRC) *Monthly Review* N° 3-4/2011 March-April 2011, submitted to MIA 2012-09-03 with dnr 61:390:15/12.⁸⁵ See e.g. Sveriges radio, SVT and Aftonbladet 2012-07-29 "FN:s barnfond varnar för etiopisk barnexport".

(⁸⁶) E. Loibl (2019).

It is common that a rapid increase in the number of intercountry adoptions leads to countries of origin being unable to cope with the demand and to problems of irregularities, which eventually lead to restrictions and the termination of adoption activities.⁸⁷ Researchers have shown how Ethiopia went through such a "cycle of abuse". In the first phase, a relatively small number of intercountry adoptions represented an important humanitarian effort. In Ethiopia, intercountry adoption was seen as a last resort for those children who could not be cared for by their family networks - usually children orphaned by the AIDS pandemic ('AIDS orphans'). Then, for a short period, international adoptions increased rapidly. As demand for children outstripped supply, irregularities began to occur. In the second phase ('gold rush'), which in Ethiopia began in 2006, adoption agencies and orphanages began to seek out children available for adoption from poor families in rural areas, sometimes making false promises to persuade them to abandon the child. The third phase reached Ethiopia in 2011. Following reports of irregularities, Ethiopia recognized its inability to control the rapid expansion and decided to sharply reduce intercountry adoptions:

6.6.2 Reports of irregularities led several countries to end adoptions

Several countries chose to stop adoptions from Ethiopia due to information or the risk of irregularities. These included Australia in 2012, Switzerland in 2014 and France and Denmark in 2016. Denmark had also temporarily suspended adoptions by the adoption agency Danadopt in 2013.⁸⁹ Australia's reasons for stopping adoption activities were mainly the risks linked to Ethiopia's demands for financial contributions. For the other countries, the

⁸⁷Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, A/HRC/34/55, thirty-fourth session 27 February-24 March 2017, p. 60; D. M. Smolin (2010), Child Laundering and the Hague Convention on Intercountry Adoption: The Future and Past of Intercountry Adoption, *University of Louisville Law Review*. Vol 48, No 3, p. 483; N. Cantwell (2017); E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?".⁽⁸⁸⁾ E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?"; E. Loibl (2019), pp. 230-234; P. Selman (2012).

⁽⁸⁹⁾ N. Cantwell (2017); See e.g. Sveriges Radio 2016-04-02 "Denmark stops adoptions from Ethiopia"; Dagens Nyheter 2013-04-06 "Denmark stops adoptions"; Dagens Nyheter. 2021-02-22. "Alerts on child trafficking, false papers and "baby factories" in Swedish adoption countries".

the absence of informed consent and the existence of forged documents⁹⁰.

6.6.3 Risk that children have been wrongly declared abandoned

As the number of Ethiopian children placed for intercountry adoption increased rapidly in the late 2000s, researchers began to point out that in such situations it is important to note how and from where these children enter the adoption process. Children can enter the system either through direct relinquishment from the family of origin or through abandonment procedures. After Ethiopia raised the requirements for the reports on the situation of the families of origin for a child to be available for adoption in the 2000s, it resulted in an increase in the number of abandoned children⁹¹

The Ethiopian court became concerned about the unexplained increase in the number of abandoned children given up for adoption and suspected that it was not always true that they were indeed abandoned. In May 2009, the court imposed a temporary moratorium on cases involving abandoned children from orphanages in Addis Ababa.⁹² The judge ordered a federal police investigation into 154 cases. However, the police report was very brief and stated that all 154 children were abandoned. This indicates that there was no proper investigation.⁹³ ISS has commented that it is unfortunate that further information on the nature, independence and adequacy of the investigations is not available.⁹⁴

During this moratorium in 2009, an official from a US adoption agency was arrested after being caught with a truck carrying babies and toddlers. He was traveling from Addis Ababa to another region to declare the children as abandoned. The purpose was to circumvent the temporary suspension of adoptions of abandoned children in Addis Ababa⁹⁵

In 2010, the ISS/IRC expressed concern about the high number of abandoned children and their true background. They questioned whether the number of children up for adoption truly reflected a growing number of children who

⁹⁰ N. Cantwell (2017).

⁹¹ K.S. Rotabi (2010), p. 4.

⁹² B. Mezmur (2010); K.S. Rotabi (2010), p. 4.

⁹³ Wereldkinderen and Against Child Trafficking (2009).

⁹⁴ ISS (2010).

⁽⁹⁵⁾ K. S. Rotabi (2010).

need this child protection measure or whether it is a result of increased demand from recipient countries⁹⁶.

6.6.4 Insufficient and incorrect information to parents of origin - lack of informed consent

One of the most prevalent irregularities in adoptions from Ethiopia has been the provision of false or misleading information to birth parents about what an intercountry adoption entails. Research shows that adoption agencies and orphanages in Ethiopia actively sought children for adoption from poor families in rural areas, sometimes by making false promises to persuade them to abandon the child. Lies and persuasion techniques have sometimes been used to persuade families to give up their children⁹⁷

Cultural misunderstandings may have come into play and been exploited. As adoption has not been a traditional way of caring for orphans in Ethiopia, there has been a lack of understanding of what the Western concept means. Families have believed that the purpose of adoption was for the child to receive an education in another country and then return to the family.⁹⁸ Indeed, in Ethiopia there has been a long tradition of sending a family member for education, which contributed to families being deceived and not understanding what they were agreeing to.⁹⁹

Various stakeholders began to draw attention to this phenomenon around 2010. The ISS/IRC was concerned that birth parents were not sufficiently informed about the consequences of intercountry adoption of their children. They also pointed out that there had been an increase in the number of criminal cases linked to intercountry adoptions and that these cases involved, among other things, a lack of consent from the birth parents.¹⁰⁰ The US Embassy discovered that parents at the local level had been misinformed about the implications of adoption, something they had already noted in 2003 when they described unscrupulous individuals entering villages to

⁹⁶ ISS (2010).

⁹⁷ E. Loibl (2019); D. Hailu (2017), pp. 208-211; S. A. Steenrod (2021), pp. 81-108.

⁹⁸ Wereldkinderen and Against Child Trafficking (2009); A-C. Gudmundsson et al (2015), p. 123; K. Joyce in The Atlantic 2011-12-21 "How Ethiopia's Adoption Industry Dupes Families and Bullies Activists"; E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?".

⁹⁹ Meeting AC 2023-09-05.

¹⁰⁰ ISS (2010).

"collecting children" by persuading parents to surrender them.¹⁰¹ In addition, American adoptive parents began publishing accounts of their adopted children who had families of origin in Ethiopia who believed that the children were going to the United States to get an education and then return.¹⁰²

6.6.5 False information and falsified documents

Another irregularity in adoptions from Ethiopia concerns inaccurate information and fabricated stories in the adoption documents. The Belgian report states that in Ethiopia there have been incomplete adoption files and inaccurate background descriptions.¹⁰³ The Dutch report also notes inadequate documentation and that there has been systematic falsification of documents and concealment of origin.¹⁰⁴ Researchers also describe that it is common that what is stated in the adoption documents does not correspond to reality.¹⁰⁵

In some cases, the absence of data and inaccurate information is due to carelessness or the simple absence of information. In other cases, it is the result of deliberate attempts to hide the origin of the children, fraud and falsification of documents.

A recurring phenomenon in Ethiopia is the misrepresentation of the death of the original parents.¹⁰⁶ The Ethiopian government has described the manipulation of some children's documentation to make it appear that the children are orphans even though their parents were alive. This allowed adoption agencies to avoid lengthy court proceedings.¹⁰⁷ When ACT investigated Wereldkinderen's adoption files in 2009, they found letters from parents who, according to the

¹⁰¹ MIA's "Report from MIA's inspection trip to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10; Dagens Nyheter 2021-02-21 "Svenska tjänstemän har larmat om misstänkta Oegentligheter"; E.J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?".

⁽¹⁰²⁾ K. Joyce in The Atlantic 2011-12-21 "How Ethiopia's Adoption Industry Dupes Families and Bullies Activists".

¹⁰³ Belgian study (2021) referring to the report on the hearing and discussion: <https://docs.vlaamsparlement.be/pfile?id=1482428>. Retrieved 2023-09-15.

¹⁰⁴ Intercountry Adoption Review Committee (2021).

¹⁰⁵ See e.g. S. A. Steenrod (2021), pp. 81-108; D. Hailu (2017), pp. 209-2015.

¹⁰⁶ Wereldkinderen and Against Child Trafficking (2009); B. Mezmur (2010); S. A. Steenrod (2021), pp. 81-108.

⁽¹⁰⁷⁾ K. Joyce in The Atlantic 2011-12-21 "How Ethiopia's Adoption Industry Dupes Families and Bullies Activists".

¹⁰⁸A survey of adoptive parents shows that several of them had discovered false information that the original parents were dead.¹⁰⁹There is also a case of a fourteen-year-old who managed to cancel her adoption because the adoption was based on a false claim that her parents had died.¹¹⁰The ISS noted in 2010 that there had been an increase in the number of criminal cases related to intercountry adoptions, including falsification of documents and misrepresentations that the mother was dead or that the parents were in poor health.

There have also been other types of false information about both the family of origin and the child. In the case of the child, for example, there has been false medical information and falsified dates of birth¹¹².

A high-profile case from 2007 involves two Ethiopian children who were stolen, sold and adopted by a family in Austria using false documentation. In this case, orphanage workers and state administration staff helped to prepare false documents and played a role in the final adoption of the children. There are also reports that adoption agencies in Ethiopia have made families of origin rehearse answers to potential questions before appearing in court¹¹³

6.6.6 Trafficking in children with paid child finders

Researchers have described Ethiopia as one of the countries with clear incidents of child laundering and trafficking in the 1990s and 2000s.¹¹⁴The 2009 ACT study found that Ethiopia had a system for collecting children from villages. Orphanages

¹⁰⁸Meeting with Against child trafficking (ACT) 2023-10-04; Wereldkinderen and Against Child Trafficking (2009).

⁽¹⁰⁹⁾"Results of PEAR's Ethiopia Study" 2010-10-14, received by MIA via e-mail UNICEF Ethiopia 2011-03-18 dnr 74:754:53/10.

¹¹⁰VOA Africa 2013-02-11 "Ethiopian Adoptee Wins Legal Case to Revoke Adoption" https://www.voanews.com/a/ethiopian_adoptee_wins_legal_case_to_revoke_adoption/1601306.html. Retrieved 2024-03-28.

¹¹¹ISS (2010).

⁽¹¹²⁾"Results of PEAR's Ethiopia Study" 2010-10-14, received by MIA via e-mail UNICEF Ethiopia 2011-03-18 MIA dnr 74:754:53/10; Wereldkinderen and Against Child Trafficking (2009).

¹¹³B. Mezmur (2010).

⁽¹¹⁴⁾D. M. Smolin (2010), *Abduction, Sale, and Traffic In Children in the Context of Intercountry Adoption*. In Special Commission of the Hague Conference on Private International Law, The Hague, Netherlands.

sent buses to the villages and child finders were paid monthly salaries. These child finders were also active in health centers and other places where families seek help. There were indications that intermediaries had sometimes accepted money in exchange for children, with the original family receiving a smaller amount¹¹⁵.

The person at ACT who did the research in 2009 told us in our interview that he and a social worker at Wereldkinderen rented a car and searched for the parents mentioned in the files he had reviewed. At these meetings it was clear that in Ethiopia they do not have the concept of adoption. The court in Ethiopia decides on a weak adoption, while in many receiving countries a strong adoption is then decided without the consent of the parents. The parents were approached and persuaded that they were doing something good by handing over the children to the adoption organizations. He describes how child finders were given money to get parents to give up their children for money. They were persuaded to give up the children, but the children were not stolen.¹¹⁶ Research, as well as a survey of adoptive parents, confirms that there have been examples of children being given up for money.⁽¹¹⁷⁾ For example, local officials are described as having worked with orphanages to 'find' children available for adoption in exchange for money, and local orphanages have bribed families to give up their children. Some orphanages turned out to be transit homes where children stayed for a few hours before being passed on to paying clients.

American adoption organizations, for example, offered money directly to families in rural areas¹¹⁹.

In 2010, an Ethiopian researcher reported that allegations of undue financial gain by adoption agencies were becoming more common in Ethiopia and that there were reports of adoption agencies being paid on a commission basis.¹²⁰ There were also articles about corruption, child trafficking and fraud in the adoption business in Ethiopia.¹²¹ In 2010, ISS/IRC was very

¹¹⁵ Wereldkinderen and Against Child Trafficking (2009).

¹¹⁶ Interview with ACT 2024-04-15.

⁽¹¹⁷⁾ "Results of PEAR's Ethiopia Study" 2010-10-14, received by MIA via e-mail UNICEF Ethiopia 2011-03-18 MIA dnr 74:754:53/10; S. A. Steenrod (2021), pp. 81-108.

¹¹⁸ E. J. Graff in Pacific Sun 2017-05-03 "They steal babies, don't they?".

¹¹⁹ Meeting AC 2023-09-05.

¹²⁰ B. Mezmur (2010).

¹²¹ See e.g. K. Joyce in The Atlantic 2011-12-21 "How Ethiopia's Adoption Industry Dupes Families and Bullies Activists".

concerned that some orphanages employ child finders to find vulnerable families willing to give up their children for adoption in other countries.¹²² However, a UNICEF representative described at a meeting with the Danish supervisory authority in 2010 that they did not perceive trafficking in children for intercountry adoption to be a systematic phenomenon in Ethiopia.¹²³

6.6.7 Donations and grants increase the risk of irregularities and non-compliance with the subsidiarity principle

Ethiopia is one of the countries that only allowed foreign adoption agencies to place children if they supported local relief projects or donated money to the government to help fund the local child welfare system.¹²⁴ Ethiopia became dependent on privately owned orphanages that were increasingly funded by foreign adoption agencies. When a welfare system is primarily funded by contributions from foreign adoption agencies, there is a risk that it creates an economic incentive to make more children available for intercountry adoption, which in turn increases the incentive to find more adoptable children, thus creating a risk of abuse.¹²⁵

International adoption agencies increasingly operated unlicensed orphanages and transition homes from which children could be adopted directly. Researchers have pointed out that such a close link between care institutions and adoption agencies increases the risk of irregularities, especially if adoptions are the main source of income.¹²⁶ In addition, ISS has pointed out that the lack of regulation of agency and adoption fees was a problem as it contributed to competition between adoption agencies.¹²⁷ Researchers have also pointed out that although there is no obvious or direct link between the local assistance projects and intercountry adoptions in Ethiopia, donations could still contribute to the preservation of the intercountry adoption system and counteract the subsidiarity principle of seeking primarily domestic solutions.

¹²² ISS (2010).

(123) "Adoptionsnaevnets tilsynsrejse til etiopien - Rejseberetning vedrørende tilsynsrejse til Etiopien i perioden 13-22 oktober 2009" inkom MIA 2010-04-28 MIA dnr 72:294:1/10.

¹²⁴ E. Loibl (2019).

¹²⁵ E. Loibl (2019); Wereldkinderen and Against Child Trafficking (2009).

¹²⁶ N. Cantwell (2017).

¹²⁷ ISS (2010).

Researchers and other stakeholders have pointed out that Ethiopia is one of the countries that has faced challenges in implementing the principle of subsidiarity.¹²⁸ There is evidence that most parents who gave their child up for intercountry adoption were not counseled about other alternative care options for their children. In addition, parents were not given time to reconsider their decision to give their child up for adoption.¹²⁹ Intercountry adoption is described as being used as a first option and not as a last resort until 2011, with inadequate efforts to find suitable care for children in Ethiopia.¹³⁰ In 2006, 130 domestic adoptions were carried out compared to 2 760 intercountry adoptions.¹³¹ Such a high number of children available for intercountry adoption indicates that Ethiopia was unable to develop domestic adoptions or alternative care sufficiently. However, in Ethiopia, kinship care was a common child protection measure to care for children without parents, but according to the AC, this alternative method is not included in the statistics.

6.7 Irregularities in Swedish adoption activities and how Swedish actors have acted and behaved

6.7.1 Introduction

In the previous section, we noted that there had been irregularities in intercountry adoptions from Ethiopia. In this section, we go through the irregularities that we have been able to see are linked to Sweden, what different actors knew about irregularities and how they acted on that information.

We note that some irregularities directly affect Sweden. For example, an Ethiopian man who brokered adoptions to Sweden, both privately and via AC, has been sentenced to prison for illegal acts in the context of adoption activities.

In the previous section, we described that two types of irregularities were particularly common in Ethiopia's adoption activities; parents not

¹²⁸ B. Mezmur (2010).

¹²⁹ ISS (2010), referring to Teshome (2009).

¹³⁰ Wereldkinderen and Against Child Trafficking (2009).

had received correct information about what an adoption entailed and that information in the adoption documents was incorrect. These are also the two problems that we have received the most information about having also occurred in adoptions to Sweden. However, it is uncertain over what period of time these irregularities have occurred. The information and testimonies relating specifically to Sweden concern early adoptions, mainly during the 1970s, while the Swedish actors mainly received information that these problems existed generally only around 2010, and then it was rarely specifically about Swedish cases.

Many adoptees from Ethiopia to Sweden have limited opportunities to search for their origins. Many files lack important information, and some adoptees do not have access to all the information because an individual intermediary has documents in its own archive and does not disclose them. The Association of Ethiopian and Eritrean Adoptees (AEF), as well as several other adoptees from Ethiopia we interviewed, have pointed out that there are irregularities in adoptions from Ethiopia. AEF has conducted a survey among its members. Just over half of those who responded to AEF's survey, 16 out of 30 people, state that they know or suspect irregularities linked to their adoption ⁽¹³²⁾.

Our file review of mainly private and individual adoption files revealed instances of child swapping, incorrect dates of birth or other information in adoption documents, and pressure to make children available for adoption. Although we only examined a total of 40 adoption files from Ethiopia between 1971 and 1990, we found examples of this.

The Swedish supervisory authority has made only two trips to Ethiopia in the approximately 50 years of adoptions. The first trip was in 2005, despite information about irregularities having emerged as early as the 1970s. From what we can see in the archive material, it was not until the 2000s that the authority began to ask critical questions of AC in connection with the application for authorization.

¹³²AEF 2022-05-31 "Letter to the Adoption Commission: Mapping and deepening of irregularities in connection with adoptions from Ethiopia and Eritrea".

6.7.2 In the early 1970s, many children came to Sweden as foster children

Our review of adoption files from Ethiopia 1970-1990 shows that some children have arrived in Sweden before an adoption decision has been made in Ethiopia. The most common, however, seems to be that the children arrived in Sweden 2-3 weeks after the adoption decision. However, in about a third of the cases, most from the 1970s, the children arrived a few months or a few years before the adoption decision was made in Ethiopia.

This is explained by the fact that in the 1970s many children from Ethiopia came to Sweden as foster children, without a court having first made an adoption decision. One of the reasons why a large number of Ethiopian children were brought to Sweden without an adoption decision was that the Ethiopian court at that time had about 2.5 years waiting time¹³³

The Swedish Embassy in Addis Ababa certified that the Swedish couple had been approved by the Swedish Social Welfare Board to receive an Ethiopian child as a foster child with the intention of later adopting it. Based on our review at the National Archives, we estimate that during the period 1970-1976 there are at least 350 such certificates.¹³⁴ This is more than half of the adoptions from Ethiopia during that period, and it occurred both in private adoptions and adoptions via organization, that is, AC. A "foster care agreement" for the child to be adopted was signed between the child's guardian in Ethiopia and the Swedish parents (often a Swedish person in Ethiopia with power of attorney).

AC describes that this was the case in all their adoptions during this period. In 1973, for example, they placed 28 children for adoption from Ethiopia to Sweden in this way. They judged that such a procedure was better from a child rights perspective, compared to leaving the children for a long time in institutions with a high mortality rate.¹³⁵ The aim was not to circumvent Ethiopian legislation, but to enable the child to be adopted by Swedish parents. The process was open and eventually adoption decisions were made in both Swedish and Ethiopian courts.¹³⁶

¹³³ PM 1973-04-07 submitted to the National Board of Health and Welfare NIA 1973-10-12 dnr 14:116/72 and 79:455/73.

¹³⁴ Addis Ababa mission archives volume F1i:6-7 (case R34).

¹³⁵ Meeting with AC and BFA 2024-03-11.

¹³⁶ AC comments on draft text Ethiopia 2024-05-23; Meeting with former AC representative 2023-12-06.

At the same time, our file review shows that the AC country manager expressed on several occasions that she did not like this approach.¹³⁷ These adoptions were later decided by the Ethiopian court when the child has been in Sweden. It has happened that the Swedish court has ordered the adoption before the Ethiopian court has made its decision. Another practice that occurred at the time, which was not legally correct in Ethiopia, was that the Ethiopian child was brought to Sweden as a tourist.¹³⁸ In our file review, we have seen examples of this in a private adoption from 1971. The child arrived in Sweden on a tourist visa and it then took almost three years before an adoption contract was drawn up and a decision on adoption was made in Ethiopia. It then took almost another year before an adoption decision was made in Sweden.

6.7.3 An Ethiopian man who brokered adoptions to Sweden was arrested in 1977 and sentenced to prison

In March 1977, an Ethiopian man was arrested in Ethiopia and detained for, among other things, illegal currency handling in connection with the placement of children for adoption. AC's representative in Ethiopia, who had worked with the man himself, said in a letter to AC's staff in Sweden that the police had found two guns and a large sum of money in his possession (USD 6-10 000, according to the Swedish representative). The Swedish representative believes that the man had received this money from Swedish adoptive parents who had adopted or would adopt children through him¹⁴⁰.

DN reported on this in April 1977 and stated that three Swedes were involved in this adoption scandal, suspected of having mediated private adoptions. DN also reported that there were about twenty families from a Swedish town who had been in contact with the man in Ethiopia regarding adoption. Families in a poor area in

¹³⁷Letter 1974-12-12 in AC's archive box "Adoptionscentrum Korr kontaktperson Etiopien E4B 1973-1977". See also examples in AC's "Minnesanteckningar från resa till Addis Abeba april -75" in AC's archive box "Adoptionscentrum Etiopien Länderpärm E4a, 1973-83".

¹³⁸PM 1973-04-07 submitted to the National Board of Health and Welfare NIA 1973-10-12 dnr 14:116/72 and 79:455/73.

¹³⁹Telegram from the Swedish Embassy to the Swedish Ministry of Foreign Affairs, 1977-04-15, R34 yab (no. not shown);

Letter from the Legal Department at the Ministry of Foreign Affairs to the Swedish Embassy in Addis Ababa 1977-04-06

"Re adoptions", dnr 45 R34 yab.

¹⁴⁰Letter 1977-03-30, in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

Addis Ababa had been persuaded to give up their children with the promise that they would return when they were older¹⁴¹

After the man was arrested, an exchange of letters between the Swedish Embassy in Addis Ababa and the Swedish Ministry of Foreign Affairs followed. It states that after the man was arrested, a number of adoptions were stopped which, according to the man himself, were almost complete. A group of about 20 families who were going to adopt children through him sent a "distress call" to the Swedish Ministry of Foreign Affairs. The families were very upset and asked the MFA for help in tracing the children and finalizing the adoptions. The MFA asked the Embassy to investigate the exact legal status of the adoptions included in the list of families, i.e. how close they were to being finalized.¹⁴² The Swedish Embassy enlisted the help of a lawyer who had previously been involved in adoptions through AC. After the lawyer had seen the list of adoptive parents and children and tried to find out what stage the adoption cases were at, the embassy wrote to the Ministry of Foreign Affairs that there were "doubts that the children according to the submitted description exist at all."¹⁴³

The correspondence between the Swedish Embassy and the Ministry of Foreign Affairs also shows that the 20 or so families who were to adopt via the man in question and who were on the list sent an amount of approximately USD 1 000 per family.¹⁴⁴ The payments transferred from the families to the Ethiopian man had been sent by courier in the form of American express checks made out to him personally. Even after that, various families sent money in the form of checks.¹⁴⁵ According to the Swedish Embassy, the man's cousin had stated that had found the equivalent of SEK 60,000 in foreign currency while in custody¹⁴⁶.

In the archive review, we also see letters from adoptive parents who had already adopted children through the man and who, after his arrest, ask the Swedish Embassy in Addis Ababa if they can do anything for

¹⁴¹DN 1977-04-15, "Clas Barkman: 'Adoptionsstopp från Thailand'"; Möte AC 2023-09-05; Upprop från Adopterade etiopiers och eritreaners förening, AEF, 2018-03-13 "Det finns ingen svensk lag som skyddar internationellt adopterades rätt att känna till sitt ursprung".

¹⁴²Letter from the Legal Department at the Ministry of Foreign Affairs to the Swedish Embassy in Addis Ababa 1977-04-06

"Re adoptions" dnr 45 R34 yab.

¹⁴³Telegram from the Swedish Embassy to the Ministry of Foreign Affairs (legal unit) 1977-04-22 R34 yab dnr 1:A 111; Telegram from the Swedish Embassy to the Ministry of Foreign Affairs 1977-04-18 R34 yab dnr 1:A 103.

¹⁴⁴Letter from the Legal Department at the Ministry of Foreign Affairs to the Swedish Embassy in Addis Ababa 1977-04-06

"Re adoptions" dnr 45 R34 yab.

¹⁴⁵Telegram from the Ministry of Foreign Affairs to the Swedish Embassy 1977-04-22 R34 yab (no. not shown).

¹⁴⁶Reply letter from the Swedish Embassy in Addis Ababa to adoptive parents, 1977-05-15 R34 (no. not shown).

to help him. They point out that he has done important work to help children, that he has saved the lives of many children and that a child through him "does not cost nearly half as much as through AC". They also believe that he plays an important role as a link between the adopted child and the biological family. These adoptive parents say that the 60 or so families they know who have had children through him have a similar view of him. The adoptive parents ask the embassy, among others, whether they should bring this to the attention of the Ethiopian authorities, for example if the man needs legal assistance¹⁴⁷.

The man was later sentenced to prison in Ethiopia.¹⁴⁸ Much later, according to representatives of AEF, a list began to circulate in Sweden with names, social security numbers, addresses and telephone numbers of families who had adopted children from Ethiopia with the help of the man. AEF states that he has had adoptive parents send him money for several years in the belief that the money was passed on to the original families, but which he kept himself.¹⁴⁹ Representatives of AEF state that around 100 children have come to Sweden from the area in which the man was active. He is mentioned in several of the private and individual files we have examined.

AC cooperated with the Ethiopian man for eight months, a few years before he was arrested

AC cooperated with this man for about 8 months in 1974, i.e. three years before he was arrested for illegal adoption activities.¹⁵⁰ He often appears in the correspondence between AC's coworkers in Sweden and their representatives in Ethiopia. He was a social worker and a member of the same parish as AC's Swedish representative and worked as a driver at the Swedish school where one of the representatives also worked.

AC started working with him in January 1974 and ended in September of the same year. When the cooperation started in January 1974, the AC staff member writes in a letter about three alternative ways forward for adoption activities in Ethiopia, one of which was this man. She writes that the AC representative in Ethiopia feels

¹⁴⁷Letter from adoptive parents to the Swedish Embassy in Addis Ababa 1977-05-02 R34 yab (no. not shown).

¹⁴⁸ Meeting AC 2023-09-05; Meeting AEF 2023-08-31.

¹⁴⁹ Meeting AEF 2023-08-31.

¹⁵⁰ Meeting AC 2023-09-05; A-C. Gudmundsson et al (2015).

¹⁵¹ Meeting AC 2023-09-05.

him, that he should be allowed to finish an ongoing case and "in this way show a little what he is capable of". The AC staff member continues:

It is also a question of time and cost for him. Has asked that [one of AC's representatives] consult with [another of AC's representatives] before she gives him a proposal on what he can get per completed case. I don't know what [AC's representative] intends to compensate [another possible collaborator in Ethiopia] with if he takes the bait, but it should be the same amount for all cases.¹⁵²

People working at AC at the time have described in our interviews that the man has not been paid by AC.¹⁵³ From the quote above it appears that they at least planned to pay him and other intermediaries with an allowance per adoption. However, the AC states that they have not found that any payment was made.¹⁵⁴

In another letter from AC's staff in April 1974, it appears that they started working with the Ethiopian man:

[AC's one representative in Ethiopia] and [the Ethiopian man] I think in the future will work out fine /.../ As [the Ethiopian man] seems to be able to handle the procedures and [AC's representative] is a good and honest letter writer, we are as close to an ideal arrangement as we can get.¹⁵⁵

In the same letter, AC's coworkers write that it is probably important to let AC's representative work quite independently, and that they have noticed an irritation from her when others have interfered with her work.

In May 1974, AC's employees in Sweden traveled to Ethiopia for meetings with AC's representative, the Ethiopian man and other cooperation experts.¹⁵⁶ In the documentation from the trip, AC's employees write about the meeting with the man and it is stated, among other things, that he expects to be paid for the child to live with him:

He had also made a proper calculation of the costs of "keeping the child" during the time it takes for all the documents to be completed. A room near his home is now full of children, some already placed, others we are going to place. The [man's] wife and sister are looking after the children together

¹⁵²Letter 1974-01-31 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

¹⁵³Meeting with former AC representative 2023-12-06; Meeting with former AC representative 2024-05-06.

¹⁵⁴AC's comments on the Adoption Commission's draft text 2025-03-20.

¹⁵⁵Letter 1974-04-26 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

¹⁵⁶AC's "Proposed program 5-11 May 1974" 1974-04-17. In AC's archive box "Adoptions-centrum Korr kontaktperson Etiopien E4B 1973-1977".

with a couple of the mothers who do not have a home. The room is in a small house that also contains a bar. Maybe a bit too many people around such small children, but [he] has plans to rent a house across the "street". He is hesitant, as the rent is high, and \$ 80 a month (about 170 kr!). I do what I can to convince him that it is reasonable from the point of view of Swedish parents that 15-20 families share the monthly cost. I think I finally succeeded, but it wasn't easy.¹⁵⁷

These notes from AC's trip to Ethiopia in May 1974 also reveal that AC's staff had lunch at the Ethiopian man's home. He had a couple of children in his own bedroom who he felt needed some extra care and attention. The other children were in a separate house, which the AC staff member describes as follows: "The room was really small, you had to squeeze between rows of beds, the adults' beds in the same room were bunk beds with barely room for the nose. But it was clean and tidy, the bottles were boiled and they were well fed." A later letter states that children in his home have become ill, and suggests, among other things, that the children live in too cramped conditions. AC's coworker writes in a letter that she is upset and that it should be reported to the police: "He shouldn't be allowed to run this just for his own benefit."¹⁵⁸

In September 1974, AC decides to stop working with the man when it is discovered that he has been trying to bypass the Swedish queues and deliver children directly to families in Sweden. After the man had visited northern Sweden, he promised families that they could quickly get a child from him, if only they provided AC with the necessary papers. This is despite the fact that he had promised AC's staff not to do so. She feels cheated by him, and wants AC's two representatives in Ethiopia to stop working with him. They then move out of his house and look for a new house for the children.¹⁵⁹ AC's two representatives make it clear to him that he is not to work for them anymore.¹⁶⁰ AC's colleagues in Sweden write a letter saying that she is to go up to the embassy to make it clear that they have nothing to do with the man in question.¹⁶¹

¹⁵⁷AC's "List of meetings in Addis Ababa May 1974" in AC's archive box "Adoption center Ethiopia Country binder E4a, 1973-83".

¹⁵⁸Letter 1974-06-18 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

¹⁵⁹Letter 1974-09-09; Letter 1974-08-23; Letter 1974-09-02; Letter 1974-09-19; Letter 1974-09-06. All in AC's archive box "Adoptionscentrum Korr kontaktperson Etiopien E4B 1973-1977".

¹⁶⁰Letter 1974-09-17 in AC's archive box "Adoptionscentrum Korr kontaktperson Etiopien E4B 1973-1977".

¹⁶¹Letter 1974-12-18 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

It is unclear how many adoptions this Ethiopian man has been involved in, and exactly in what way. We know that he placed children with one of AC's agents. Then AC's other representative received background information for the children and handled the legal process. She was the adoptive family's representative in court and placed a total of 60 children with AC in 1974, and almost as many in 1975.

In an interview with us, she states that she does not know how many of these children were referred by the Ethiopian man who was later convicted. She estimates that around 30 of these children came to her via AC's other agents, who received children directly from the Ethiopian man.

However, she does not know how many of these 30 children originally came from him.¹⁶²

The AC states that they find it difficult to see that irregular adoptions have been brokered through this man, as they did not pay him to "procure children".¹⁶³ However, as outlined in this section, there is some ambiguity as to how he was paid by the AC. In addition, there are reports that he received money directly from adoptive parents before and after the adoption, and that he persuaded parents to give up their children.

AC suspended cooperation when they discovered problems, but does not appear to have informed the NIA or adoptive families when he was arrested in 1977

Ethiopian authorities took action and sentenced the man to imprisonment when the crime was discovered. AC staff were aware that the man was arrested for illegal currency handling in connection with adoption activities in 1977.¹⁶⁴ This is evident from the correspondence between AC staff and agents in Ethiopia. The AC also terminated all contact with the man after the offense was discovered.

The Ministry of Foreign Affairs was also aware that the man who arranged for children to be adopted in Sweden was arrested. From the archive material we see that AC's employee sought contact with the Ministry of Foreign Affairs, which asked the employee to inform the families concerned.¹⁶⁵ From the archive material we cannot see that AC

¹⁶²Meeting with former AC representative 2023-12-06; Meeting with former AC representative 2024-05-06.

¹⁶³ AC comments on draft text Ethiopia 2024-05-23.

¹⁶⁴Letter 1977-03-30 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

¹⁶⁵Letter 1977-04-2 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

has investigated how many of their adoptions to Sweden the Ethiopian man has been involved in. Nor can we see that AC has informed the NIA that the man was arrested or that the NIA is aware of this. AC's former head of operations states in an interview with us that she is not aware that they have cooperated with the man, that she has only heard of the man once.¹⁶⁶ However, the current representative of AC states that they certainly informed the NIA of the situation that had arisen, but that it may have been informal.¹⁶⁷

Nor can we see in the archive material that AC has informed the Swedish families who had already adopted children from the area in question in Ethiopia about the incident. AEF has expressed criticism that adoptees in Sweden who came from the area and who may be affected by the events have not received any information from Swedish organizations or authorities. Instead, AEF has become aware of this thanks to some adoptees having made contact with their Ethiopian relatives in Ethiopia on their own.¹⁶⁸

The Ethiopian man has arranged private and individual adoptions to Sweden - both before and after he was jailed

In addition to working with AC, the Ethiopian man was involved in arranging adoptions to Sweden privately, at least during the period 1974-1977. AC's employee writes in a letter in 1974 that the man helps AC's representative "with all her private cases" that she had together with another Swedish woman who mediated adoptions both privately and via AC. The Ethiopian man handled the authorizations in the Ministry of Foreign Affairs and was paid per legalization.¹⁶⁹ We have also seen examples of the Ethiopian man who was later convicted of illegal acts in connection with adoption mediation having been the Swedish adoptive parents' representative in court.

Even after AC ended his collaboration with the man in the fall of 1974, he continued to arrange adoptions privately to Sweden. For example, AC's coworker writes in a letter from December 1974 that

¹⁶⁶ Interview with former manager at AC 2024-04-10.

¹⁶⁷ AC's comments on the Adoption Commission's draft text 2025-03-20.

¹⁶⁸ Appeal from Adopted Ethiopians and Eritreans Association, AEF, 2018-03-13 "There is no Swedish law protecting the right of international adoptees to know their origin". ¹⁶⁹ Letter 1974-04-26 in AC's archive box "Adoptionscentrum Korrekt kontaktperson Etiopien E4B 1973-1977"; Letter 1974-04-24 in AC's archive box "Adoptionscentrum Korrekt kontaktperson Etiopien E4B 1973-1977".

"it is true that [the Ethiopian man] is working at full speed".¹⁷⁰ We have also seen in the archive material a court order from July 1976 in which he was the one who translated documents from Amharic to English.¹⁷¹

Archive documents from the NIA show that the authority already had information in 1975 about the Ethiopian man's working methods and that he was placing children in Sweden privately. In the NIA's attempts to keep statistics on individual adoptions, there is a note that shows that the NIA already wanted to stop the placement of children through him. In a comment about Ethiopia they mention him by name and write:

Difficult to get people to work out who is the intermediary. I don't think you should wait to ask about this until the §47 permit is current. By then they often have the child with them. It is, after all, unrealistic to get them to reveal the name of the intermediary under the threat of losing the permit. Better to ask for the name of the intermediary during the preliminary investigation.¹⁷²

Our review of the archives shows that this man was also involved in individual adoptions to Sweden much later, in the 1990s. In January 1990, the Swedish adoption organization BFA wrote a letter to the Ethiopian man asking him to become their contact person. The AC representative in Ethiopia reacted to this and said

in a phone call to the AC office: "If BFA is going to work in Ethiopia, they should at least not work with [the Ethiopian man] and why didn't they ask us first?"¹⁷³ The AC office staff member called and warned both BFA and NIA. BFA had received tips about him from private adopters, and they were grateful for the warning and would not proceed with him as a contact.¹⁷⁴

The NIA writes in a letter to MOLSA in October 1990 that the Ethiopian man had been in Sweden and had brought two children to Swedish adoptive parents.¹⁷⁵ The AC representative tells the AC office in November 1990 that the man had visited her and asked for advice and who he could turn to at MOLSA. She was unable to give him any such advice and the notes show that she distances herself

¹⁷⁰ Letter 1974-12-12 in AC's archive box "Adoptionscentrum Korrr kontaktperson Etiopien E4B 1973-1977". See also letter 1975-02-25 and letter 1974-12-19, both in AC's archive box "Adoptionscentrum Korrr kontaktperson Etiopien E4B 1973-1977".

¹⁷¹ No. 3 in R34 Fli:7 (no. missing).

¹⁷² "Experimentation with certain statistics on private/individual adoptions" NIA dnr 49:1071/75.

¹⁷³ Conversation 1990-01-02 in AC's box "E4b Korrr/samtal NN Etiopien 1990-1993".

¹⁷⁴ Letter 1990-10-31 in AC's box "E4b Korrr/samtal NN Etiopien 1990-1993".

¹⁷⁵ Letter from NIA to MOLSA 1990-10-29 NIA dnr 46:442/90 in AC's box "E4b Korrr/Samtal NN Ethiopia 1990-1993".

¹⁷⁶At the beginning of 1991, AC's representative stated that the man received applications and found people who could take the authorizations, but that he had not carried out any adoptions himself.¹⁷⁷The fact that both AC's representative in Ethiopia and employees at AC's office distanced themselves from the Ethiopian man is evident from several notes from their conversations that are stored in AC's archives.

In both April 1993 and March 1994, the NIA commented on the mediation of individual adoptions from Ethiopia where the documentation from the municipality clearly shows that the Ethiopian man was involved. A handwritten note from a telephone conversation with the applicant in February 1993 states that a Swedish missionary, who was the applicant's contact person in Ethiopia, had the Ethiopian man go to the Ministry of Social Affairs in Ethiopia and get them to make an exception to their rule not to accept applications directly from the applicant. According to the note, the man had done such in 106 cases before, most recently a year earlier. As far as we can see, the NIA did not react to this, but considered that the method of mediation was reliable and that MOLSA could be named as the adoption contact in the event of consent. The Social Welfare Board granted such consent two weeks later.¹⁷⁸When the applicant applied for a new consent a year later, in March 1994, the Ethiopian man was listed as one of the contacts in her application. The application is supported by a letter from the Ethiopian man to the applicant, which shows that he is still arranging adoptions to Sweden and that his working methods are questionable. He describes that he is actively helping the person to search for a girl under two years old, based on the wishes previously expressed by the applicant. However, the state orphanage homes mainly have children over the age of three, and the Ministry only accepts for adoption children found in state orphanages, hospitals or police stations. He describes that he therefore needs to search more actively: "I have to go round and assess to find your will". In the letter, he asks further questions about the applicants' wishes:

¹⁷⁶ Note from conversation 1990-11-30 in AC's box "E4b Korr/Conversation NN Ethiopia 1990-1993".

¹⁷⁷ Note from conversation 1991-01-31 in AC's box "E4b Korr/samtal NN Etiopien 1990-1993".

⁽¹⁷⁸⁾ "Opinion on the method of mediation in adoption 1993-04-01 NIA 46:46/93; Köping municipality's request for the NIA's opinion on private adoption contact 1993-01-29 NIA 46:46/93.

What do you think if I find a child whose ages are above two years? Do you agree with this? Also I will try to find a small girl. If this does not work, what will be your feelings?¹⁷⁹

In its opinion of March 1994, the NIA also expressly states that the man is the applicant's representative in Ethiopia and that MOLSA can be named as the adoption contact in a possible consent. A month later, the municipality gives its consent. The archive documents also show that a few months later the applicant applied to the Swedish district court to adopt the child¹⁸⁰

The NIA thus gave a positive opinion despite the fact that the documentation clearly shows that the convicted man was one of the applicants' contacts in Ethiopia. This was despite the fact that the NIA had been warned about him by the AC in 1990 and had already tried to stop adoptions arranged through him in 1975. In a fax sent to AC's office in July 1994, AC's representative writes that she has been told that a child has arrived for a single woman who had a consent that was too old, with the Ethiopian man as the 'sender of the child'. She wonders how this could have happened and states that the information came from the NIA.¹⁸¹ It is not possible to tell from the documentation whether this is an adoption other than the one mentioned above.

6.7.4 Adoptive parents have sometimes adopted children without valid consents

Since 1985, those who adopt alongside the adoption organizations must have an approval of the intermediary route. This is most often found in the private and individual files we examined from Ethiopia. In Ethiopia, approval of an intermediary route is lacking in 10 percent of the files for adoptions that took place after 1985. There are also cases where children have been adopted privately even though the approval of an intermediary route only applied to adoption via a Swedish authorized adoption organization. We have also seen examples of the applicant first stating

¹⁷⁹Letter from the Ethiopian man to the applicant 1993-11-29 in "Request for opinion on private adoption contact in Ethiopia" 94-03-07 NIA dnr 46:106/94; "Opinion on the mediation procedure for adoption 1993-04-01 NIA dnr 46:46/93.

⁽¹⁸⁰⁾ "Request for opinion on private adoption contact in Ethiopia" 1994-03-07 NIA dnr 46:106/94.

¹⁸¹Fax from AC's representative in Ethiopia to AC's office 1994-07-20 in AC's box "E4B 1994 Ethiopia correspondence staff".

a private contact in their application, but then had to fill in a new application stating MOLSA as the contact instead.

6.7.5 The organization of Swedish adoption activities in Ethiopia may have increased the risk of irregularities

AC's multiple roles in adoption activities in Ethiopia may have posed some risks

During the 1970s, AC had several different collaborators in Ethiopia who helped to place children for adoption. Many knew each other and many also belonged to the same church, the Evangelical Fatherland Foundation (EFS). 1971-1973 AC had at least three agents in Ethiopia.

1974-1976 were the years when AC placed the most children for adoption from Ethiopia. At that time, they had two representatives in Ethiopia who wrote letters, vaccinated the children, kept in touch with the mothers, etc. One of the representatives was a peace officer for Sida and worked as a nurse at a nutrition hospital in Addis Ababa (the ENI Institute). During those three years, she placed about 160 Ethiopian children in Sweden. She did this in her spare time and was not paid by AC. She came into contact with the children mainly through the hospital. Most often the biological mother contacted the AC's representative at the hospital, but sometimes they came to her home and left their children with her. The children born in the hospital were placed in orphanages, in Sida families or left for adoption. The children also came from orphanages, such as the one near the hospital where AC's representative worked.¹⁸³ According to AEF, many of their members lived there before being placed with a Swedish family in Ethiopia while waiting for the adoption to be finalized.¹⁸⁴ AC's representative often had direct contact with the mothers, as she had many children delivered directly to her, and at the same time she was the one who sometimes represented the adoptive parents in court.

AC's other representative during this period was also a missionary. The AC archives contain extensive correspondence between her and AC's

¹⁸²See e.g. article on adoption in *Svenskbladet* April 1971 Addis Ababa, in AC's archive box "Adoptionscentrum Ethiopien Länderpärm E4a, 1973-83".

¹⁸³ Meeting with former AC representative 2023-12-06.

⁽¹⁸⁴⁾ "Tips from AEF on persons involved in adoptions from Ethiopia and Eritrea" received by e-mail 2023-10-13.

office of all children to be placed in Sweden via AC. However, she also arranged adoptions privately and cooperated with the Ethiopian man who was sentenced to prison in 1977. Their cooperation concerned both adoptions through AC and private adoptions¹⁸⁵.

During the period 1974-1976, AC also had its own lawyer in Addis Ababa (two different lawyers, the first of whom also worked for Sida). The lawyer drew up an adoption contract between the original parents/child's representatives and the adoptive parents and acts as the adoptive parents' representative ("agent") in the court decision. That the lawyer has this role is confirmed by our file review, but we have also seen examples of AC's representative in Ethiopia being the adoptive parents' representative in court. In addition, for a period in the 1970s, the AC had a social worker employed to help them investigate the background of the children.¹⁸⁶ This means that they employed both the representative of the adoptive families and the representative of the child. The file review also shows that it is the same judge in Addis Ababa who seems to have been involved in most decisions on adoptions to Sweden in the 1970s, both private and mediated through AC.

From 1982, AC had a Swedish employee and representative in Ethiopia who handled contact with the authorities and orphanages in Ethiopia and who helped the families who were to adopt. She represented the adoptive parents in court. This representative was linked to AC by an assignment contract with a monthly allowance. She herself describes it as a half-time job, while working half-time at the Swedish School in Addis Ababa. From then on
From 2004, after AC was registered as an NGO, she worked full-time for AC.¹⁸⁷ Some of the children, who were in very poor condition, were taken into her home after the adoption was decided, where she also employed a nurse to provide the best care for the children. From the mid-1990s, she also ran a guesthouse which was rented to prospective adoptive parents. AC states that this guesthouse was not run for financial gain but to offer adoptive parents a safe and cheap place to stay during a time of political uncertainty in Ethiopia.¹⁸⁸ Her husband was a high-ranking Ethiopian

¹⁸⁵See e.g. letter 1974-04-26 in AC's archive box "Adoption Center Korr contact person Ethiopia E4B 1973-1977".

¹⁸⁶AC's "Minnesanteckningar från resa till Addis Abeba april -75" in AC's archive box "Adoptions-centrum Ethiopien Länderpärm E4a, 1973-83"; Meeting with former AC representative 2023-12-06.

¹⁸⁷Written answers from AC's representative to the Adoption Commission's questions, received via e-mail post 2023-11-08.

¹⁸⁸AC's comments on the Adoption Commission draft text 2025-03-20.

lawyer.¹⁸⁹The correspondence in the AC archives mentions the work in the home, the guesthouse and the representative's husband.¹⁹⁰

In our file review of private and individual adoptions from Ethiopia, we see several examples of children adopted to Sweden being found and staying in the vicinity of places where many Swedes worked, including the hospitals that Sweden assisted. In Ethiopia, it seems to have been more common for a hospital to have been involved in leaving the child for adoption, compared to the other countries we examined. The children have stayed at the Ethio-Swedish Pediatric Clinic (ESPC) or Black Lion Hospital. ESPC was founded in 1957 and was Ethiopia's first hospital for children. In 1962, the Ethiopian Nutrition Institute (ENI, which in the early years was called the Children's Nutrition Unit) was established. ENI developed, among other things, a nutritious porridge called "FAFFA". Sida supported ESPC 1957-1974 and ENI 1962-1992. In 1975, the entire hospital was moved to and included in the Black Lion Hospital, which was located right next to the Swedish Embassy in Addis Ababa.¹⁹¹Swedish adoptive parents ran projects at Black Lion.¹⁹²In the files, we see several examples of those who adopted children from Ethiopia working at, for example, Sida, the Ministry of Foreign Affairs or the Swedish Embassy, or belonging to the Swedish Missionary Association or the Evangelical Fatherland Foundation.

AC's representatives in Ethiopia have had direct contact with mothers and taken care of the children before they travelled to Sweden, and AC has employed its own lawyers to represent the adoptive parents in court and, for a period, also a social worker who investigated the children's background. In the archive material and the file review, we see several examples of AC also being involved in bringing children together with parents, and in several cases from a clear applicant perspective. They have sometimes tried to give parents who want young children or children of a certain gender what they want. In one case, they describe having "promised something special" to someone they know who is adopting.¹⁹³In one adoption file, there is a letter from the AC country officer to the adoptive parents

¹⁸⁹E.g. interview with former head of MIA 2024-06-24; "Tips from AEF on persons involved in adoptions from Ethiopia and Eritrea" received via e-mail 2023-10-13; Interview with AC 2023-09-05.

¹⁹⁰ See e.g. e-mail from AC office to AC representative 2002-11-06.

(191) Y. Hofvander (2010), *50 Years of Ethio-Swedish Collaboration in Child Health and Nutrition: The Ethio-Swedish Pediatric Clinic (ESPC) and The Ethiopian Nutrition Institute (ENI): A Chronicle with Recollections and Personal Experiences*.

¹⁹² MIA supervision report AC 2007; AC country reports 2007 and 2008; Meeting AC 2023-09-05.

¹⁹³ AC's travel report from Ethiopia March-April 1976; Letter 1982-11-29; AC's "List of meetings in Addis Ababa May 1974". All in AC's archive box "Adoption Center Ethiopia Country Folder E4a, 1973-83".

parents where she writes that it was an unusually difficult case for both AC's representative and the lawyer who represented the adoptive parents in court. The country representative writes, among other things, that "it is only through their persistence and diplomacy that it all succeeded", that it was difficult to get the nuns to cooperate and that "for a long time they refused to release the child at all!" The basic principle is that the country of origin is responsible for assessing the child's situation and needs for intercountry adoption, and that the needs of the child should govern, not the demand of the applicant. The fact that there were risks with AC's organization of the activities in Ethiopia was made clear by the guidelines eventually produced by EuroAdopt, which AC was also a driving force in developing. According to the guidelines, special precautions must be taken to avoid any impact on the number of children placed for intercountry adoption or specifically on the particular receiving organization. Duplication of roles, i.e. representatives of adoption agencies assisting the country of origin in preparing the necessary documents for an individual child before the child has been "allocated" to the agency, is to be avoided in principle¹⁹⁴.

Even in the private and individual adoptions, Swedes have been involved in placing children with parents

The private adoption files from Ethiopia in the 1970s rarely indicate who placed the child and matched it with the Swedish adoptive parent. However, it is clear that private contacts, for example Swedes who lived in Ethiopia, played a central role in placing children for adoption and matching children with Swedish parents. In the 1980s, it was often aid workers and Sida employees who helped, but missionaries, midwives at Save the Children or counselors at the maternity hospital have also been involved in arranging private and individual adoptions to Sweden. The personal representative has forwarded the application documents to MOLSA, acted as a proxy for the applicants, signed the adoption contract and represented the adoptive parents in court. Sometimes it also appears that they tried to find a suitable child, and

¹⁹⁴EurAdopt. *EurAdopt Guidelines on financial factors in co-operation with counterparts and co-workers in countries of origin*, p. 17 f.

sometimes the child has also lived at home with the person while waiting for the adoption to be finalized.

In 1982, Ethiopia decided that all adoptions should go through MOLSA, including private adoptions. From 1982 onwards, most private and individual files from Ethiopia show that MOLSA has mediated the adoption. Even in files where MOLSA is listed as the intermediary contact, it nevertheless appears that other actors have in practice helped with the adoptions. In several cases, it appears that the adoptive parents received help from Swedes on site in Ethiopia to carry out the adoption. In several cases during the 1980s, we see that the applicants first stated the private contact in their application, but then changed it to MOLSA after the NIA pointed out in its opinion on the mediation route that the applicants must state MOLSA as the formal contact.

An individual adoption from 1990 shows that the adoptive parents received help from several Swedes on site in Ethiopia to carry out the adoption. They have a friend who works at Sida in Addis Ababa as their representative and a Swedish nurse at Save the Children as their proxy. The adoptive parent writes in a letter to the Social Welfare Board that this person "now travels around several times a week visiting hospitals to find a suitable child". However, the formal contact is MOLSA, after the NIA pointed out in its opinion on the placement route that the applicants must indicate MOLSA as the formal contact.

The AC representative in Ethiopia described in a telephone conversation with the AC office in the early 1990s that "the private agents are chasing children wildly and then reporting them to the Ministry". She also said that she was very concerned about all the private adopters and that Sweden was "leading the way"¹⁹⁵.

The files from the 1970s rarely indicate whether the adoption was mediated privately or via AC

When we searched for private and individual adoption files from Ethiopia in order to carry out file reviews, we discovered that it is often unclear whether it was a private adoption or an adoption via AC. Sometimes it appears to be a private adoption, but then AC is mentioned in passing in, for example, a protocol from a home visit, or it appears that AC's representative in Ethiopia has given the adoptive parents

¹⁹⁵Note from conversation 1991-02-27 in AC's box "E4b Korrr/Conversation NN Ethiopia 1990-1993".

a child or helped them to get the adoption finalized in Ethiopia. We have also seen the reverse, that AC is not mentioned at all in the file but that it is nevertheless in their archives. In the 1970s, we have seen examples in the file review of AC's representative in Ethiopia having been involved in arranging several private adoptions.

Individual Swedish brokers have preserved documents in their own archives

Several of the Swedes involved in adoption mediation in Ethiopia have written books about their experiences.¹⁹⁶ Several have also kept documents with information about the children in their own archives in their homes. This applies to both people who mediated adoptions privately and via AC. Many adoptees from Ethiopia are frustrated that they do not have access to all their adoption documents because these people do not want to disclose the documents. In many cases, the persons are getting old, and some have passed away.

In the case of deceased intermediaries, the AEF has in several cases contacted the children of the intermediary to obtain the documents. In one case, the process took a long time and the documents were then disposed of when the estate was cleared. In another case, the children of the deceased disposed of the documents. According to the AEF, there were a large number of documents relating to the background of adopted persons, of which only a few had been communicated by the person concerned¹⁹⁷.

In 2011, MIA made an effort to collect private adoption agencies' archives of adoption documents, which MIA had been informed were in private attics, basements, etc. MIA sent a letter to individuals involved in international adoptions.

The authority wrote that it is important for the sake of adoptees that documentation on adoptions is preserved and that the National Archives can receive archives from individual actors who mediated adoptions. The National Archives subsequently sent a letter to eight persons who had placed children in Sweden from various countries of origin, including Ethiopia, offering to accept documents.

¹⁹⁶Examples of books published: U. Stern (2014), *The Migratory Bird. An Autobiography*; K. Torhall (1972), *Letters from Ethiopia*; E. Wolde Selassie (2014), *The Shepherd Boy and the Prayer House Girl*.

¹⁹⁷Meeting with AEF 2023-08-31; "Tips from AEF on persons involved in adoptions from Ethiopia and Eritrea" received by e-mail 2023-10-13; E-mail received by the Adoption Commission 2024-06-19.

¹⁹⁸Letter from MIA to private operators "Regarding documentation of adoption activities" 2011-05-25 MIA dnr 47:95/11.

person who has submitted documents, and it is not one of them who received the letter. It is still the only private archive held by the National Archives. The National Archives has drawn up a list of people who may have private archives of adoption documents. It mentions four more names, at least one of which has had adoption documents from Ethiopia¹⁹⁹.

One of AC's staff members in Ethiopia from 1982-2012 had her own archive, which she handed over to AC when she left. The AC states that in 2016 they retrieved her archive of 560 cases from Ethiopia and filed it in the files of the adoptees. They went through everything and supplemented the existing files with what was not already archived at the National Archives. Most of it, according to AC, was duplicate information, not new information, but information that had already been given to the adoptive parents at the time of adoption²⁰⁰.

Another person who was involved in the placement of up to 160 children to AC has collected in a notebook information about the Ethiopian children she came into contact with during the adoption, when she represented the adoptive parents in court. She describes that the book contains photographs of the children and dates when

²⁰¹She states that many years ago the AC would make a copy of the book, but today they have no such copy. We have asked the person to make a copy of her book and submit it to the National Archives or the AC.²⁰²In our interviews with adoptees from Ethiopia, several have mentioned this book and wanted to see what information it contains about their own adoption.²⁰³We have been shown the book. It contains information on 138 of the 159 children whose adoption procedure this contact person was involved in before traveling to Sweden. (It seems to be the early adoptions, up to 1973/1974, that have not been documented in the book.) For each child there is the first name of the child, the date of travel to Sweden, passport photo and photo that the adoptive parents sent to the intermediary after the adoption. The names of the adoptive parents, their address and sometimes their telephone number are usually included. This is information that should already be in the adopted person's file, and which

(199) "Lista privata adoptionsförmedlare som kan ha adoptionshandlingar", according to the National Archives unknown origin, received by the Adoption Commission via e-mail from the National Archives on September 29, 2023. ²⁰⁰Meeting with AEF on August 31, 2023; Meeting with AC on September 5, 2023; Letter from AEF to AC on October 26, 2018 "Concerning the Adoption Center's handling of adoptees' documents".

²⁰¹ Meeting with former AC representative 2023-12-06.

²⁰² Meeting with former AC representative 2024-05-06.

(203) "Tips from AEF on persons involved in adoptions from Ethiopia and Eritrea" received by e-mail 2023-10-13.

is unlikely to provide any additional information. However, in some cases additional information is available. In 14 cases the first name of the mother is given and in 11 of them also the mother's surname. In one case, there is information on both original parents. In two cases there is a photograph of the mother. In a few cases, the telephone number or place of residence of the parents of origin is given. In a few cases, names or contact details of additional persons are provided, such as a sister or someone who knows the mother, a social worker or a contact person at school.

6.7.6 Informed consent missing in adoptions to Sweden - parents have received insufficient or wrong information

One type of irregularity that clearly emerges in adoptions from Ethiopia to Sweden is that the original parents have not been given correct information about what the adoption entails. This emerges from our interviews with both AC, AEF and people adopted from Ethiopia. It is also confirmed by people who have themselves arranged adoptions to Sweden. This means that adoptions to Sweden in these cases have taken place without informed consent. The fact that the adoption decision in Ethiopia has meant a weak adoption and the Swedish adoption decision has meant a strong adoption increases the risk that the parents in Ethiopia have not understood the consequences of their consent. Even the people who have been responsible for informing the parents about the implications of an intercountry adoption may have lacked insight into the cultural and legal differences between the countries' different adoption agencies.²⁰⁵ That this has been a problem in Ethiopia was also noticed by the Norwegian Adoption Inquiry during its visit to Ethiopia in 2025:

During the inquiry committee's visit to Ethiopia at the end of January/beginning of February 2025, it emerged that several adoption actors - including several lawyers - found the Western adoption institution of "strong adoption" problematic. Many families have not understood that all ties to the family are broken in an international adoption. In many cases, information that adoptees can make contact after they have turned 18 has led to an expectation that they will do so and that they will return to Ethiopia. Two lawyers with extensive experience in adoption referred to

²⁰⁴ Meeting with former AC representative 2024-05-06.

(205) D.M. Smolin (2021), The case for moratoria on intercountry adoption, *Southern California Interdisciplinary Law Journal*. Vol. 30:501, p. 509.

Ethiopian legal rules stating that family ties are not broken and found it problematic that the receiving countries did not respect this.²⁰⁶

In the 1970s, children were adopted to Sweden without the original parents understanding what adoption meant

AC representatives have described in interviews with us that many adoptees who have met their families feel that the family has been deceived.²⁰⁷ One of AC's agents who arranged adoptions from Ethiopia in the 1970s admits that it may be that the mothers did not understand the meaning of adoption, that some probably thought that the children would receive an education in Sweden. She has later met families of origin who visited Sweden and who had not understood what adoption meant. She also says that a lawyer had the mothers sign a consent form, but the mothers were not present in court and they were not literate. AC's representative was present when the lawyer explained what the adoption meant. She herself spoke the language but did not understand everything, sometimes she had an interpreter.²⁰⁸

In its 2018 appeal, AEF writes that families in a poor area of Addis Ababa were persuaded to give up their children with the promise that the children would return when they were older.²⁰⁹ Our interview with a person in Ethiopia who has helped many Swedes with tracing their origins confirms the picture that the families in this area were given limited information about what adoption meant and were told that the children would later return and support the family. He believes that the Swedish party should have been clearer about what adoption was and where the children ended up.

In an interview with us, and also in other forums²¹⁰, a person adopted from Ethiopia told us that during her travels to Ethiopia she had met parents who had given up their children for adoption. They have all testified that they did not understand what adoption was all about. They missed and searched for their children and wondered how they had ended up there. Later, as a trained social anthropologist, she conducted interviews with indigenous

²⁰⁶Information from the Norwegian investigation's visit to Ethiopia, received by the Adoption mission by e-mail on 2025-03-06.

²⁰⁷ Meeting AC 2023-05-09.

²⁰⁸ Meeting with former AC representative 2023-12-06.

²⁰⁹ Appeal from Adopted Ethiopians and Eritreans Association, AEF, 2018-03-13 "There is no Swedish law protecting the right of internationally adopted persons to know their origin".

²¹⁰Sara Grönroos podcast episode on Teater Tribunal - *MittÅrsrapport 2021*.

<https://tribunalen.com/arkiv/mittarsrapport-2021/#sara>. Retrieved 2024-06-17.

in Ethiopia showing that the parents had been forced or persuaded to give up their child for adoption. In all cases, they had been informed that the children would be returned when they were 18 years old. This was an important condition for them to agree to adoption. They were not told what international adoption actually meant, that it was irreversible.

One person adopted from Ethiopia described in our interview that her original parent told her that she did not understand what adoption meant. She thought she was giving the child a good chance of food and education, but did not understand that the child would not come back. In 2021, DN also reported on an adoptee from Ethiopia who was later told that the family had been promised that the children would be allowed to return to Ethiopia. DN also reported on an adopted person from Ethiopia who, as an adult, was given new documents stating that her parents had not given their consent to the adoption. She was also told that her mother had been looking for her²¹¹

Around 2010, Swedish authorities started receiving information that birth parents in Ethiopia did not understand what adoption meant

The examples above mainly concern adoptions in the 1970s. In order to discover that informed consent was not given, it is usually necessary to find the family of origin to tell them, and those adopted in the 2000s have generally not had time to do so. However, our archive review shows that this was a widespread problem in Ethiopia in 2010. At that time, Swedish authorities began to receive information that indigenous families in Ethiopia were giving their children up for adoption without understanding what adoption entails.

The MIA addresses this issue in its 2010 AC supervision report and during the MIA's 2011 supervision mission to Ethiopia, the US and French embassies in Ethiopia provided information on this issue. The US Embassy had identified serious shortcomings in the adoption process at local level, including parents being misinformed about what adoption means. MOWCYA and BOWCYA also described to MIA during the mission the problems of parents not always understanding the meaning of adoption, and that

²¹¹Dagens Nyheter 2021-02-20 "Carola from South Korea, Daniel from Chile, Hanna from Ethiopia. They want Sweden to take responsibility for adoptions".

In particular, there were problems with this in rural areas.²¹² The MIA addresses this in its 2011 Annual Report. However, in the Annual Report, MIA also comments that the U.S. Embassy perceives that the errors are likely due to misunderstanding, shame, or a desire to speed up the process, as the U.S. Embassy had not seen cases of child trafficking or child abduction.

In 2012, MIA received information from the Danish National Board of Appeals with a request from the Danish supervisory authority Adoptions- naevnet, in which they highlighted, among other things, that the death certificates of the birth parents need to be verified more thoroughly and that it was not sufficiently certain that there was informed consent.²¹³ MIA had also received letters earlier in 2012 from the Danish National Board of Appeals and Adoptions- naevnet emphasizing the importance of ensuring that the birth parents understand what adoption means and that they give informed consent before adoption is carried out.²¹⁴

However, MIA does not receive explicit reports that this problem exists in adoptions to Sweden. From the archival material, we cannot see that the Swedish Adoption Authority or AC has investigated whether this problem also existed in adoptions to Sweden. But since it is a general problem in Ethiopia in the 2010s and the problem at least in the 1970s also applied to adoptions to Sweden, there is a risk that this also occurred in Swedish adoptions in the 2000s. AC staff have described in a book that many parents had previously believed that the children would come back to Ethiopia after being educated in another country. Information to parents improved when Ethiopia introduced dual court proceedings, which was around 2011.²¹⁵

²¹²MIA's "Report from MIA's supervision trip to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10; MIA's supervision report regarding AC 2010; Dagens Nyheter 2021-02-21 "Swedish officials have raised the alarm about suspected irregularities".

²¹³ E-mail from Ankestyrelsen "Ethiopia" to MIA 2012-09-20 MIA dnr 61:390/12 nr 18-19.

²¹⁴Letter "Ethiopia" from Ankestyrelsen and Adoptionsnaevnet to MIA 2012-05-25 MIA dnr 61:390:20/12.

²¹⁵A-C. Gudmundsson et al (2015), p. 123.

Specific consent documents are missing in most private and individual files from Ethiopia we reviewed

Throughout the period when Sweden has placed children for adoption from Ethiopia, there has been a requirement under Ethiopian law for the living and known parents of origin to give their consent to the adoption. Our file review of private and individual adoptions from Ethiopia shows that in some cases there are entries in the file describing that the parents have voluntarily left the child for adoption, that the mother is offering her child for adoption to the applicants or that she has agreed to or has no objections to adoption. In such cases, there may have been an oral consent or a documented consent that is not in the file. However, in the private and individual adoptions from Ethiopia, there is very rarely a signed consent by a family member. Although in the 1970s there was often a named parent who had handed over the child, it is only exceptionally included in the file, then in the form of a signed adoption contract stating that the contract relates to adoption to Sweden. Such a contract would always be drawn up in Ethiopia before the court made a decision on adoption. From 1982, when it was mainly orphans who were adopted, it was a representative from MOLSA who represented the child and signed the adoption contract together with the adoptive parents' representative. If we only count the files where there is a named parent, there is a signed consent from the parent in about one in ten files. We have examined a very limited sample of files over a limited period and therefore cannot conclude that this applies generally to adoptions from Ethiopia. There may also be consent from a parent, even if it has not been documented and preserved in the file. But one conclusion we can draw is that there is far from always a separate document certifying that the parent has consented to the adoption. Another conclusion we can draw is that the Swedish actors have thus not ensured that consent has been obtained.

Our sample of 9 of the AC's files from the 1970s indicates that there is somewhat more often a documented consent from the child's mother in the AC's adoptions in the form of a signed adoption contract. In the sample of 9 AC files from the 1970s that we examined, an adoption contract with a parent's signature is included in two of the files. But even in the AC's files there are many ambiguities. In several of the files

from the 1970s, there is no background information at all about the child, how it became available for adoption, or who handled the case and how it proceeded. The parents are usually known, but despite this it is rarely clear why the child needed to be given up for adoption and at the court hearing only the adoptive parents' representatives were present in court, usually the lawyer hired by AC.

The decisions are taken in the same court in Addis Ababa, often by the same judge. The court decision refers back to an adoption contract, which is only sometimes on file, drawn up and signed by the adoptive parents' representative together with the child's representative, who may be the original parents or another representative such as the AC's representative in Ethiopia or the director of a hospital.

One of our interviewees describes meeting her original parents who told her that the father took the child to Addis Ababa to give it away, even though the mother did not want him to. He got another woman to sign the adoption papers instead of the mother.

A person who was adopted from Ethiopia to Sweden via AC in 1990 has shown that her original parent's first and last name is stated in the file, but that there are nevertheless no consent documents in the file. It is also not clear that the parent has participated in court the hearing. Our file review confirms that the original parents have not been present in court for the adoption decision. Only the adoptive parent's representative is present. There are also no signatures of the original parents or the child's representative in the court decision.

We have not examined any adoption files from the 2000s. However, the AC representative describes that when, at the beginning of the 2000s, mothers were once again allowed to give up children for adoption, they also had to appear before the court and give their consent after the court had informed them of what the adoption entailed. The children's homes were also responsible for informing people about what an international adoption entailed²¹⁶.

²¹⁶Written answers from the AC representative to the Adoption Commission's questions, received by email on 2023-11-08.

6.7.7 Insufficient documentation in adoption files

In our interview, representatives of the AEF described that it is common to find insufficient information in adoption files from Ethiopia. It is often stated that the parent has left the child, but there are no detailed descriptions or consent documents. They say that it is difficult to understand from the adoption files whether the lack of documentation is due to carelessness or systematic concealment of information²¹⁷

Our review of 40 files from Ethiopia 1970-1990, mainly private and individual adoptions, reveals that there is generally very little information about the child's background, the parents and how and why the children have become available for adoption. There are also often no documents to prove that consent was obtained and there are almost never any birth certificates or health descriptions in the file.

Ethiopia has not had a birth or civil registration system, which has made it difficult for the courts to clarify the facts in cases where they have doubted the evidence of the child's status/status.²¹⁸ The UN Committee on the Rights of the Child has on several occasions (including in 1997, 2001 and 2006) expressed concern about the very low levels of birth registration in Ethiopia and has recommended that Ethiopia significantly improve birth registration.²¹⁹ In 2015, the UN Committee on the Rights of the Child welcomed the measures taken by Ethiopia to improve birth registration, but remained concerned about the high rate of unregistered children and the fact that only five percent were reported to be registered in rural areas

²¹⁷ Meeting with AEF 2023-08-31.

(²¹⁸) "Adoptionsnaevnets tilsynsrejse til etiopien - Rejseberetning vedrørende tilsynsrejse til Etiopien i perioden 13-22 oktober 2009" inkom MIA 2010-04-28 MIA dnr 72:294:1/10.

²¹⁹ The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.67. January 24, 1997; The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Ethiopia*. CRC/C/15/Add.144. February 21, 2001; The Committee on the Rights of the Child. *Concluding observations: Ethiopia*. CRC/C/ETH/CO/3. November 1, 2006.

²²⁰ The Committee on the Rights of the Child. *Concluding observations on the combined fourth and fifth periodic reports of Ethiopia*. CRC/C/ETH/CO/4-5. July 10, 2015.

Information about the child, the parents and why the child is being adopted is often missing from the files we reviewed

With regard to information on the children's background, we see in the private and individual adoption files from Ethiopia that the date of birth is given in all files. Place of birth is given in up to half of the files, and there is no clear change in this over time. An original birth certificate with the child's original name is only occasionally included in the files. In our review of the archives, we have seen examples of children's names being included in the Ethiopian court's original protocol, but not in the Swedish translation.²²¹ If the original birth certificate is not retained, it makes it more difficult to trace one's origins.

In about one in ten private and individual files we examined from Ethiopia, the child's original name is included in a birth certificate - either in an original birth certificate or in one issued in connection with the adoption. Our sample of AC files from the 1970s shows that there do not appear to have been any more birth certificates with original names in AC's adoption files. In the few examples of birth certificates we have seen, the original name is sometimes given and sometimes an Ethiopian first name together with a Swedish surname. The name has then been changed after the adoption decision has been taken. The child's surname has then been changed in the birth registration and the adoptive parents' names are entered on the birth certificate.

There are no health descriptions or medical reports in the private and individual files we reviewed from Ethiopia, except in one case where it is stated that the children were malnourished and neglected when they were taken into care. There are also no health descriptions of the children in our sample of 9 AC files from the 1970s. In none of the files we have examined from Ethiopia does it appear that the children had any special needs.

In about one third of the private and individual files from Ethiopia, the reason for the child's abandonment and placement for adoption is not stated at all. Where it is stated, the most common reason is that the child has been abandoned or found abandoned. It is common for the mother to have abandoned her newborn child in hospital immediately after birth or for the child to have been brought to the hospital for treatment. The two hospitals to which Sweden has provided assistance recur:

²²¹R34 dnr 1:259 (available in the Addis Ababa mission archives volume F1i:7 (case R34)).

Ethio-Sweden pediatric clinic and Black Lion Hospital in Addis Ababa. The second most common reason for placing a child for adoption is that the mother has died and the father is unknown or unable to care for the child himself. This was most common in the 1970s and early 1980s.

Nearly 30% of all private files show that the mother is dead. The third most common reason for adoption is that the child's mother is single and unable to care for and support the child herself. We see some patterns over time in our sample of files. From 1983 onwards, the vast majority of cases involved abandoned children, often abandoned by the mother in hospital. The examples we have seen of the child being adopted due to the death of the mother have been before 1983. Most examples of children being adopted because the mother was single and unable to care for and support the child herself also date from the 1970s.

In the private and individual files from Ethiopia that do not deal with abandoned children, there is often no information about the original parents. The full name of one of the original parents, usually the mother, as well as some information about the mother's living situation is found in about half of these files. Some form of information about the father's life situation is found in about a third of the files that do not concern abandoned children. The age of the parents is stated in about one in ten of the files we examined. The parents' address has almost never been stated in the files examined.

In the adoptions via AC in the 1970s, some form of information about the mother and the reasons for adoption is more common. Here too, there are files with information that the mother is dead and the father wants to give up the child, but the most common is that the mother is unmarried and the father is unknown. In all of the five AC files we examined from 1975, the court decisions contain almost word for word the same description: that the mother "has agreed to offer her son/daughter who was born out of wedlock for adoption to the applicants" and that the father was unknown. One of AC's agents in Ethiopia, who arranged adoptions in the 1970s, says that after a while she found that the social worker's background descriptions became very similar, that he "did not vary much". She describes that they were often single women who had been abandoned by their partner and could not care for their child. AC's representative also says that she now realizes that they should have written more about the background of the children. She says in an interview with us that she did not think it was important to ask questions

According to her, this would have been done differently today and more questions would have been asked about this. According to her, the names of the mothers are often given in the court documents, but several names could have been given, for example. She thinks that she herself should have been more active in writing about the background, but since AC had hired a social worker who was tasked with writing about the children's background, she did not do so.²²²

The fact that there are patterns over time in the reasons for adoption raises questions, but it does not necessarily mean that the descriptions are not accurate. The changes may be due to the fact that the conditions for vulnerable people in the country have changed over time. For example, AC describes that the situation for single women in Ethiopia was difficult. The fact that a single woman could not take care of her child was a common reason why they were forced to give up the child. According to AC, the fact that many of the children were left at hospitals where Swedes worked can be explained by the fact that the families of origin may have perceived the hospital as a safe and secure place to leave the child in order for the children to be taken care of. AC also emphasizes that the Ethiopian children were almost always malnourished, sick and in need of care²²³

The files reviewed lack a decision on the child's availability for adoption and documents on the national solution being considered

In the private and individual adoptions from Ethiopia from 1970-1990 that we have examined, it is almost never clear who investigated the child's background. Nor is there any document in the files certifying that the child is available for adoption or any document showing who matched children with adoptive parents.

Our file review shows that none of the reviewed private and individual files from Ethiopia show that a national solution was sought before the child was placed for adoption in Sweden. Nor does it appear in our sample of 9 of AC's files from the 1970s. As we pointed out earlier, we cannot draw general conclusions about adoptions from Ethiopia on the basis of our limited sample of files, but since the results here are so clear, it may indicate that this was a widespread problem.

²²² Meeting with former AC representative 2023-12-06.

²²³ AC's comments on the Adoption Commission draft text 2025-03-20.

In the case of abandoned children, the file only occasionally shows that the child's parents or relatives have been sought in Ethiopia. From 1982 onwards, however, it usually appears that the authorities in Ethiopia placed an advertisement in a newspaper a few weeks before the court made its decision on adoption, announcing that the child was proposed for adoption in order to see if anyone claimed the child within the prescribed period.

6.7.8 Incorrect information in the documentation has occurred in adoptions to Sweden - especially in the 1970s

Another irregularity that has occurred in adoptions to Sweden is various types of misinformation. As with the problems concerning consent, the information we have received mainly concerns adoptions from the 1970s. This may be explained by the fact that it is often necessary to find the family of origin in order to detect this type of irregularity, which can take time.

In AEF's survey of their members' experiences of irregularities in their adoptions, false documentation was the most common confirmed irregularity, alongside incorrect information to the first parents.²²⁴ In interviews with us, representatives of AEF also give several examples of how the background descriptions in the files do not match what they themselves have learned during their travels in Ethiopia. They also describe that the stories about how the child was abandoned or left are often similar ²²⁵.

In an interview with us, an Ethiopian person who has helped Swedes with tracing origins has described how the documentation in the adoption documents is often incorrect and that, for example, it is often stated that the parents are dead when they are not. Other inaccuracies, according to him, are that children are stated to have been abandoned when they have not, that witnesses who appear in the documents have not testified at all or that persons or addresses mentioned have not existed in reality.

Conflicting information in an adoption file indicates that there is at least some information that is not correct. In our file review of private and individual files from Ethiopia, we found conflicting information in 10-20% of the files. As it is

²²⁴AEF 2022-05-31 "Letter to the Adoption Commission: Mapping and deepening of irregularities in connection with adoptions from Ethiopia and Eritrea".

²²⁵Meeting with AEF 2023-08-31.

A limited sample does not allow us to conclude that this is true for adoptions from Ethiopia in general, but it does show that conflicting data exist. Our very limited sample of 9 files from AC indicates that it may be about as common in their files. The most common has been that there are different dates of birth stated in different documents in the file. We have seen examples of this from both the 1970s and 1980s. We have also seen examples of contradictory information about how old the child was when the mother of origin left the child and when the child came to the adoptive parents, as well as contradictory descriptions of the parents of origin and the reason for adoption.

As regards contradictory information on the child's date of birth, this may in some cases be explained by the fact that in Ethiopia it is not considered as important to know the exact day of birth. AC points out that many children have lived in large families and it has not always been clear and important when children are born or whether they are, for example, siblings, twins or cousins. The Ethiopian calendar is based on the Julian calendar and is about seven years behind the Gregorian calendar. In cases where there has been a difference of around seven years between different dates of birth, we have assumed that it is precisely this difference in time indication that is at issue and have not counted it as a contradiction.

Testimony about inaccurate information about the child's background, parents and how and why it was put up for adoption

We have interviewed several people who report that there was misinformation in their own adoptions from Ethiopia. One person who was adopted from Ethiopia in the early 1970s was told during her childhood that she was left by her mother in a bush outside a house where a Swedish woman lived, and that two days later the mother came to the Swedish woman and expressed regret. When our interviewee later traveled back to Ethiopia and met her family of origin, it turned out that this story was not true. The parents had left the child with the man who was later convicted of illegal acts in connection with adoption activities. They had made contact with him through the church, which is part of the EFS Church in

²²⁶AC's comments on the Adoption Commission draft text 2025-03-20.

Addis Ababa, and agreed to give the child away as the mother could not afford to care for it. In this case, the child was thus presented as abandoned when it was not. In the adoption documents, the mother has left a thumbprint, but not the father, who is listed as unknown even though he was known. Although the adoption was not finalized when the child's passport was issued, the child's Swedish name is listed together with the Ethiopian nickname (not the surname), and the adoptive parent's first and last names are also listed. This case is also an example of when the adoptive parents have been in contact with the Ethiopian man afterwards and have sent him money for several years, which they thought was going to the family of origin but which he kept for himself. The Swedish woman to whom the child was reported to have been given in Ethiopia has described in an autobiography how money was used to make the adoption possible: "A lot of money was needed to bribe everyone, from the three judges, the three documents, a court decision and the passport authority, to the man who stamped the exit documents."²²⁷

Another person we spoke to who was adopted from Ethiopia in the 1970s has several contradictions and errors in her documents. She has been wrongly stated to be a twin. The Swedish woman who helped AC take care of the child while waiting for the adoption to be finalized and with whom the child lived, has confirmed this. The child was taken to Sweden together with his "twin sister", who had lived with another Swedish woman. They have since grown up together in Sweden but eventually four different DNA tests have shown that they are neither twins nor siblings, but probably half-siblings or cousins. AC's contact person in Ethiopia at the time described to the adoptee that the "twins" had been left outside a certain hospital, but the adoption contract and the court decision state that the twins were found at another hospital. The adoption contract states that the "twins" were taken into care by the hospital the month before they were even born, according to the date of birth given by AC's contact person in a letter to the adoptive parents. Although the children were said to be parental

⁽²²⁷⁾ U. Stern (2014), p. 178.

loose and found, the letter states when they were born and that they were born a month early, as well as their respective birth weights.²²⁸

A person adopted from Ethiopia in 1971 says that her mother is not mentioned in the adoption documents, although she did have a mother and she is mentioned in a police document.

The date of birth has also been changed; the adoptive parents were allowed to choose the date of birth themselves. Her adoptive parents have told us that they were supposed to have another child, but that the father of that child did not want to give up his child. At that stage, the documents were already ready. AC has described in a letter to this adoptive parent that in another case they have allowed children to come to Sweden on another child's documents.

Another person who was adopted from Ethiopia in the early 1970s tells us that she is probably a year older than what is stated in the adoption documents. This has emerged from documents she found with her adoptive parents. Her adoption documents also state that she comes from Eritrea, but it has subsequently emerged that she comes from Ethiopia. She realized this after finding her sister through DNA testing. In our file review, we have also seen examples of an adoption via AC in the 1970s where, according to both the adoptive parent and the foster child inspector, the child is at least one year older than the stated age from Ethiopia. Although the child is 7 years old according to the court decision, and in Sweden it is estimated that the child is 8-9 years old, there is no information about why the child is to be adopted or about the child's background and parents. In the file review, we have seen several examples of contradictory information regarding the child's date of birth and age.

DN has reported on a person adopted from Ethiopia to Sweden who, according to the documentation, was born in a hospital and taken to an orphanage after the mother died during childbirth. Information on the identity of the parents was missing. However, she subsequently found her mother's name, and it turned out that she was not unknown at all.²²⁹

²²⁸Written answers to the Adoption Commission's questions to a person who took care of children awaiting adoption, received by e-mail on 2023-12-11; Interview with a person who took care of children awaiting adoption on 2023-12-19; Telephone conversation with adoptee on 2024-01-12; Information received by e-mail to the Adoption Commission on 2024-08-29.

²²⁹Dagens Nyheter 2021-02-20 "Carola from South Korea, Daniel from Chile, Hanna from Ethiopia. They want Sweden to take responsibility for adoptions".

Most of the information we have received about misinformation in adoption documents concerns adoptions from the 1970s. However, we have at least one testimony of contradictory information in adoption documents from a person adopted from Ethiopia in 1997. The date of birth given in her court order is different from that given in the original adoption contract (two months difference).²³⁰ In addition, the original adoption contract in Amharic states that she has a twin, but this information is not included in the court order, either in the original or in the translation

Risk that parents of origin have been wrongly declared dead in adoptions to Sweden in the 1970s

As explained in section 6.6.5, there has been a recurring phenomenon in Ethiopia whereby the original parents have been falsely reported as dead. For example, the Ethiopian government has stated that some children's documentation has been manipulated to make it appear that the children are orphans even though their parents were alive, in order to save adoption agencies from lengthy court proceedings²³¹.

In our file review, we have seen an example of a private file from 1975 where the father is described as dead in one of the documents, but not in the court's adoption order. The adoptive parents had been told that the child's father had died and the mother was newly widowed with five children and therefore could not keep the child. However, the adoption order lists both parents as "applicants" and the reason for adoption is that the parents are unable to care for and educate the child. This adoption was brokered by the Ethiopian man who was later convicted of illegal currency handling in connection with the adoption brokerage. We have also seen similar examples in AC files from the 1970s of conflicting information as to whether the father is dead or not.

The file review is too limited to generalize the results, but it indicates that it is more common in adoptions from Ethiopia compared to other countries that a parent of origin is reported to be dead. In about 20 percent of the private and individual files we reviewed from Ethiopia, one of the parents is reported to have died, usually the mother in childbirth. However, in one case it is stated that

²³⁰ Data received by the Adoption Commission by e-mail on 2024-08-29.

(²³¹) K. Joyce in The Atlantic 2011-12-21 "How Ethiopia's Adoption Industry Dupes Families and Bullies Activists".

the father is dead. All the examples we have seen concern the period before 1983. In none of these cases has there been a death certificate in the file. Our sample of 9 AC files from the 1970s shows that there are also cases where a parent is stated to be dead without there being proof of death in the file. There was no requirement for death certificates to be included in the file at this time, and the absence of one does not necessarily mean that the information about a parent's death is incorrect.

There are thus examples of conflicting information in adoption files as to whether a parent is alive or not. There are testimonies that parents of children adopted to Sweden have been wrongly declared dead. In addition, there seem to have been a relatively large number of adoption files in the 1970s in which parents were declared dead, without there being a death certificate in the file. All in all, there is therefore a certain risk that the problem of parents of origin being wrongly declared dead may also have occurred in adoptions to Sweden in the 1970s.

Risk that children may have been described as abandoned or orphaned when they were not

As described in previous sections, in Ethiopia, the children placed for adoption in Sweden have changed over time. Before 1982, both orphans and children with known parents could be adopted internationally, but from 1982 to 2002, Swedish actors perceived that only abandoned or orphaned children could be adopted internationally. From 2002, children of sick or imprisoned parents could also be adopted, and from 2008 also children of parents with financial difficulties. From the fall of 2013 until the end of adoptions to Sweden in 2015, it was only possible to give up a child for adoption in exceptional cases.

Therefore, during the period 1982 to 2002 and after 2013, there is an increased risk that children were abandoned anonymously or that children were described as abandoned when they were not. Although Ethiopian law did not prohibit parents from consensually surrendering their child for adoption, the process was more complicated. The Norwegian Adoption Commission noted the following, after its trip to Ethiopia in 2025:

Although Ethiopian law allows parents to consent to adoption, the conditions for relinquishing parental responsibility have varied from one period to another and the procedure has been complicated. The rules - and how this has been perceived - have led to some parents failing to contact the authorities, and instead abandoning their children e.g. in the case of a child who has been adopted.

in a public place, in/at an institution, or with private persons. As it has been/is perceived as illegal to abandon their child by other means than through the regulated procedures, parents have had little opportunity to regret or attempt to recover their children afterwards without fear of criminal liability. In some cases, private individuals and adoption agencies may have provided false or incomplete information about the child's background in order to protect the parents.²³²

One sign that children may have been wrongly reported as abandoned is that there is often no information in the adoption file about how, when, where and by whom the child was found. Of course, it may also be that this was simply not documented. We have examined 40 adoption files from Ethiopia between 1970 and 1990, mainly private and individual files. In almost half of the cases concerning abandoned children, there was no information in the file about where the child was found and by whom. However, in just over half of the files examined there is information on where the child was found. Only in about one in ten of the files we examined is there information about who found the child or the date on which the child was found.

Another sign that children may have been wrongly reported as abandoned is that there are clear patterns and recurring descriptions of how the children were found. What characterizes the adoptions of abandoned children from Ethiopia is that many of them have been abandoned at the Swedish hospital in Addis Ababa (Ethio-Swedish Pediatric Clinic and Black Lion Hospital - which merged in 1975). This has happened either because the mother died during childbirth, which was common in the 1970s, or because the mother abandoned her child at the hospital shortly after delivery, which was common in the 1980s. As noted earlier, such patterns in the reasons for adoption raise questions, but do not necessarily imply irregularities. AC points out that the children were malnourished and ill when they were abandoned and that care was available at these hospitals²³³

A further indication that children may have been wrongly reported as abandoned is if there is contradictory information about how the child

²³²Information from the Norwegian committee's visit to Ethiopia, received by the Adoption Commission by e-mail on 2025-03-06.

²³³AC's comments on the Adoption Commission draft text 2025-03-20.

abandoned or found. We have interviewed a person adopted from Ethiopia in the 1970s who was found at the Black Lion Hospital, according to information in the file, which is not consistent with oral information given to the person by those involved in the placement.

From 2009, MIA received information about children wrongly declared abandoned and about incorrect information in adoption documents

From what we can see in the archive material, it was not until 2009 that the MIA received clear signals of problems with incorrect information in adoption documents from Ethiopia. This information was usually not specific to Sweden, but it turned out to be a general problem in Ethiopia's adoption activities.

In June 2009, MIA received information from FFIA that the Ethiopian judiciary had temporarily stopped adoptions of abandoned children in Addis Ababa, due to a large increase in the number of children coming there for adoption and that the Ethiopian authorities had become aware of some cases that could be associated with unethical practices.

FFIA wrote that they found this reminiscent of what a US report had said about Vietnam, before the government chose to suspend adoptions from there.²³⁴ AC's staff in Ethiopia also later told MIA that Ethiopia had problems with adoption organizations that were not serious, and that there was currently a ban on new organizations. MIA also received information from AC that

a police investigation had been initiated in Ethiopia. Some police districts in Addis Ababa, orphanages and adoption organizations had been checked. The police investigation resulted in some orphanages and some adoption organizations not being re-accredited/licensed by the authorities. The investigation also led to police orders that all abandoned children in Addis Ababa city be placed directly in the government orphanage Kebebe Tsehay and that one of the social managers in Addis Ababa city place the children with adoption organizations or private orphanages instead of the police. If and when they were distributed to other orphanages, it was BOWA (Addis Ababa City Social Welfare Administration) that would do so.²³⁵

²³⁴Email "Ethiopia, have you seen this?" from FFIA to MIA 2009-06-02 dnr 79:739:6/08.

²³⁵MIA Info 2/2011, MIA's "Report from MIA's inspection mission to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10; Email from AC to MIA 2009-11-25 MIA dnr 61:502:13/09; MIA's

In September 2009, MIA received a letter from the Ministry of Justice in the Netherlands about the Dutch adoption organization Wereld-kinderen which had carried out an internal investigation into a number of adoption files and discovered some cases of incorrect information about the background of the children in the child's file.²³⁶ MIA replies that it had visited Ethiopia in 2005 and that AC considers that the background information is usually correct. MIA also describes that the responses to MIA's post-adoption survey of adoptive families show that almost all adoptive parents perceive that the information they received prior to adoption was accurate, but in a few cases the information on height, weight and age was not correct.²³⁷ MIA wrote about this in their 2009 AC inspection report. They also described that there had been inaccuracies regarding height, weight and age in a few cases in adoptions from Ethiopia to Sweden²³⁸

The AC's 2010 mission report states that there were problems with the birth certificates of Ethiopian children. Abandoned children also needed a birth certificate. However, there had been some cases where birth certificates for abandoned children had been issued with a fictitious place of birth, fictitious date of birth and the name of the person claiming to be the child's mother, but who was in fact, for example, the director of the orphanage. After the adoption, a new birth certificate was issued in the name of the adoptive parents.²³⁹ AC has explained to us that the problems with the children's birth certificates are regrettable administrative mistakes in some cases, not forgery or malicious manipulation. They explain that the problems arose because of new computerized forms that required a caseworker to enter the place of birth and the parent. However, it was not possible to fill in the word "unknown" and therefore the guardian/manager of the orphanage was given as the parent. AC points out that the child's real background was described in a background report made available to the court. They explain that even the inaccuracies in height, weight and age noted by the MIA in 2009 were administrative mistakes which should not be seen as irregular.

AC 2010 supervision report, Minutes of the meeting with the AC representative in Ethiopia on May 26, 2010 MIA dnr 79:730/08 nr 8; AC country report Ethiopia 2010-05-28 MIA dnr 64:367:7/10.

²³⁶E-mail from the Dutch Ministry of Justice 2009-09-30 "VB: Request for information on China and Ethiopia in view of a parliamentary debate in the Netherlands" MIA dnr 72:607:1/09. ²³⁷E-mail from MIA "China and Ethiopia" to the Dutch Ministry of Justice 2009-10-02 MIA dnr 72:607:2/09.

²³⁸MIA supervision report AC 2009.

²³⁹AC's report to the MIA "Notes from trip to Ethiopia 2010-10-02-10" received MIA 2010-11-08 MIA dnr 64:308:12/10.

Even if there was no malicious intent, this may have resulted in contradictory information in the file or - if not all documents are attached to the Swedish file - incorrect information. This may make it more difficult for those seeking their origin.

During the 2011 MIA mission to Ethiopia, UNICEF reported that the US Embassy had conducted a study showing that 72% of cases where there is a known biological parent contained inaccuracies in the children's background papers.²⁴¹ The US Embassy reported that on several occasions children had been found to be significantly older than stated. Many "abandoned" children were found to have families. It was common for the mother to give consent, stating that the father is unknown, which is stated in all documents, but then it was discovered that they knew who the biological father was. The US Embassy had also discovered adoption cases where witnesses who had testified in court did not know the mother, but were employees of the orphanage and the kebele (district). During MIA's 2011 monitoring mission, MOWCYA and BOWCYA also described to MIA that they sometimes discovered inaccuracies in the children's background descriptions²⁴²

Prior to AC's authorization decision for Ethiopia in 2012, MIA obtained information from, among others, the Danish Adoption Authority, Ankestyrelsen. The Agency describes that there has been a lot of critical pressure on the adoption agency from Ethiopia and a general debate in Denmark about, among other things, incorrect information about the children's age, about agreements with biological parents and about the validity of the authorization. The National Board of Appeals also sends a petition from the Danish supervisory authority, Adoptionsnaevnet, in which they write that there have been several cases where the age of the child is incorrect, that the children who have come to Denmark have turned out to be older than stated in the documents from Ethiopia²⁴³.

We cannot see from the archive material that the MIA has taken any specific measures in response to the information about incorrect information in adoption files. For example, we do not see that the Swedish authority has tried to find out whether the same problem exists in adoptions to Sweden.

²⁴⁰ Comments from AC on draft text Ethiopia 2024-05-23.

²⁴¹ AC's memoranda trip Ethiopia 2011-10-4-11, from "AC's archive box Ethiopia E4a Applications & Certificates corr MIA".

²⁴² MIA's "Report of the MIA mission to Ethiopia March 17-26, 2011" MIA dnr 74:754:55/10.

²⁴³ E-mail from Ankestyrelsen "Ethiopia" to MIA 2012-09-20 MIA dnr 61:390/12 nr 18-19.

6.7.9 AC provided grants to local development projects to facilitate adoptions from Ethiopia

Ethiopia has required foreign adoption organizations to provide economic support to social development projects in order to mediate adoptions in the country. According to AC, this has been a prerequisite for brokering adoptions. MIA found such an expectation from the Ethiopian authorities in its oversight of the AC in 2006.²⁴⁴ Beginning with the new guidelines in 2008, Ethiopia explicitly required foreign adoption agencies to undertake social development projects in order to place children for adoption. Ethiopia's condition was that a grant of 90 000 Birr per year had to be provided in order to work in the country (which was estimated to be equivalent to about 35 000 Swedish crowns per year, in today's money²⁴⁵). Addis Ababa city would approve the projects funded by AC, but AC referred to the already ongoing project at the Black Lion hospital run by adoptive parents. The City of Addis Ababa accepted this, although they did not like it because the hospital was not run by the AC²⁴⁶.

In the period 2007-2010, AC contributed Birr 90,000 per year to a project within Addis Ababa city to enable children to stay with their families and receive help with schooling. At the same time, they did not have any adoptions through Addis Ababa city.²⁴⁷ In the period 2011-2014, AC contributed 168,000 Birr per year to a project working towards self-sufficiency of families.²⁴⁸

According to the AC, the assistance activities were completely separated from the adoption activities. They also conveyed this to MIA, that they kept the assistance separate from the adoption activities.²⁴⁹ The contributions to the local development projects were paid centrally from AC to the authority, and did not go to the orphanage as the care fee did. On the other hand, the mandatory fee for the aid projects that an "other cost" or "charge to other authorities" during the

²⁴⁴ MIA supervision report of AC 2006; MIA supervision report of AC 2007.

²⁴⁵ Note! This is an estimate based on information from MIA that 5000 Birr was equivalent to 2 000 SEK in 2015.

²⁴⁶ MIA supervision report AC 2007; AC country reports 2007 and 2008; Meeting AC 2023-09-05.

²⁴⁷ AC's authorization application for mediation in Ethiopia 2009-08-25 MIA dnr 61:502:1/09.

²⁴⁸ AC's application for authorization for brokering activities in Ethiopia 2012-06-12 MIA dnr 61:390:1/12.

²⁴⁹ AC's application for authorization for brokerage activities in Ethiopia 2011-06-21 MIA dnr 61:559:1/11, AC's application for authorization for brokerage activities in Ethiopia 2012-06-12 MIA dnr 61:390:1/12; AC country reports 2007 and 2008; Meeting AC 2023-09-05.

direct adoption costs. These social projects were thus included in the adoption fee paid by the adoptive parents²⁵⁰.

Former MIA staff stated in an interview with us that MIA thought it was wrong that AC had included the cost of the assistance in the adoption fee, which meant that the cost of the assistance was charged to the adoptive parents. The MIA therefore considered that AC had not sufficiently separated the assistance. The costs of the assistance were apparently completely separated from the adoption activities in Ethiopia, but not in Sweden. The MIA also considered that it was problematic in principle that Ethiopian authorities required assistance in order to place children for adoption²⁵¹.

AC made it clear to the Ethiopian authorities in 2011 that they were keen to support, but that they had to do so through their aid department and local NGOs.²⁵² AC responded later that year to a question from MIA that the activity is separate from the adoption activity, that there is no relationship between this activity and the number of adoptions. Instead, the AC regarded it as an obligatory fee aimed at doing something for the children in Ethiopia who were not eligible for adoption. The activity aimed to preserve family constellations and prevent children from being abandoned or ending up on the streets⁽²⁵³⁾.

During AC's trip to Ethiopia in 2014, they were informed that the social projects would be implemented in an institution with which the organization cooperated. The financial support would thus be given to the orphanages' own social projects. AC writes in its travel report that this was not compatible with Swedish legislation and that they had instead had other projects with Addis Ababa city. In 2014, AC only worked with Kids Care because others required them to pay large sums of money in projects²⁵⁴.

²⁵⁰ AC's application for authorization for brokerage activities in Ethiopia 2007-08-28 MIA dnr 61:527:1/07; AC's application for authorization for brokerage in Ethiopia 2009-08-25 MIA dnr 61:502:1/09.

²⁵¹ Interview with former MIA staff member 2024-08-22.

²⁵² AC's notes from trip to Ethiopia 2011-10-04-11 received MIA 2011-12-21 dnr 64:46:15/11.

²⁵³ E-mail "Reply regarding Ethiopia" 2011-11-23 MIA dnr 61:559:10/11. The background is that the MIA asks a supplementary question to AC if this means that the support will not be charged to the adoption fees. See e-mail AC "Ethiopia" 2011-11-15 MIA dnr 61:559:9/11.

²⁵⁴ AC's travel report Ethiopia 2014-12-07-13 MIA dnr 3.3.4:79:15/14; MIA's memorandum Minutes of the AC meeting of January 22, 2015 regarding Ethiopia MIA No. 3.1.2:697/14 No. 18.

We understand that the AC tried to find a sensible solution to Ethiopia's request for assistance and tried to keep that activity separate from the adoption activity. However, Ethiopia's demand for financial assistance has been problematic. The AC has paid money to adopt children, not just a care fee for the specific child but assistance for the children who remain in the country. This risks creating an incentive to provide children for adoption, which increases the risk of irregularities and jeopardizes the principle of subsidiarity. Both MIA and AC have raised Ethiopia's demand for financial assistance as a problem. MIA writes in its 2011 travel report that it is always problematic when a country requires some form of assistance in order for an adoption agency to mediate adoptions. According to MIA, it becomes even more problematic when the number of children that the state orphanage places for adoption with an organization depends on how large the organization's projects are.²⁵⁵ In retrospect, AC has described in an interview with us that it became problematic that the private orphanages had to finance their activities themselves, without state funds. They believe that the most obvious shortcomings in the Ethiopian regulations were that they did not have sufficient transparency and control over how the money came to the private orphanages. From 2014, the orphanages were supposed to have social projects to fund, and the money came from the adoption organizations⁽²⁵⁶⁾.

6.7.10 From 2009, Sweden started to receive clear signals of irregularities - unclear if these were Swedish cases

In June 2009, MIA received information from FFIA that the Ethiopian court had temporarily stopped adoptions of abandoned children in Addis Ababa, and that the Ethiopian authorities had become aware of some cases that could be associated with unethical practices.²⁵⁷ As described earlier, MIA also received information and wrote itself from 2009/2010 on the problems of misrepresentation in adoption files. For example, MIA received a letter from the Ministry of Justice in the Netherlands in 2009 stating that the adoption organization Wereldkinderen, in an internal investigation of its adoption files, had discovered some cases

²⁵⁵ MIA's "Report of the MIA mission to Ethiopia March 17-26, 2011" MIA dnr 74:754:55/10.

²⁵⁶ Meeting AC 2023-09-05.

²⁵⁷ Email "Ethiopia, have you seen this?" from FFIA to MIA 2009-06-02 MIA dnr 79:739:6/08.

with incorrect information about the children's background in the child notification.²⁵⁸In 2010 and 2011, the Swedish authorities received information about the problems of families of origin not understanding what adoption meant. In addition to the travel report, MIA also wrote about this in its supervision report and annual report.

MIA chose to conduct an inspection visit in March 2011 because the number of international adoptions from Ethiopia had increased explosively since the beginning of the 2000s - although not to Sweden - and information about irregularities in adoption activities in Ethiopia was beginning to emerge.²⁵⁹Before that, the Swedish adoption authority had only made one trip to Ethiopia in the 50 years that Sweden had adopted from the country. During the trip to Ethiopia in 2011, the MIA received information from the US Embassy, UNICEF, MOWCYA and BOWCYA, among others, that irregularities had been uncovered in connection with international adoption activities. As previously described, these included inaccuracies in the children's background descriptions, that many 'abandoned' children had turned out to have families and that the original parents did not always understand what adoption meant. Some institutions had been closed because MOWCYA had discovered irregularities. UNICEF stated that there had been more recent evidence of irregularities in adoptions in Ethiopia²⁶⁰.

In March 2011, the MIA also received information about irregularities from the AC, the Swedish Embassy in Addis Ababa and the Swedish Ministry of Foreign Affairs. The Swedish Embassy describes that a meeting with a number of missions and UNICEF revealed that the adoption procedure

In the context of a meeting between the consular officers of the EU countries and the USA, Canada, Japan and Australia, these rumors were confirmed. Reports of trafficking, fraud, corruption and human tragedies linked to the adoption process had been recurrent²⁶¹.

AC writes to MIA that Ethiopia should reduce the number of international adoptions by 90% to try to "clean up a system that is full of fraud and corruption". AC's staff

²⁵⁸E-mail from the Dutch Ministry of Justice 2009-09-30 "VB: Request for information on China and Ethiopia in view of a parliamentary debate in the Netherlands" MIA dnr 72:607:1/09. ²⁵⁹MIA Annual Report 2011, MIA "Report of the MIA mission to Ethiopia March 17-26 2011" MIA dnr 74:754:55/10; MIA Supervision Report AC 2011.

²⁶⁰ MIA's "Report of the MIA mission to Ethiopia March 17-26, 2011 MIA dnr 74:754:55/10.

²⁶¹Telegram from the Swedish Embassy in Addis Ababa to the MIA 2011-03-09 "Significant change in Ethiopia's adoption management" MIA dnr 74:754:47/10.

A few days later, AC also sent information to MIA in which MOWCYA described the existence of illegal activities in the form of false documents and the violation of children's rights and safety, and that they therefore needed to take action against this. The AC also sent a US news article to the MIA highlighting allegations of child trafficking and unscrupulous actors making money from adoption. There have been allegations of mothers being forced to give up their children. Orphanages had been accused of fraud, including Americans being misled about the age of the child they adopted²⁶³

The Swedish Ministry of Foreign Affairs sends an article to MIA about irregularities. However, the Ministry writes that information from this type of website, which is dominated by outspoken opponents, is not always credible. The article states that allegations of unethical practices and fraud in connection with international adoptions had increased dramatically. In both the United States and Ethiopia, there had been reports of adoption agencies directly recruiting children from parents. The author of the article argued that the Ethiopian community, both in the US and Ethiopia, perceives that Western governments are ignoring the escalating allegations of fraudulent adoptions and trafficking of Ethiopian children. The author of the article had previously been a practicing attorney with expert knowledge of the Ethiopian and US civil and family laws. He therefore claimed to be aware of the unspeakable abuses associated with the thousands of private adoptions that evaded scrutiny by following local rather than international adoption procedures.

During its trip to Ethiopia in 2025, the Norwegian Adoption Inquiry received information that a former director of the state-run children's home, Kebebe Tsehay, was suspected of being involved in irregularities:

²⁶² Email from AC "VB: ethiopia adoption" to MIA 2011-03-09 MIA dnr 74:754:45/10.

⁽²⁶³⁾ "Ethiopian adoptions may be in peril" received by MIA via e-mail from AC 2011-03-14 MIA dnr 74:734:50/10.

⁽²⁶⁴⁾ Y. Yacob "Adoption Fraud and the Ethiopian Government's Response" article on Ethiomedia.com - An African-American news and views website 2011-03-18, MIA dnr 74:754:54/10.

Between 2010 and 2016, the public orphanage Kebebe Tsehay had a director who was suspected of corruption and child trafficking. During its visit to Ethiopia, the Committee was informed that the director fled to Kenya after she became aware of the suspicions. Before she left, she allegedly burned documents from the orphanage²⁶⁵.

AC cooperated with this orphanage and placed individual children from there during the period in question, 2010-2016.²⁶⁶

6.7.11 Sweden relied on the AC and on Ethiopia's actions and continued to grant authorization for one year at a time until 2015

As a consequence of the criticism of adoption activities in the country, Ethiopia took various measures to restrict intercountry adoptions from 2011 onwards (see section 6.5.12). The AC found that Ethiopia was very considerate of children's needs and that it made major changes to improve and control adoptions. As described, these include more thorough background checks on children, checks on adoption agencies and orphanages, and various efforts to increase the availability of domestic care options before children are adopted abroad. The Ethiopian authorities' efforts, together with those of UNICEF, led to more children being placed in domestic adoption or foster care, and fewer children being adopted internationally.²⁶⁷ AC also described in interviews with us that constructive work was underway to support Ethiopian authorities in developing legal certainty, developing ethical guidelines and trying to get Ethiopia to adapt the law to The Hague. UNICEF, ACPF and the Hague Secretariat were involved, and AC states that they were the driving force in this work²⁶⁸.

²⁶⁵Information from the Norwegian committee's visit to Ethiopia, received by the Adoption Commission by e-mail on 2025-03-06.

²⁶⁶See e.g. AC's application for authorization for brokerage activities in Ethiopia 2011-06-21 MIA dnr 61:559:1/11; AC's application for authorization for brokerage activities in Ethiopia 2012-06-12 MIA dnr 61:390:1/12.

²⁶⁷AC's application for authorization for brokerage activities in Ethiopia 2011-06-21 MIA dnr 61:559:1/11; AC's application for authorization for brokerage activities in Ethiopia 2012-06-12 MIA dnr 61:390:1/12; AC's application for authorization for brokerage activities 2014-12-17 MIA dnr 3.1.2:697:1/14; AC's country report Ethiopia 2011-05-27 MIA dnr 64:411:1/11, AC's country report Ethiopia 2012-05-16 MIA dnr 64:367:1/12, AC's country report Ethiopia 2013-05-06 MIA dnr 3.3.2:335:1/131, AC's country report Ethiopia 2014-05-12 MIA dnr 3.3.2:343:7/14. See also AC's report to MIA "Notes from trip to Ethiopia 2010-10-02-10", MIA received 2010-11-08 dnr 64:308:12/10.

²⁶⁸Meeting with AC and ppt-presentation 2023-09-05; AC's comments on the Adoption Commission's draft text 2025-03-20.

Prior to the 2012 authorization decision, both ISS and UNICEF warned against conducting adoption activities in Ethiopia

Prior to the decision on AC's authorization for Ethiopia in 2012, MIA obtained information on Ethiopia from, among others, ISS, UNICEF and the National Board of Appeal. Both ISS and UNICEF explicitly advised MIA against continuing with adoptions from Ethiopia. ISS wrote to MIA that the concerns raised by ISS in an earlier document were still valid.

There were still serious concerns about the high number of abandoned children, the truth about their background, the implementation of the principle of subsidiarity, etc. ISS wrote that international adoption from Ethiopia was unfortunately still a risky process and recommended that MIA not initiate a new procedure.²⁶⁹ UNICEF wrote to MIA that Ethiopia was in the process of introducing systems and structures to ensure ethical adoptions, but that it will take time to implement, as the systems and structures are currently weak and few guarantees can be given regarding ethical practices. UNICEF advised MIA to wait until the Ethiopian government had completed its reform efforts.²⁷⁰ MIA responded to UNICEF that they would like to clarify that this is a renewal of AC's new authorization, which MIA only granted for one year due to the situation in Ethiopia. MIA also writes that AC works very professionally and that they have not worked in the southern provinces of Ethiopia.²⁷¹ To this, the person at UNICEF responds that it is good that MIA is aware of the current situation but that she advises MIA to be cautious: "I would just advise you to remain cautious".²⁷² MIA passes this on to AC who responds that a lot of effort is now being made in Ethiopia and that AC's person in Ethiopia was constantly confirmed. She was called to meetings and workshops on a regular basis. AC wrote that "it feels very good."²⁷³

In another email in connection with their application for authorization for Ethiopia in 2012, AC writes that developments in Ethiopia continue in a positive direction. They have repeatedly expressed their belief in the

²⁶⁹ E-mail from ISS "Ethiopia" to MIA 2012-07-30 MIA dnr 61:390:15/12.

²⁷⁰ Email from UNICEF "Re: Adoptions from Ethiopia" to MIA 2012-08-28 MIA dnr 61:390/12 nr 8 and 9.

²⁷¹ Email from MIA "EN: Adoptions from Ethiopia" to UNICEF 2012-08-28 MIA dnr 61:390/12 nr 10 and 11.

²⁷² Email from UNICEF "Re: EN: Adoptions from Ethiopia" to MIA 2012-08-29 MIA dnr 61:390/12 nr 10 and 11.

²⁷³ Email from AC "EN: Adoptions from Ethiopia" to MIA 2012-08-29 MIA dnr 61:390/12 nos 12 and 13.

Ethiopian authorities and have assessed that adoptions can continue, even after widespread irregularities were uncovered. For example, in their 2011 mission report they state that it is difficult and complicated, but that they strongly believe that the authorities are on the right track²⁷⁴

In its response to the MIA, the National Board of Appeal writes that there has been a lot of critical pressure on adoption agencies from Ethiopia and a general debate in Denmark about, among other things, incorrect information about the children's age, agreements with biological parents and the validity of permits.²⁷⁵ In 2012, the MIA was informed of the critical discussions that arose in Denmark after the high-profile Danish documentary film "The Price of Adoption". MIA has described that the criticism was about doubts in the investigations of the children's background, for example that the original parents were not given sufficient information and that documents were falsified.

Later in 2012, ISS sent emails to MIA informing them that the US State Department had identified serious problems in the Ethiopian adoption business. The State Department wrote on its website that it shares families' concerns about recent media reports alleging direct recruitment of children from birth parents by "adoption service providers" or their employees. They further write about the problems of some adopted children appearing to be older than stated on Ethiopian government issued documents. They also write that they continue to encounter relatives who have been told that the child will return to Ethiopia at the age of 18. ISS writes in the email that this shows that there are serious problems within the Ethiopian adoption system²⁷⁷

Prior to the 2012 authorization, MIA also asked questions about adoption activities in Ethiopia to the Ethiopian researcher Benyam Mezmur, whom MIA had previously met at a conference. He wrote in his reply that a number of orphanages had been closed for illegal activities, particularly in the country's Southern Nations, Nationalities, and People's Region (SNNPR). However, this had contributed to the fact that Ethiopia had now started to take measures to address illegal activities related to international adoptions. He assessed that things had moved in a much more positive direction compared to the end of 2010

²⁷⁴ Email from AC "Books to Ghana+ Ethiopia" to MIA 2012-08-27 MIA dnr 61:390:4/12.

²⁷⁵ E-mail from Ankestyrelsen "Ethiopia" to MIA 2012-09-20 MIA dnr 61:390/12 nr 18-19.

²⁷⁶ Document published by MIA, probably in MIA info 2013.

²⁷⁷ E-mail from ISS "Ethiopia" to MIA 2012-09-03 MIA dnr 61:390:15/12.

²⁷⁸The MIA later writes in its inspection report for AC 2013 that irregularities had been discovered in the province of SNNPR in Ethiopia and that the authorities had therefore closed 23 of the 52 children's homes in that province. The MIA points out that Sweden had not cooperated with any orphanage in that province²⁷⁹.

Despite the advisory and clear signals of irregularities, the MIA continued to grant AC authorization for Ethiopia until 2015

Despite clear signals that there were irregularities in Ethiopia from 2009 and the advice of UNICEF and ISS in 2012, the MIA continued to authorize AC for adoption activities in Ethiopia until 2015. However, from 2012, the MIA chose to grant them authorization only for one year at a time. The reason for this was the criticism that had been directed at adoption activities in Ethiopia for some years, at the same time as the number of international adoptions from the country had increased sharply.

In the authorization application for 2013 and 2014, the AC had to indicate the risk factors involved in adoptions from Ethiopia. They chose to highlight the risk that children who could have remained with their families in Ethiopia are nevertheless adopted internationally in order to have a better life, with better education and finances ⁽²⁸¹⁾.

In 2013, MIA justified the continued authorization on the grounds that the number of adoptions to Sweden had not increased and that the adoptions only took place from orphanages in Addis Ababa where there was a functioning administration. In addition, AC had a very experienced staff member in Ethiopia who tried to ensure that the original parents understood what the adoption entailed.²⁸² This staff member has herself stated that in the 2000s it was the orphanages that were responsible for informing about what an international adoption entailed, and that the parents would give their consent in court after the judge had informed them about what it meant to leave the child

²⁷⁸Email from Benyam Dawit Mezmur "Adoptions from Ethiopia" to MIA 2012-09-14 MIA dnr 61:390:17/12.

²⁷⁹MIA supervision report on AC 2013.

²⁸⁰MIA's authorization decision 2011-12-19 MIA dnr 61:559:16/11; Authorization decision 2012-09-25 MIA dnr 61:390/12; MIA's authorization decision 2013-11-28 MIA dnr 3.1.2:514/13 no 5. ²⁸¹AC's application for authorization for brokerage activities in Ethiopia 2013-08-30 MIA dnr 3.1.2:514/13 no 1; AC's application for authorization for brokerage activities 2014-12-17 MIA dnr 3.1.2:697:1/14.

²⁸²Document published by MIA, probably in MIA info 2013.

for adoption.²⁸³ However, on the occasions when she attended, she tried to ensure that the birth parents understood what adoption meant. AC states that when this problem came to light, strenuous efforts were made to explain the implications to those concerned.²⁸⁴

The AC has wanted adoptions from Ethiopia to continue. For example, after they had received the authorization decision for Ethiopia in 2014, they are making an attempt to persuade for longer authorization time due to the fact that Ethiopia has taken another action. AC writes that the Minister (MOWCYA) has ordered that the head of the regional office must approve the background investigation and documents confirming that a child may be adopted and issue a certificate to be presented to MOWCYA headquarters in Addis Ababa before the court hearing. Previously, a certificate from a lower level would have sufficed. The AC then wondered whether it "might not be the case that this could be the reason why authorization could be granted for two years instead of one?"²⁸⁵ At a meeting between the AC and UNICEF in 2014, they discussed the advantages and disadvantages of a possible moratorium. UNICEF said at the time that the Prime Minister of Ethiopia had advocated for it, but so far without official support. The AC's notes show that UNICEF hoped that there would be positive change in 2015 and that the AC would "persevere". They said it would be terrible if the serious organizations closed down, while the "dubious" ones were given more space.²⁸⁶

The process of getting Ethiopia ready to sign the 1993 Hague Convention had stalled in 2013 and the issuance of new adoption guidelines had been halted. This was largely due to the arrival in 2013 of a new Minister of Social Welfare who was critical of intercountry adoptions and put the work on hold. In retrospect, AC has described that it was about to become so good, with many unifying forces. AC was a driving force in the work to get Ethiopia to ratify the Hague Convention. In interviews with us, they have described that they wanted to continue the improvement work but that the MIA was hesitant. However, in parallel with the MIA's deliberations on whether or not to grant AC authorization, AC also began to reassess its cooperation with Ethiopia. When they realized in 2014 that there was no longer a willingness from Ethiopian

²⁸³ Written answers from AC's representative to the Adoption Commission's questions, received via e-mail 2023-11-08.

²⁸⁴ AC's comments on the Adoption Commission draft text 2025-03-20.

²⁸⁵ Email from AC "News from Ethiopia" to MIA 2013-11-29 MIA dnr 3.1.2:514:6/13.

²⁸⁶ AC's travel report Ethiopia 2014-12-07-13 MIA dnr 3.3.4:79:15/14.

side of taking work on accession to the 1993 Hague Convention further, they decided to end the cooperation. In interviews with us, AC has described that one reason why they ended their activities in Ethiopia was also that they felt it was not possible to work properly²⁸⁷

Moreover, from 2013, the number of intercountry adoptions in Ethiopia started to decrease drastically due to the Ethiopian government's measures to limit adoptions and strengthen domestic care options. The Ethiopian Adoption Authority emphasized in 2014 that they would continue these efforts and that intercountry adoptions will therefore decrease. In 2014, only three children were adopted via the AC from Ethiopia to Sweden. AC wanted to see how the adoption activities developed, but stated that if the number of children adopted from Ethiopia did not increase, they might have to re-evaluate their cooperation with the country.²⁸⁸ Thus, there were several factors that combined to cause AC to end its adoption activities in Ethiopia. Another reason mentioned in our interviews was that AC's staff in Ethiopia were leaving their jobs²⁸⁹

In 2015, MIA expresses concern that irregularities in Ethiopia continue. Prior to the 2015 authorization decision for Ethiopia, MIA asked UNICEF for their opinion on the evolution of intercountry adoptions in Ethiopia. MIA wrote to UNICEF that they were "concerned about the situation" as they had received indications that there were still a lot of irregularities around intercountry adoption mediation in terms of children's background investigations. MIA writes that AC only works in Addis Ababa, but that they are concerned that children may be moved there from other provinces.

MIA also describes that they are aware that UNICEF has been working with MOWCYA to improve the situation of abandoned children in Ethiopia, but that cooperation has decreased recently. The MIA had previously authorized AC because they could see that many steps were being taken to stop the irregularities and because work was underway to ratify the Hague Convention. But now the MIA wanted UNICEF's opinion on the development of intercountry adoptions in

²⁸⁷Notes from ICA meeting 2014-01-21 MIA dnr 3.1.2:697:15/14; MIA's supervision report regarding AC 2013; AC's notes from trip to Ethiopia 2013-10-14 to 2013-10-18; Notes from meeting with AC on January 22, 2015 regarding Ethiopia 2015-02-02 MIA dnr 3.1.2:697/14 no. 18; Meeting with AC 2023-09-05, including ppt presentation. ²⁸⁸See e.g. MIA's supervision report AC 2014; Email from the French Embassy 2015-02-02 MIA dnr 3.1.2:697:16/14; Minutes from meeting with AC on January 22, 2015 regarding Ethiopia 2015-02-02 MIA dnr 3.1.2:697/14 no. 18.

²⁸⁹Meeting with former Director General of the MIA 2024-06-12.

Ethiopia. UNICEF's Chief Child Protection responds to MIA that further work needs to be done to ensure a strong functional system in line with international standards. UNICEF writes that a number of initiatives have been taken in recent months, such as MOWCYA reviewing the "Adoption service directive document". But they are not yet finalized and not ready for dissemination. Ratification of the Hague Convention is unlikely to happen before the elections and further steps need to be taken by the government.²⁹⁰

As mentioned earlier, for some years the AC received authorization for one year at a time. In 2015, AC revised its request for authorization to include authorization to process and complete pending cases in Ethiopia, and MIA granted AC authorization for the period ending May 31, 2015 to complete pending cases. However, according to the AC, it was not possible to complete them²⁹¹.

AC assesses that ethical adoptions have been possible in Ethiopia despite widespread irregularities in the country

AC has subsequently described that as adoptions increased in the 2000s, it became impossible for Ethiopia to control all the new rogue actors that started brokering adoptions in the country. It was evident to the AC that other countries such as the US and Southern European countries had major problems with their adoption agencies and local contacts. Some adoption agencies were very aggressive. However, the AC's view is that the governmental authority in Ethiopia was not corrupt, but that it delegated responsibility to its regional offices which did not have the resources to staff them. The further out you went, the less control there was over the activities²⁹².

In the archive material, we have seen examples of AC resisting offers to have more children in unethical ways. AC's October 2011 trip report includes notes from a meeting with representatives of BOWCYA. The AC staff member writes:

²⁹⁰Email from UNICEF "RE: VB: Intercountry Adoptions" to MIA 2015-03-10 MIA dnr 3.1.2.:697:25/14.

²⁹¹ Meeting AC 2023-09-05; MFoF Annual Report 2015.

²⁹²Meeting AC 2023-09-05.

Somewhere in the middle of the conversation, she suddenly says that if we register an orphanage, you can have more children! We can even register several orphanages and have children through them! I am speechless for a moment, but then ask if she really thinks that would be a good idea? She replies by saying that Americans do it all the time and they have lots of children. I say: no thanks, we don't want to work like that and we'd rather make do with the children we get the way we work now. Then she bursts out laughing: "That is why I love Sweden!"

AC has stated that there were employees of foreign adoption organizations who in the 2000s went out into the countryside and "procured children for adoption in a way that was not ethical". However, AC believes that it was possible to conduct regulated adoption activities and ethical adoptions despite the fact that there were many rogue actors and unethical elements in adoption activities in general. In the case of Ethiopia, they chose not to work outside Addis Ababa, as they considered the risks to be greater there.²⁹⁴ The AC also points out that their adoptions did not increase during the period when rogue actors entered. For example, in 2009 only 33 children were adopted to Sweden via AC, out of the total of 4,500 children from Ethiopia who were adopted internationally that year.²⁹⁵ AC also describes that an important factor in their choice to mediate adoptions from Ethiopia was that they had a careful and cautious employee in the country who had a high legal pathos, ethical thinking and high integrity. She was knowledgeable about the areas in which to operate and the appropriate contacts to work with. AC believes that it was her integrity that allowed them to remain in the country²⁹⁶.

The then Director General of MIA also highlights that AC had a very good representative in Ethiopia who was thorough, responsible and keen to get things right. MIA was informed that things were working well in Ethiopia, so she felt confident that AC could handle it and trusted AC and their representative in Ethiopia. However, the then Director General of MIA does not recall any problems in the adoptions from Ethiopia or that both ISS and UNICEF warned MIA to conduct adoption activities in Ethiopia. Nor does she recall whether the agency considered the risk of conducting adoption activities in a country with a high level of irregularities in the international

²⁹³ AC's memoranda trip Ethiopia 2011-10-04 to 2011-10-11, from AC's archive box "Ethiopia E4a Applications & Certificates corr MIA".

²⁹⁴ Meeting AC 2023-09-05, including ppt-presentation.

²⁹⁵ AC comments on draft text Ethiopia 2024-05-23.

²⁹⁶ Meeting AC 2023-09-05, including ppt presentation.

national adoption activities in general.²⁹⁷ There are also other former MIA staff members who state that they do not recall any problems regarding adoptions from Ethiopia. One staff member says that the AC representative was referred to as a "guarantor" in Ethiopia.²⁹⁸

As we have described, AC has stated that it has not worked outside Addis Ababa, as it assessed that the risks were greater there. However, in our review of files, we have seen several examples of AC mediating adoptions from locations far outside Addis Ababa, both in 1970s, 1980s and 1990s. We have also received information showing that AC's employees in Ethiopia on several occasions in the 1990s arranged adoptions from the town of Jimma, which is 35 miles from Addis Ababa.²⁹⁹ AC's archives also show that children have come from Jimma during the 1980s, 1990s and 2000s. A letter from 1989 also states that there were about 70 children in an orphanage in Jimma and that the AC representative would like to start working with that orphanage.

It is not possible for us to determine whether the AC has been able to avoid irregularities in its particular adoptions, but we note that there have been risks of irregularities.

²⁹⁷ Interview with the former Director General of the MIA 2024-06-24.

²⁹⁸ Interview with former staff at MIA and MFoF 2024-03-07.

²⁹⁹ Data received via email on 2024-08-30; Data received via email on 2024-08-28.

³⁰⁰ Note from telephone conversation 1989-10-03 in AC's folder "E4b corr/samtal NN Ethiopia 1982-08 t.o.m. 1989". See also fax from AC's representative to AC's office 1994-07-12, in AC's box "E4b 1994 Ethiopia correspondence employees"; Letter 1994-04-27 in AC's box "E4b 1994 Ethiopia correspondence employees"; Mail 2002-10-22 in AC's folder "Ethiopia corr employees 2002".

7 Irregularities in adoption activities in China

7.1 The mission

The purpose of the investigation assignment is, among other things, to clarify the occurrence of any irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to any irregularities based on the respective actors' responsibilities and roles.

China is the fourth largest country of origin for adoptions to Sweden. Adoption mediation from China started in 1992 and ended in 2021. The majority of adoptions from China took place in the period 2000-2010.

The review of adoptions from China has included documentation from the authorities and the three adoption organizations that placed children from China. We have also interviewed representatives of the supervisory authority and those working in the three adoption organizations. In addition, 97 adoption files for adoptions mediated by the Adoption Center (AC), the Children's Friends International Adoption Association (BV) and the Family Federation for International Adoption (FFIA) for the period 1993-2017 were examined. Adoptions from China have to some extent also been reviewed by other countries that have received children from the country and we have taken note of the observations made by others.

7.2 Assessment

The investigator's assessment: The investigation shows that there have been irregularities in adoptions from China. These include child trafficking. The Swedish adoption organizations have taken great risks by operating in China, which throughout the period has been a closed country with very limited opportunities for transparency. In addition, all the children who have been adopted have been described as abandoned and have no background description. Swedish authorities and organizations have accepted procedures that have made it difficult and in some cases impossible to assess whether an adoption is in the best interests of the child.

In particular, we have noted the following during our audit.

- The Chinese authorities have confirmed that four adoptions to Sweden were linked to the systematic trafficking of children in Hunan revealed in 2005. However, it cannot be excluded that more Swedish adoptions are involved in child trafficking in China. There was no real opportunity for the Swedish supervisory authority to investigate whether children adopted to Sweden had been the target of child trafficking. Questions from Swedish actors were only answered with information that the children adopted by Swedish parents were "truly abandoned".
- All children adopted from China are reported to be abandoned and lack background information. This means that there are no consents from the children's parents. The lack of background information means that it is not possible for adoptees to seek information about their origin. This was clear to the Swedish adoption organizations and the supervisory authority already when adoptions from China started and the Chinese authorities have also made this clear to the Swedish actors.
- The orphanages in China that have taken care of the children have been responsible for investigating the children and deciding whether the children are available for adoption. It does not appear that the orphanages or any other actor examined the possibilities of national adoption before international adoption. The orphanages received compensation for the children placed for intercountry adoption. This created financial incentives for the orphanages to find

children for international adoption. The Swedish supervisory authority has found that the orphanages were dependent on the fees.

- The adoption system has required the adoptive parents to make a donation directly to the orphanage upon receiving the child. Initially, the donation fee was USD 3 000, then USD 5 000. The donation was intended to improve the conditions of the orphanages and the children left behind. However, there was no way of checking whether this was actually happening after 1996 when China restricted the possibility of visiting the orphanages. It has been unclear to the Swedish supervisory authority whether the donations have been compulsory or voluntary. There are many indications that they were compulsory, not least in light of the fact that the amount could be smaller in cases where the child had a disability. The donations were made in 2018.
- The regulator has raised questions about the existence of irregularities with the Chinese authorities but has not sufficiently followed up on the information, taken action or ensured that proposed actions were successful. The Agency has accepted the replies received that everything is in order. The supervisory authority has granted authorization despite knowing the risks in the system and only started asking critical questions about the donation fees at a late stage.

7.3 Sweden's adoption activities in China

Adoptions of children from China started on a very small scale in the late 1980s. Initially, it was Swedes living in China who adopted during their stay in China.¹ Swedish adoption activities through adoption organizations started in 1992. In the first few years, an average of 60 adoptions per year were carried out, but the number increased from 1998 onwards.

In total, almost 4,300 adoptions have taken place to date, making China the fourth largest country of adoption for Sweden in terms of number of adoptions. Most adoptions took place during

¹MIA, Report of the MIA study and monitoring mission to China, March 6-17, 2007.

The period 2000-2010 saw a total of over 3 200 children adopted from China to Sweden. During this period, China was by far the largest country of adoption for Sweden with an average of 300 adoptions per year. China is one of the few countries that has approved the adoption of young children to single adopters. To the best of our knowledge, there have been no significant single adoptions to Sweden.

Sweden was the fifth largest country of adoption for China between 1992 and 2017, after the United States, Spain, Canada and the Netherlands.²Table 7.1 shows the number of children adopted from China to Sweden per year between 1992 and 2021.

Table 7.1 Number of adoptions from China per year 1992-2021

Year	Number of	Year	Number of	Year	Number of	Year	Number of
1992	8	2000	165	2008	206	2016	22
1993	34	2001	220	2009	244	2017	12
1994	58	2002	316	2010	190	2018	15
1995	68	2003	373	2011	111	2019	3
1996	78	2004	497	2012	92	2020	0
1997	93	2005	462	2013	61	2021	0
1998	123	2006	314	2014	51		
1999	123	2007	280	2015	49		

Source: MFOF.

7.4 Background on international adoptions from China

7.4.1 The one-child policy was introduced in 1979 to regulate population growth³

China doubled its population in less than half a century and now has over 1.4 billion inhabitants. Population pressure has long been a concern for China's leaders, who have used various means to encourage or force people to have fewer children.

The one-child policy was introduced in 1979 to curb population growth. It has had a major impact on the population. One family

⁽²⁾ P. Selman (2019), *International Adoptions from the People's Republic of China as recorded by receiving states 1992-2011*, Newcastle University, May 2nd. 2019. The number of adoptions for the four largest countries is the United States with almost 95 000 adoptions; Spain around 16 000 adoptions; Canada around 13 000 adoptions and the Netherlands just under 7 000 adoptions.

³This section is based on the Foreign Policy Institute's China Country Guide. <https://www.ui.se/landguiden/lander-och-omraden/asien/kina/> retrieved 2024-02-09 unless otherwise stated.

were allowed to have only one child; in rural areas, two children were gradually allowed if the first child was a girl. Minority populations were exempt from these requirements.⁴The one-child policy was regulated by law, but implementation and enforcement have varied in different parts of the country and over time, depending on population trends and local population targets. Couples who had more children than allowed were usually subject to penalties and could also lose their jobs. In some regions, control has been very strict and the penalties for non-compliance have been very severe, including forced sterilization and forced abortions. Opportunities for national adoption were also very limited until 2007, which some researchers believe was because the Chinese government saw national adoption as a way to circumvent the one-child policy.⁵Some relaxations were introduced in the early 2000s, when couples where both parents were only children were allowed to have two children.

Although the one-child policy contributed to a significant reduction in population growth, it also led to imbalances due to the long-standing tradition of valuing boys more than girls. Boys are traditionally important to the family because they secure the family line and are responsible for the family's future livelihood and for taking care of their parents when they get older. Girls, on the other hand, become part of the husband's family when they marry and therefore cannot contribute to their own family's future security.⁶This has contributed to a gender imbalance that has resulted in a very high proportion of newborn boys in China compared to other countries. In 2004, the gap was 121 boys per 100 girls, and the imbalance persisted in the following years. In the early 2020s, according to official statistics, there were nearly 35 million more men than women in China.

Some relaxations of the one-child policy have been made over time to address its negative consequences. In the fall of 2015, it was announced that couples would be allowed to have two children. However, the abolition of the one-child policy did not lead to a significant increase in the number of births. In recent years, the birth rate has actually declined. One explanation, according to analysts, is that it has become accepted to have only one child together with high

⁽⁴⁾ N. Luo and D. M. Smolin (2005), *Intercountry adoption and China: emerging questions and developing Chinese perspectives*, Cumberland Law Review, pp. 599-601.

⁽⁵⁾ D. M. Smolin (2011), *The missing girls of China: population, policy, culture, gender, abortion, abandonment and adoption in East-Asian perspective*, Cumberland Law Review, pp. 15 and 52.

costs associated with having children. The long-standing and much debated one-child policy has now ended. In 2021, it was decided that three children per family would be allowed. With declining birth rates, the pressure on women to have three children has increased.

7.4.2 International adoptions are established in the early 1990s

International adoptions were not common in China until the 1990s. Adoptions took place within the country according to old traditions from family to family.

The strict one-child policy, combined with cultural values, has led families to choose girls over boys. This has been done in various ways over time - through sex-selective abortions, killing girls after birth or abandoning girls. As it is not legally possible to transfer custody of a child in China and it is forbidden to abandon a child, in many cases this has been done in secret. Children have been left anonymously in various places where they could be found and taken care of. In the 1980s and 1990s, orphanages and other institutions were overcrowded with children, the majority of whom were healthy girls.⁷ Orphanages also contained many children who had been forcibly taken into care. They had known parents and could not legally be adopted.⁸ The demand for children for international adoption was high in the Western world at the time. Having previously taken a very restrictive view of intercountry adoption, the Chinese government decided in the early 1990s to launch the comprehensive intercountry adoption program⁹.

In 1992, the first law regulating international adoptions was passed and international adoptions increased in number during the 1990s. Interest in adoptions from China increased further after the BBC broadcast a documentary in 1996 describing how abandoned children in orphanages were neglected and left to die.⁽¹⁰⁾ In the same year, a report was also published on widespread neglect and high death rates in Chinese orphanages. According to the report, many institutions acted as assembly lines to dispose of orphans, with

⁷ D. M. Smolin (2011), p. 52.

⁸ MIA, Report of the MIA study and monitoring mission to China, March 6-17, 2007.

⁹ N. Luo and D. M. Smolin (2005), p. 602.

¹⁰ BBC (1995), The Dying Rooms.

the number of children admitted far exceeded the number of places available in orphanages. However, the majority of children did not even make it to the orphanages, but were instead placed in institutions for the intellectually and physically disabled, the elderly and the mentally ill. The death rate for children in these institutions was estimated to be even higher than in state-run orphanages.¹¹ In the same year, the UN Committee on the Rights of the Child stated that China needed to take further measures to promote the opportunity for children, especially abandoned children, to grow up in a home-like environment through foster care and adoption. The Committee also recommended that China review its legislation on adoption with a view to promoting domestic adoption¹²

Intercountry adoptions peaked between 2000 and 2005, when almost 65 000 children were adopted internationally to a total of 16 countries. In 2005 alone, there were 14 500 inter-country adoptions from China. Initially, it was mainly young girls who were adopted internationally. However, as the number of domestic adoptions in China started to increase from the mid-2000s, fewer children became candidates for intercountry adoption. From 2006, the number of international adoptions gradually decreased. Between 2006 and 2010, a total of around 36 000 adoptions took place, falling to just under 23 000 between 2011 and 2017. Since 2007, children adopted internationally have often had different types of special needs. In total, it is estimated that more than 150 000 Chinese children were adopted internationally from 1992 to 2017.¹³ In September 2024, China decided to end the intercountry adoption program.¹⁴

¹¹Human Rights Watch/Asia (1996), *Death by Default. A Policy of Fatal Neglect in China's State Orphanages*, pp. 1-6.

¹²United Nations, Convention on the Rights of the Child, CRC/C/15/Add.56 June 7, 1996, Twelfth session Consideration of reports submitted by states parties under article 44 of the convention, Concluding observations of the Committee on the Rights of the Child: China, p. 7.

¹³P. Selman (2019).

¹⁴DN 2024-09-10.

7.5 Actors, regulation and the Swedish adoption process in China

7.5.1 Swedish adoption organizations that have been active in the country

Three Swedish adoption organizations have been active in China: the Family Federation for International Adoption (FFIA), Friends of Children (BV) and the Adoption Centre (AC). FFIA was the first organization to establish cooperation in the country, which was in 1991. They were active until 2014. BV operated in China from 1994 to 2020. AC started its activities in 1998 and operated until 2021. Each adoption organisation has had a local contact person in the country who has met with prospective adoptive parents, acted as a link to the authorities and provided support in crisis situations. The children have come from various orphanages around China. Sweden has not had any particular cooperation with specific orphanages or provinces.

FFIA¹⁵

In 1991, FFIA was one of the first adoption organizations to receive in the world a cooperation agreement with China. The background was that in the late 1980s, FFIA's director had received information from an official at the Central Bureau of Statistics who was working to introduce a census system in China that there was a large difference in the number of boys and girls in the country. There were lots of girls 'missing'. One explanation was that there were many children, especially girls, in institutions and orphanages. FFIA's Director of Operations approached the Chinese Ministry of Justice about the possibility of carrying out adoptions from the country and was invited to the Ministry of Justice in 1990 to discuss how this could be done. For a week, talks were held between the FFIA and the Ministry, and the FFIA was allowed to make study visits to some institutions and schools. Six months later, in the spring of 1991, a Chinese delegation came to Sweden to meet representatives of FFIA, the National Board for International Adoption (NIA) and adoptees. The official visit ended with the Chinese Ministry of Justice confirming future cooperation. FFIA

¹⁵This section is based on information from <http://www.ffia.se/laender/landoversikt/kina>.

offered to send applications immediately, even though China did not yet have a finalized adoption law¹⁶.

In the spring of 1992, the Adoption Act came into force and the first children arrived from the country. In total, 1622 children came through FFIA between 1992 and 2014. Most of the children have come from the regions of Anhui, Guandong, Guangxi, Hunan, Jiangsu and Jiangxi.

Children's friends

BV contacted the Swedish Embassy in Beijing in 1994 to obtain information about the legislation and other conditions for adoption agencies from the country.¹⁷ They applied for and received authorization for China in 1994¹⁸ and had authorization until 2019.¹⁹ In total, BV has placed 833 children from China.²⁰

Adoption Center

AC applied for authorization for China in 1997. The application had been prepared by visiting the CCAA, China Center of Adoption Affairs. The NIA granted AC authorization for China from 1998.²¹ The first adoptions through AC took place in 1998. AC ended its cooperation with China in 2021. In total, AC has placed 1 774 children from the country until 2021.²²

7.5.2 The role of Swedish authorities in adoptions from China

The National Intercountry Adoption Board (NIA), the Swedish Intercountry Adoption Authority (MIA) and the Swedish Family Law and Parental Support Authority (MFoF) have granted authorization for the organizations' activities in China. They have also exercised oversight over the activities.

¹⁶ A Journal on Adoption, No. 1 2022, pp. 16-17, meeting with FFIA 2022-03-28.

¹⁷ Embassy of Sweden Beijing, 1994-05-06, letter to Friends of Children International Adoption Association on adoptions.

¹⁸ NIA, Decision on authorization for the association Barnens Vänner Internationell Adoptions-förening, dnr 60:201/94.

¹⁹ MFoF, Decision on authorization for adoption agency, dnr 3.1.2:760/17 and 3.1.2:761/17.

²⁰ Email from BV 2023-09-08.

²¹ NIA, Application for Authorization for China, 97-09-11, No NIA 60:294/97.

²² Material from AC 2023-05-12.

The Swedish Embassy in Beijing has issued visas for children adopted to Sweden. The Embassy has also provided information in connection with changes in regulations and processes and when information has emerged about irregularities in Chinese adoption activities.

Prior to 2008, adoption decisions were made in China and subsequently Swedish courts also decided on adoption in Sweden. From 2008, after China ratified the 1993 Hague Convention, the Chinese adoption decision was automatically recognized in Sweden²³.

7.5.3 Operators in China

When Sweden started its adoption activities in China in 1992, two ministries were responsible for adoption issues: the Ministry of Civil Affairs and the Ministry of Justice. They worked in parallel on intercountry adoption applications.²⁴In 1996, the adoption units were merged under the Ministry of Civil Affairs and the China Center of Adoption Affairs (CCAA) was established. The CCAA later became the central authority. Provincial-level civil affairs ministries were responsible for orphanages, licensing orphanages and investigating whether a child could be declared abandoned.²⁵In 2011, the CCAA was given expanded responsibilities, including for domestic adoptions, and changed its name to the China Centre for Children's Welfare and Adoption (CCCWA).²⁶

At the provincial level, the Civil Affairs Bureau had ultimate responsibility for abandoned children. When an abandoned child was found or handed over to an orphanage, the agency was responsible for advertising for parents and relatives. If the searches were unsuccessful, the authority conducted an investigation for the child and decided whether the child could be declared abandoned and put up for adoption. The adoption was registered by the Notarius Publicus, which is similar to the Swedish District Court in civil cases²⁷.

The Chinese adoption authority has had specific travel agencies linked to its operations that have cooperated with adopters.

²³MIA, communication from the Swedish Embassy Beijing 2008-03-14 that the CCAA has introduced a Certificate of Conformity of Intercountry Adoption, dnr 72:289:7/07.

²⁴MIA, Letter from the Swedish Embassy Beijing to BV, 1994-05-06, dnr 60:201/94.

²⁵MIA, FFIA Application for Authorization for Intermediary Activities in China 2010-2011, dnr 61:525:1/09.

²⁶Material from FFIA.

²⁷MIA, Report from MIA's study and inspection trip to China 6-17 March 2007, material from FFIA and MIA, authorization application for BV 2005, dnr 61:461:1/05.

the adoption organizations. Travel agencies have been responsible for organizing travel for adoptive families in connection with adoption and for return travel. Return journeys would go through the travel agencies and the adoption organization in Sweden²⁸.

In the early 1990s, there were many institutions of varying standards in China. In all major cities there was the Social Welfare Institute (SWI), a combined children's and old people's home. In many provincial capitals, there were large, high-standard orphanages (so-called model orphanages) with access to doctors, psychologists, speech therapists and kindergarten teachers. In some cases, orphanages had foster homes attached to them. Orphanages in poorer provinces had significantly lower standards.

Major changes occurred in standards over time. The CCAA granted licenses to orphanages in a province that met certain criteria for facilitating international adoptions (number of children, staff and equipment). Adoption agencies had no direct contact with the various orphanages. More and more institutions across the country joined the intercountry adoption program and the donations received by the orphanages were used to rebuild, renovate and build new institutions. By 2016, not many of the old, inferior buildings remained.²⁹ According to FFIA, there were originally about 30 orphanages that were part of the intercountry adoption program. By the time FFIA ended its operations in 2014, approximately 300 orphanages were licensed for intercountry adoptions³⁰.

7.5.4 International adoptions are regulated by law in 1992

As foreign interest in adoptions from China increased in the early 1990s, China saw the need to regulate the activity. In 1991, a new Adoption Law was passed by the National Congress. The new law regulated both domestic and international adoptions and came into force in 1992³¹.

²⁸NIA, Application for Authorization for China, 97-09-11, dnr 60:294/97 and MIA, Report from MIA study and inspection mission to China 2007.

²⁹A-C Gudmundsson et al. (2015), *Adopted from another country - on cooperation with the children's countries of origin*, p. 171; material from FFIA and MIA, Report from MIA's study and inspection trip to China March 6-17, 2007.

³⁰ Interview with FFIA 2023-09-21.

³¹Embassy of Sweden Beijing, 1992-10-12, R34. English translation of "Adoption law of the People's republic of China".

According to the law, children under the age of 14 could be adopted if they were orphaned, abandoned or if their parents could not be traced or found, and if their parents were unable to raise them for special reasons. The law regulated who had the right to give consent or assent to adoption: guardians of an orphaned child, social welfare institutions and parents who for special reasons could not bring up their children. Only one child (girl or boy) could be adopted, but orphans and children with disabilities were exempt from this restriction. The requirements were the same for foreign nationals who wanted to adopt children from China. It was forbidden to buy or sell a child for adoption. If the adopter and the person who gave the child up for adoption wished to keep the adoption secret, others had to respect their wishes and not disclose the information. There were also provisions on criminal liability for those who abducted or kidnapped women or children. Anyone who abandoned an infant would be fined a maximum of 1 000 yuan to a public security agency and if the circumstances were an obvious crime, it would be investigated. The latter also applied to anyone who sold their own child.

In the same year that the Adoption Law came into force, China ratified the CRC. The Optional Protocol on the sale of children, child prostitution and child pornography was ratified in 2002 and the Optional Protocol on children in armed conflict was ratified ⁱⁿ. 2008

Regulations to the law

Regulations to the Act, which came into force on November 10, 1993, described the adoption process for intercountry adoptions in more detail.³³ For example, they set out the documentation requirements depending on who gave the child up for adoption.

- If the child was left by biological parents, there should be a written consent document signed by both parents.
- A single parent where the spouse was dead or could not be found could present a death certificate or notice

³² MIA, Report of the MIA study and monitoring mission to China, March 6-17, 2007.

³³ Embassy of Sweden Beijing, 1993-12-02, No 100 R34, Implementation Measures on the Adoption of Children by Foreigners in the People's Republic of China.

from the spouse's parents that the child could be put up for adoption.

- If both parents were unable to take care of the child, the child's guardian had to present a custody certificate and a certificate stating that the parents were unable to take care of the child.
- If both parents of the child were dead, the guardian had to present the death certificate of the parents, the custody certificate and the consent to adoption by persons responsible for the child.
- If a children's home or other institution gave the child up for adoption, they would have to account for how the child was abandoned and found. They would also have a certificate showing that they had searched for parents or relatives of the child. If the child was an orphan, the death certificate or similar of the child's parents should be presented as well as a written consent document from those responsible for the child.
- If the child had a disability, there should be a medical certificate of this.

The regulations also state that the Chinese operators should keep the adoption documents for each child in good order and that they were controlled by the "judicial administrative department" and "the civil administration department of the State Council".

The adoption process

When adoptions from China started in 1992, the adoption process was as follows:⁽³⁴⁾ Adoption applications were translated into English in Sweden. The adoptive family had to provide documents containing information on age, marital status, occupation, property, health and criminal record. The documents had to be certified by a notary office or a notary and authenticated by the Chinese embassy or consulate in Sweden. The adoption organizations then sent the adoption applications to the Chinese adoption authority. In China, the documents were translated into Chinese.

³⁴Adoption law of the People's republic of China, NIA, authorization application FFIA 1991, dnr 60:401/91, FFIA (1995), Information film "Adoption trip to China".

Initially, both the Ministry of Civil Affairs and the Ministry of Justice had to approve the adoption applications before a child could be proposed for adoption, after 1996 this was done by the CCAA. The application was forwarded to the appropriate province and the Ministry of Justice of the province communicated the proposed child to the adoption organization.

It usually took a few months for the Chinese authorities to process an application and propose a child. The authority would then send the child's details (age, gender and health report) to the adoption agency. Most children were abandoned, so there was rarely any information about the child's background. Sometimes there was a note with the name and date of birth. Once everything was ready, the family was able to travel to China. The trip was planned by the Chinese authority and the Chinese travel agency. English-speaking guides accompanied the families throughout their stay. The Swedish families were received in Beijing and then traveled to the province and orphanage where the children were located. Over time, foster homes linked to the orphanages were also established.

The adoptive family paid a donation of USD 3 000 to the orphanage when the child was handed over to them. The donation was an established part of the intercountry adoption process in China. It was included in the adoption fee and paid per child. However, orphanages were not entitled to claim compensation for the care and maintenance of the individual child, but the donations were used to improve the standard of orphanages and to care for the children remaining in the orphanage.³⁵Initially, the donation was paid in cash by the adoptive parents. This was later changed so that the adoption organizations transferred the sum to the CCAA and later the CCCWA for transfer to the provincial orphanage.

The next step was to register the adoption with the provincial social welfare office. The families had to assure that they would take care of the child, to give it a good upbringing and education and to never abandon it. The adoptive parents signed with thumbprints and the young children with footprints. The adoption was then carried out before the Notary Public in the province where the adoptive parents concluded a written agreement with the person who gave the child up for adoption. Once the adoption was confirmed, the notary's office issued a certificate proving that the adoption was completed and valid in China. The child could then be issued with a Chinese passport. Often, families would make a visit to the

³⁵SOU 2003:49, *Adoption at what price? Report of the inquiry into international adoptions*, pp. 101 and 134.

children's orphanage before traveling back to Beijing. In Beijing, they applied for a visa for the child at the Swedish Embassy. This usually took a few days. They could then travel home with the children. The adoption was then decided in a Swedish court.

7.5.5 New Adoption Act 1999

In 1999 a new Adoption Act came into force.³⁶ The new Act extended the possibility for a family to adopt more than one child. It now applied not only to orphans and disabled children, but also to abandoned babies and children in social institutions whose biological parents could not be identified or found. They could be adopted regardless of the restrictions. The law also set clearer requirements for the process of international adoptions both in the receiving country and in China³⁷.

The adoption process

The adoption process was largely the same as before. For abandoned children the following applied. When a child was found abandoned, it was handed over to the police who took the child to hospital for examination. The police investigated the child's background. The provincial Civil Affairs Bureau in the child's hometown then searched for the parents. Photos of the relatives were advertised in local newspapers. After 60 days, the child was declared abandoned and could be adopted nationally. If no Chinese adoptive parents were found, the child was reported to the provincial central authority in the provincial capital. This authority decided that the child could be placed for intercountry adoption and sent the child's documents to the CCAA in Beijing for registration. The CCAA registered, translated and reviewed application documents from prospective adoptive parents. The matching department selected adoptive parents for the children. The CCAA notified the parents of their choice in the "Letter Seeking Confirmation from Adopter". Once the prospective adoptive parents confirmed that they wanted to adopt the child, they were called after a

³⁶CCAA (1998), *Adoption law of the people's republic of China* (English translation with comment "The English translation has not been examined and approved by the legislative body - and can not be used as basis for law enforcement and public prosecution. Therefore it is for your reference only").

³⁷Adoption law of the people's republic of China, article 8.

couple of months to the provincial capital of the province in China where the child was located. During the first days in the province, the child was placed by the provincial central authority in the care of the prospective adoptive parents for an "adaptation period" of between 24-48 hours. By agreement, custody of the child was temporarily transferred to the prospective adoptive parents until the adoption decision was registered with the provincial central authority. Once the family was back in Sweden, the adoption was finalized in Swedish courts³⁸.

7.5.6 In 2005, China ratifies the 1993 Hague Convention

China signed the 1993 Hague Convention in 2000 and ratified it in 2005. It then entered into force on January 1, 2006. With the ratification, the possibilities for domestic adoption in China were expanded. No legislative changes were made at the time of ratification and the 1999 Adoption Law remained in force until 2021.³⁹ Instead, the process was adapted and from 1 May 2007, the CCAA introduced a number of new certificates as part of its compliance with the Convention requirements.

- Letter of seeking confirmation (confirmation from the central authority of the receiving country about the placement of children).
- Letter of seeking confirmation from adopter (confirmation from the adoptive parents about the proposed child).
- Notice of traveling to China for adoption (issued by the CCAA).

Under the new rules, two follow-up reports were to be sent to the CCAA: one after six months and one one year after the child's arrival in Sweden.⁴⁰ From March 1, 2008, a "Certificate of Conformity of Inter-country Adoption" (Hague Certificate) was also introduced for those adoptions carried out under the Hague Convention.⁴¹

³⁸ A-C Gudmundsson et al (2015), pp. 172-173.

³⁹ ISS (2023), *Country Situation China, Revised by local contacts*, p. 8. "The original Adoption Law of 1992 (amended in 1999) has ceased to be effective with the entry into force of the first PRC's Civil Code, on January 1, 2021."

⁴⁰ MIA, "Notice of Adjustment of Inter-Country Adoption. Procedure and related documents from CCAA", dnr 72:289:1/07.

⁴¹ MIA, email from the Swedish Embassy in Beijing, 2008-03-14, dnr 72:289:7/07.

From 2011, the number of follow-up reports was increased to six reports: one month after the child's return, six months, one year, two years, three years and five years⁴².

The adoption process

When China ratified the 1993 Hague Convention, the process was adapted to the requirements of the Convention.

Essentially, it was a matter of the provincial Civil Affairs authority issuing a Hague Certificate under Article 23 of the Hague Convention. This certificate automatically recognized the Chinese adoption decision in Sweden. Otherwise, the process was the same as before⁴³

In 2009, the donation per child was increased to RBN 35,000, which was equivalent to approximately USD 5,000.⁴⁴ The donation fee was removed in 2019.⁴⁵

Digital databases to be introduced in 2009 for the placement of children with special needs

From 2009, only children with special needs were adopted internationally. In the same year, a digital database - the Online Operational System for Special-Needs Program - was also introduced under the responsibility of the CCAA, to which licensed international adoption agencies could connect. The organizations paid a fee and then received an encrypted key and could access the information in the system.⁴⁶ In the system, licensed orphanages uploaded information about children who were up for adoption. The information included the name, sex, date of birth and diagnosis of the child, how it was found and from which province it came, and which orphanage it was in. There were also photos of the children⁴⁷.

When China placed new children for adoption, all certified adoption organizations initially had 24 hours

⁴² Material from FFIA, Requirements for the content and Format of Post Placement Reports.

⁴³ MIA, Authorization application for China 2010-2011, ref. 61:525:1/09. Authorization application for China 2012-2013, dnr 61:592/11.

⁴⁴ Material from FFIA. CCAA, A letter to adoption agencies and adoptive families, December 2, 2008.

⁴⁵ MFoF, Application for authorization for China to close two ongoing cases, dnr AD 2021-876.

⁴⁶ Material from FFIA; CCAA, Notice, March 3, 2009.

⁴⁷ Presentation and documentation from meeting with Adoption Center 2023-05-15.

to go through all the documentation for the child and get a statement from a consultant doctor. This was later extended to 48 hours. If the opinion was positive, the adoption agency would proceed and the applicant family would make a decision. If the family confirmed the child proposal, the adoption agency submitted it as a proposal to the central authority in China, which decided on the matching. The applicants had already been approved as adoptive parents in Sweden and in China. The adoption organizations were not allowed to have any contact with the orphanage, everything went through the central authority ⁽⁴⁸⁾.

The CCAA announced in 2010 that it had come to light that some adoption organizations were "locking" multiple children to one family. The CCAA announced that it was allowed to lock only one child and that the 48-hour period would not be about searching for an adoptive family, they would already be enrolled in the system. Images, photos and videos, as well as information about children in the online system, could not be disseminated. The CCAA would check that organizations complied with this.⁴⁹ Shortly afterwards, in March 2010, the CCAA issued new information that the response time in the system was extended to 72 hours. The reason for this was that adoption organizations had not been able to respond to the system in time and children could therefore not be placed.⁵⁰ From September 2010, the CCAA also introduced a special list for "special focus children", which included children who had been on the online list for more than two months.

A new system - the Child Placement Information System for Inter-country Adoption (CPIS) - replaced the previous online system in 2013. The purpose of the new system was to further regulate and streamline the process of intercountry adoption. The CCCWA was responsible for CPIS which, as before, covered children with special needs. Receiving countries had to enter data on adoptive families and upload documents into the system. Accreditation documents of adoption organizations were also to be entered. Adoptive parents registered in the system could apply for 'special-focus' and 'non-special-focus' children, while adoptive parents who had not applied before could only apply for 'special-focus' children. After the adoption was finalized, follow-up reports were uploaded into CPIS⁵².

⁴⁸ Presentation and documentation from meeting with Adoption Center 2023-05-15.

⁴⁹ Material from FFIA, CCAA, Notice, February 10, 2010.

⁵⁰ Material from FFIA, CCAA, Announcement, March 8, 2010.

⁵¹ Material from FFIA, CCAA, Announcement, August 16, 2010.

⁵² Material from FFIA, CCCWA, Notice, April 8, 2013.

7.6 General information on irregularities in China's adoption activities

7.6.1 China was initially seen as a well-structured and controlled adoption country

China, together with South Korea, initially had a good reputation in international adoptions. The centralized Chinese adoption activities were seen as well organized and controlled compared to, for example, Guatemala, India and Vietnam where several adoption scandals were uncovered.⁵³ The Chinese adoption system was adapted to the Hague Convention even before China signed and ratified the Convention. Adoption activities combined centralized management and control of intercountry adoptions with a system of state-run orphanages operating in provincial regions and at the local level. China thus fulfilled both the requirements of having a central authority and of having the state run the operational aspects of adoption, including child care. Some scholars have argued that China consciously built the intercountry adoption system on the principles of the Hague Convention, but that this was also in line with the general organization and management of Chinese public services. In addition, intercountry adoptions had great diplomatic significance for China, which required a state-controlled operation⁵⁴.

7.6.2 Systematic irregularities have been identified

The first revelations of child trafficking and the existence of a black market for young boys and girls came as early as 2002 and have continued ever since.⁵⁵ The most widespread scandal was that of Hunan, which was uncovered in 2005 and had consequences for the international adoption business in China. The Hunan scandal revealed systematic trafficking of Chinese children since the late 1990s, and that both orphanages and local

⁽⁵³⁾ D. M. Smolin (2006), *Child laundering: how the intercountry adoption system legitimizes and incentivizes the practices of buying, trafficking, kidnapping and stealing children*, The Wayne Law Review, pp. 125, 127, 179.

⁽⁵⁴⁾ D. M. Smolin (2010), *Child Laundering and the Hague Convention on Intercountry Adoption: The Future and Past of Intercountry Adoption*, pp. 465-466.

⁽⁵⁵⁾ D. M. Smolin (2010) p. 472.

officials were involved. Since then, more scandals have been uncovered. The various examples follow a similar pattern. Children declared abandoned have not always been abandoned, but have been abandoned "on paper" and have thus been able to pass into the international adoption system. Irregularities have included theft and trafficking of children, falsification of documents and concealment of origin.

The UN Committee on the Rights of the Child stated in 2013⁵⁶ that while the Chinese state had made efforts to combat illegal adoptions, it was deeply concerned that thousands of children were estimated to be abducted, trafficked and sold each year, including for illegal adoption. The Committee was particularly concerned that some family planning officials were forcing parents to give up children born in excess of the specified family quota and sell or hand them over to local orphanages for national and international adoption or forced labor. It was also concerned that there was no information and public statistics on the number of Chinese children sold for domestic and international adoption, as well as the number of cases investigated and prosecuted. The Committee recommended that China immediately review its procedures and processes for national and intercountry adoptions in the light of the Hague Convention and ensure that officials responsible for adoption cases had the capacity to assess, review and process cases in a timely manner. China was also recommended to investigate all cases of abductions and illegal adoptions of children in China, including from hospitals and orphanages, and ensure that perpetrators were held accountable. A further recommendation was for China to set up a central data collection system to identify the number of children abducted for purposes including adoption.

The Dutch Inquiry into Intercountry Adoptions concluded that there were systematic irregularities in adoptions from China. These included poor administration, fraud and corruption, theft of children and child trafficking⁵⁷

⁵⁶United Nations, Convention on the Rights of the Child, CRC/C/CHN/CO/3-4, Distr.: General 29 October 2013; Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September-4 October 2013), p. 12.

⁵⁷Commissie onderzoek interlandelijke adoptie (2021), *Report Committee on the Investigation of Intercountry Adoption* (unofficial translation), pp. 123-124.

7.6.3 Abandoned children are not always abandoned

As described in previous sections, the Chinese system of intercountry adoption was built up when there were large numbers of children in orphanages. The vast majority of children were girls. The international demand for young, healthy girls was high. China was a popular country to adopt from, partly because the adoption process was fast and predictable, but also because children were described as abandoned. The image was of children being left at police stations, outside orphanages and other places where children could be found. Adoptive parents saw an opportunity to help the children by adopting them, otherwise they would remain in orphanages. At the time of the adoption in China, the adoptive parents received a certificate stating that the child had been abandoned and that the biological parents had therefore relinquished their rights to the child. There was no possibility for the biological parents to reclaim custody.⁵⁸ The perception in the outside world was also that China was free of corruption and that the large number of abandoned children reduced the risk of child trafficking.

The first major adoption scandal in China was revealed in 2005 and showed that children were stolen from their parents, declared abandoned and then adopted. The scandal raised questions about how many children in orphanages were really abandoned. In 2014, Brian Stuy published a scientific article⁶⁰ comparing data from the orphanages involved in the 2005 adoption scandal with the results of a study on abandoned children carried out by an American researcher together with two Chinese researchers and published in 2004.⁶¹ The 2004 study on abandoned children was based, among other things, on interviews with biological parents, adoptive parents and officials (police, hospital staff, local and regional government officials) in some adoption provinces in China. The researchers analyzed the gender and age distribution of the abandoned children, whether the children had any illness or disability, and the geographical location where the children were left. The study found that children who had been abandoned by their parents were generally between 2-6 months old, although

⁽⁵⁸⁾ B. Stuy (2014), *Open Secret: Cash and Coercion in China's International Adoption Program*, Samford University, p. 361.

⁽⁵⁹⁾ D.M. Smolin (2006) p. 127; Smolin (2004), *Intercountry Adoption as Child Trafficking*, Valparaiso University Law Review, Volume 39, number 2, Winter 2004, p. 317.

⁽⁶⁰⁾ B. Stuy (2014) pp. 365-386.

⁽⁶¹⁾ K.A. Johnson (2004), *Wanting a daughter, needing a son. Abandonment, adoption and orphanage care in China*, pp. 76-134.

some were older and some younger. Both girls and boys had been abandoned and the children had been found in a variety of locations (for example, outside schools, shops, residential buildings and on paths and roads where they could be easily found). Biological parents interviewed in the study described avoiding leaving children in places where they risked detection by the authorities, such as outside police stations or orphanages.

When Stuy compared these facts with those of the children involved in the 2005 adoption scandal, he found that the patterns of the children's ages, genders and locations where they were found differed from those of the 'naturally' abandoned children. The children found in the orphanages involved in child trafficking were generally young girls, often infants, found in fewer and often recurring locations. The most common were police stations, outside orphanages, and government buildings, i.e. the places that the biological parents said they avoided detection. Stuy also describes that those involved in the child trafficking ring in Hunan gave fictitious locations where the children were found, often the same locations were given. The children were first taken to the orphanage and then to the police station, where those involved presented 'foundling certificates' for the children issued by the local authority. The police authority was asked to issue a 'foundling certificate' which could then be used to register the child. The children could then proceed to international adoption. According to Stuy, only a small number of children in orphanages were truly abandoned. Many children had ended up in orphanages by other means: through child trafficking, family planning measures (including confiscation of children beyond the authorized number), and misleading information to the biological parents to make them give up their children.

7.6.4 Children stolen and sold to orphanages for international adoption

The first reports of child trafficking in China come in 1999

An article in Svenska Dagbladet revealed that police in the northern Chinese provinces of Shandong and Shanxi had tried to stop the booming baby trade. Police officers had raided a baby trader who had bought at least four babies and sold them further. Authorities searched for two more men who were missing.

suspected of selling 14 babies within 20 days. According to the Wenhui Bao newspaper, the trade in babies was widespread and well organized - from families giving birth to children and handing them over to buyers who could then sell them on to childless couples. A girl cost around SEK 2 400 and a boy SEK 5 600 on the market. Employed nurses acted as intermediaries between the trader and the children's parents. In 1996, a gang was arrested for selling over 100 babies.⁶²

In 2004, TT reported that 95 people were arrested in Inner Mongolia in northern China on suspicion of human trafficking, according to Chinese state press. The youngest child they were suspected of selling was only two hours old, the oldest five days. The children had been purchased from 28 privately owned hospitals and clinics in 2003 and then sold on to childless couples.⁶³ It is not clear from the articles whether any of the children were adopted abroad.

Hunan scandal 2005

In the early 2000s, orphanages that were part of the intercountry adoption system in China saw an increasing demand for children both nationally and internationally. Until then, there had been many children in orphanages, but the large number of international adoptions that had taken place meant that there were now fewer children. Orphanage directors therefore resorted to illegal means to find children for adoption.

In the first half of 2006, the international press reported that 27 members of a Chinese gang had been arrested by the police in November 2005, and that since 2002 they had abducted or bought a total of 1 000 children from Guangdong Province in China. According to the indictment, the Hengyang County Orphanage in Hunan Province had bought children from the gang and then sold them on to other orphanages. The gang was based in Guangdong, then took the children by bus and train to Hengyang city in Hunan. They targeted the children of migrant workers because they were expected to have difficulty convincing the police. The directors of the six orphanages in Hengyang cooperated with local civilian agencies to produce police reports claiming that the children

⁶² SvD, 1999-02-03.

⁶³ TT, 2004-07-13.

had been abandoned. The gang had sold the children to orphanages in Hunan for between USD 400 and USD 538 according to reports in the Chinese State Media and in interviews. The children were mostly placed internationally (many in the US) in exchange for a mandatory fee of USD 3 000 per child. Adoption records indicated that the children were abandoned, but orphanage managers had falsified documents to make the children appear to be abandoned and thus eligible for inter-country adoption. There were also reports of children being stolen and taken to the Changning County Social Welfare Institute in Hengyang as early as 2001. Three of the child traffickers were sentenced to 15-year prison terms, six others received sentences ranging from 3-13 years. ⁶⁴23 local officials in Hengyang had been dismissed

Brian Stuy's 2014 study describes the history behind the media coverage.⁶⁵ Court documents show that the gang had been supplying children to the Hengdong orphanages for payment since 1995. In 1996, the orphanages had begun offering employees and others compensation for finding and recruiting children for the orphanages. The compensation was initially 200 yuan per child but quickly increased to 200 yuan in 2005 when the scandal was revealed.

3 500 yuan per child. The police had arrested members of the gang on several occasions, but they were released when the orphanages certified that the gang was taking care of and transporting children to the orphanages and that it was not a case of kidnapping. In 2005, the orphanages wanted to avoid paying the gang as an intermediary and go directly to the person who procured the children. When this failed, they reported the gang to the police. Once the gang was arrested, the police demanded compensation of 600,000 yuan per child, totaling 4.8 million yuan, to be paid by the orphanages to the police. To pressure the orphanages, the police hired a local journalist to write an article about the orphanages buying children. The article was picked up by China Daily and subsequently spread internationally. An initial article stated that there was no link to intercountry adoption, but when the orphanages refused to pay, the police published a second article clarifying the link to intercountry adoption. Officials at Hengyang City Civil Affairs acted to keep the Beijing leadership from getting involved and to avoid further scrutiny of the adoption

⁶⁴For example, Washington Post, 2006-03-12, Stealing Babies for Adoption; With U.S. Couples Eager to Adopt, Some Infants Are Abducted and Sold in China.

(⁶⁵) B. Stuy (2014) pp. 370-386.

program. Chinese government officials explained to the receiving countries that the children had not been adopted internationally. However, the orphanages' documentation for 2002-2004 showed that the children had been adopted to several countries, including four children adopted to Sweden. The responsible authorities in China also declared that the managers of the orphanages had been dismissed or demoted. However, according to Stuy's investigation, this did not happen in practice; several managers kept their jobs or were transferred to other positions. At a meeting with orphanage directors in 2006, the responsible adoption authority, the CCAA, clarified the official policy, which was that orphanages were allowed to pay a maximum amount of 500-1 000 yuan per child. Orphanages that paid more than the set maximum amount were held responsible for their actions. At the same time, the CCAA made it clear that they still needed as many children as possible. This is according to an interview with an orphanage director who attended the meeting with the CCAA.

New reports on child trafficking in 2009 and 2012

In 2009, several media outlets reported on an adoption scandal in the central Chinese province of Guizhou.⁶⁶ Around 80 little girls were allegedly taken from their parents by local authorities because the parents could not pay the fines imposed on couples who had more children than allowed under China's one-child policy. The children were then taken to orphanages from where they were adopted by couples in the United States and Europe. The children's documents were falsified to make them appear as orphans. The case was investigated by the local police.

In 2012, the Swedish media reported that Chinese police had cracked down on three human trafficking gangs that made money from the sale of newborn babies. In total, 310 people were arrested and 77 children were freed. The children were under one month old. According to the article, the incident was not unusual. In 2011, Chinese police busted 3 200 trafficking rings and rescued 24 000 children and women who had been kidnapped or bought for resale, according to official data. According to the authorities, the number of child abductions decreased, but the number of parents selling their children continued to rise. Many newborn babies were abandoned by their parents in hospitals and obstetricians then earned money by tipping off gangs or families that they

⁶⁶China Daily, BBC News, The Telegraph, TT, Expressen, SR Ekot.

knew wanted to buy a child. The trade in children was mainly domestic, but kidnapped Chinese children had been traced as far as the United States and the Netherlands. The article also refers to the Hunan scandal⁶⁷

The head of a Dutch adoption organization resigned after finding high risks and lack of scrutiny of adoption activities in China

The director of the largest adoption organization in the Netherlands - Wereldkinderen - testified in October 2009 in the Dutch Parliament about adoption activities in China, the fact that orphanages paid for children who were then adopted internationally, and Wereldkinderen's attempts to have adoptions from China to the Netherlands audited. She had resigned as director of Wereldkinderen in September 2009, because, according to her, she saw great risks for children in the Chinese adoption system, the central authorities in the Netherlands and China put other interests than children first, and the disinterest of the Dutch central authority in conducting an in-depth review of adoption activities in China.

In her testimony⁶⁸ it appears that the Dutch actors were informed about child trafficking in Hunan in early 2006. Wereldkinderen tried to get information from the CCAA on its own, but had to wait for information from the Dutch central authority, the Ministry of Justice. According to the CCAA, none of the children had been adopted in the Netherlands, the countries concerned had been informed and the Chinese authorities had the matter under control. Wereldkinderen asked the Ministry for further information on how the children in China became available for adoption. The CCAA replied in February 2008 that the Hunan scandal was an isolated incident, all the children were abandoned and had been made available for adoption in accordance with the applicable laws and conventions. The CCAA emphasized that there was no need to investigate this further as it could damage the relationship between children and adoptive parents. In the spring of 2008, Wereldkinderen received information that significantly more children could be

⁶⁷ MIA, Article in Vestmanlands Läns Tidning 2012-04-10, *Barn till salu*, dnr 72:254:1/13.

⁶⁸ Report of 2009-10-01 by Ina Hut, Director of Wereldkinderen February 2003 to September 2009.

part in the scandal and that there was a queue of Chinese people wanting to adopt. An investigation by the Dutch media in 2008 also revealed that foster carers in China were paying for children and that children were being wrongly put up for adoption. Wereldkinderen asked the Ministry of Justice to find out more facts and they also asked the HCCH if they could conduct an investigation. The HCCH replied that no central authorities had requested an investigation and that the Secretariat did not have the mandate or resources to conduct such investigations. In May 2008, a Dutch delegation traveled to China to meet with the Chinese authorities. The conclusion drawn after the visit was that it was up to the responsible authority in the country of origin to ensure that the children were properly adopted and that cooperation was based on mutual trust. No further action was therefore necessary.

Finding many questions unanswered, Wereldkinderen decided to travel to China and do their own research. During their trip in July 2008, they met with representatives of local authorities and orphanages in a few provinces, as well as with researchers and other actors who could provide information on how adoptions took place. The interviews revealed, among other things, that the orphanages had contacts with midwives who advised pregnant women about the possibility of giving up their child for money and that there was often more information about the children than the CCAA provided to the adoption organizations. Among other things, Wereldkinderen concluded that there were enough national adoptive parents to care for healthy children in China and that the principle of subsidiarity was not followed.

The question was whether adoptions from China to the Netherlands should continue. Wereldkinderen reiterated its demand for an independent review of its activities. According to the former director, representatives of the Ministry of Justice stated that such a review was out of the question and that Wereldkinderen would lose its authorization for China if it conducted its own review. Instead, the Ministry suggested asking ISS and HCCH if they could carry out an audit, but both organizations replied that this was not an option. There was no independent audit.

The former head of operations said that adoption was originally about idealism, but over the years it has come to function more like a market characterized by corruption and high risk

for the children in the system. She pointed out three principles that should apply to adoption under the HCCH, but which are not met in China:

- Consent to adoption must be given voluntarily and after the child is born.
- Those involved in the adoption process should not have a profit interest or make money from adoption.
- The child should primarily be adopted nationally (subsidiarity principle).

The former director testified that many Chinese mothers were forced to give up their children under the one-child policy and that there was evidence that children were also sold for adoption before birth through baby buying programs. Orphanages paid large sums of money for children who could be adopted abroad and, as they were paid more for children adopted internationally, they increasingly preferred international adoption to national adoption. The CCAA was well aware of this. She also pointed out that the CCAA gave contradictory information. On the one hand, the CCAA said that it was forbidden to pay for a child, while at the same time they said it was OK to pay for those who "find" or hand over a child to an orphanage. Inter-country adoptions brought considerably more money to the orphanages than what the Chinese government paid per child in the orphanage. This puts inter-national adoptions ahead of national ones, which jeopardizes the principle of subsidiarity and goes against the principle of profit. She also pointed out that the children adopted abroad are always described as abandoned and thus lack information about their biological parents.

However, according to her, there are examples showing that local authorities, and sometimes also the CCAA, have information about biological parents that they do not give to the foreign adoption organizations. She also believes that the Hague Convention provides a high degree of false security. In practice, when irregularities or abuses of the adoption system come to light, the participating States make trade-offs between several different interests as to whether or not to report.

Chinese research study on child trafficking

In 2018, a Chinese research team published a report on child trafficking and illegal adoptions in different provinces of China. Analyzing data from Baby's home (the largest public welfare website), the researchers found that eight provinces in China were more vulnerable to child trafficking than others: Henan, Jiangsu, Shandong, Fujian, Hebei, Sichuan, Guangdong and Anhui. The reason for this, according to the researchers, was a cultural preference for sons as heirs. The provinces where child trafficking was highest in terms of the number of children were Fujian, Henan, Hebei, Jiangsu and Shandong⁶⁹.

7.6.5 Donation fees have attracted orphanages to find children for international adoptions

China has levied a donation of USD 3 000 per child for intercountry adoption. This amount is a flat rate and can be compared to China's GDP per capita, which in 1998 was USD 860 (i.e. three times higher).⁷⁰ The donation fee was increased in 2009 to USD 5 000.⁷¹

The system has been criticized because it was based on orphanages being paid per child adopted. There was thus an economic incentive to maximize the number of international adoptions.⁷² Some government institutions and orphanages became dependent on donations and fees from adoption activities and paid to access children. As the supply of children decreased, a market for child trafficking was created, involving individuals as well as orphanages and government agencies. In some orphanages, employees were paid to find babies for international adoption. The orphanages that were not part of the intercountry adoption program could in turn make money by selling children to the orphanages that were part of the program.⁷³ Children were also moved from one institution to another to ensure that children were available for intercountry adoption. Also

⁽⁶⁹⁾ Z. Wang et al, (2018), *Child-trafficking networks of illegal adoption in China*, Nature Sustainability Vol. 1, May 2018, pp. 254-260.

⁽⁷⁰⁾ P. Sellman (2002), *Intercountry adoption in the new millennium; the "quiet migration" revisited*, Population Research and Policy Review, Kluwer Academic Publishers, pp. 16-17.

⁽⁷¹⁾ D. M. Smolin (2006), p. 179. MIA, Report of the MIA Study and Monitoring Mission to China March 6-17 2007.

⁽⁷²⁾ N. Cantwell (2017), *The Sale of Children and Illegal Adoption*, November 2017, Defense for Children, Ecpat and Terre des Hommes, pp. 56-57.

⁽⁷³⁾ D. M. Smolin (2010), p. 495.

While the standard and quality of many orphanages could be improved through donation fees, there were several examples of irregularities where local officials and orphanage staff used the money for their own benefit. This was evident in the Hunan scandal, where officials bought new cars and renovated their private houses with donated funds⁷⁴.

In addition to becoming a financial driver for orphanages, the donation system for international adoptions has also been criticized as an effective way for the Chinese state to defray the costs of children in public care⁷⁵.

7.6.6 Misinformation and concealment of origin

The strict one-child policy and the prohibition under Chinese law to abandon a child have led to a large number of children, mainly girls, being abandoned anonymously. The Chinese Adoption Law allows for the adoption of children under the age of 14 if they are orphaned, abandoned or if their parents cannot be identified or found. This has created incentives for orphanages and others to falsify information to make children appear to be orphans. Overall, this means that adoptees from China have very little, if any, background information or information about their biological parents. The information contained in the adoption file may also be incorrect or falsified. This makes it very difficult for adoptees to trace their origins and find their biological parents.

The Dutch study showed that adoptees from China who searched for their origin were less likely than adoptees from other countries to find any background information. Those who did find background information often found it to be incorrect. This was particularly the case for birth certificates and proof of relinquishment⁷⁶.

⁷⁴Meier/Zhang (2008), *Sold into adoption: The Hunan baby trafficking scandal exposes vulnerabilities in Chinese adoptions to the United States*, Cumberland Law Review, Vol. 39:1, s. 99-102.

⁷⁵N. Luo and D. M. Smolin (2005), pp. 602-603.

⁷⁶Commissie onderzoek interlandelijke adoptie, Report Committee on the Investigation of Intercountry Adoption (unofficial translation), pp. 36-37.

The UN Committee on the Rights of the Child expressed concern in 2005⁷⁷ about the lack of explicit guarantees of the right of children without birth certificates to maintain their right to identity throughout the adoption process. The Committee recommended that China adopt legislative and administrative measures to ensure that all children without birth certificates are guaranteed this right.

7.7 Irregularities in the Swedish adoption business and how Swedish actors have acted and behaved

7.7.1 Introduction

We have established in the previous section that there have been irregularities in international adoption activities from China. In this section we go through the irregularities or signs of irregularities that we have been able to see in Swedish adoption activities in China, what various actors knew about irregularities and how they acted on the information.

Our review of the archives and interviews with officials and other actors show that Swedish adoptions from China are also affected by irregularities. It is clear that four Swedish adoptions from Hunan were linked to systematic child trafficking. In the other cases, it is more unclear. However, it cannot be ruled out that more Swedish adoptions have been linked to child trafficking in China. There has been uncertainty about the donations paid to the Chinese orphanages, which have been seen as a key driver of child trafficking. It has also been known from the beginning to the Swedish actors that in most cases there is no background information about the children. Reports of irregularities have also emerged in connection with the supervisory authority's authorization assessment. The supervisory authority has visited China four times during the almost 30 years of adoption activities in the country - in 1994, 2002, 2007 and 2014.

Unfortunately, we have very few interviews with adoptees from China and therefore have little data on their experiences and on possible irregularities.

⁷⁷United Nations, Convention on the Rights of the Child, CRC/C/CHN/CO/2 November 24, 2005. Fortieth session Consideration of reports submitted by states parties under article 44 of the convention. Concluding observations: China (including Hong Kong and Macau Special Administrative Regions) p. 10.

opportunities. We interviewed three adoptive families who shared their experiences of adoption from China.

In our review of the articles, we have found that there is relatively little reported in the Swedish media about adoptions from China. This is despite the fact that international media have on several occasions drawn attention to irregularities in Chinese adoptions and that irregularities have also emerged in Swedish adoptions from China. Most reporting on irregularities is from 2018 onwards.

7.7.2 Both Sweden and China have had an interest in adoption cooperation

Our review of archival material shows that there has been a mutual national interest in adoption from China to Sweden.

When the NIA first visited China in 1994 with a delegation of Members of Parliament, representatives of the Ministry of Foreign Affairs, the National Board of Health and Welfare, the Association of Municipalities and a representative of the FFIA, the delegation found that the Chinese governmental organization and decision-making functions were very clearly defined according to the principle of speed and simplicity. The same procedures had been implemented in the different provinces. This was seen as positive by the Delegation. China was in favor of international adoption because it was in the best interests of children, friendship between countries and help for childless spouses in other countries. According to China, adoption was a way to strengthen ties with other parts of the world and increase contacts between countries. China emphasized that the most important adoption cooperation was with Sweden and adoptions served as a bridge to strengthen ties between Sweden and China. The reason why China accepted international adoption was to fulfill hopes, not because they could not take care of the children⁷⁸

Interest in adopting children from China was high in Sweden as the children were young, healthy and the vast majority of children were described as orphans or abandoned.

FFIA representatives say in an interview that China initially had a very well-organized adoption business. "It was predictable, clear, no competition and no money beyond what was agreed."⁷⁹This is confirmed by BV. "China's way of working

⁷⁸ NIA, Trip to China, dnr 72:455/93.

⁷⁹Interview with FFIA 2023-09-21.

was a perfect fit for Swedes. There was a clear structure and it was clear how long the waiting time for adoption was."⁸⁰ According to AC's former head of office, it was not obvious for AC to go into China.

They were doubtful whether China was a good country for adoption given the one-child policy that led to girls being abandoned. However, the NIA had written that it was a reliable contact and other organizations were already there, so AC chose to establish operations.⁸¹

Over time, however, competition increased as more countries and adoption organizations established intermediation activities in the country.

At the same time, reports of irregularities in adoptions began to emerge. There were also difficulties in cooperating with China because adoption agencies were not allowed to have direct contact with the orphanages. It was not possible to check how the orphanages worked and what background work was done. "You couldn't get behind the scenes, the Chinese actors answered yes or no to questions, but you couldn't get much more information."⁸²

7.7.3 Chinese authorities have on one occasion confirmed that Swedish adoptions can be linked to child trafficking in China

As described in previous sections, the Swedish media has on a few occasions reported on child trafficking in China. The first report dates from 1999 and describes child trafficking in the northern Chinese provinces of Shandong and Shanxi. In July 2004, TT reported that at least 76 newborn children in China had been bought from hospitals and clinics and that 95 people had been arrested for suspected trafficking in Inner Mongolia in northern China. A representative from the AC made a statement. She believes that the strict rules on international adoptions prevent the children coming to Sweden from having been in contact with traffickers.⁸⁴ Nothing else is said about Sweden.

⁸⁰ Interview with BV 2023-10-16.

⁸¹ Interview with the former head of the AC 2024-04-10.

⁸² Interview with FFIA 2023-09-21.

⁸³ SvD, 1999-02-03.

⁸⁴ TT, 2004-07-13.

Hunan 2005 - child trafficking also affects adoptions to Sweden

The most extensive child trafficking was uncovered in Hunan in November 2005 and reported first in the Chinese state media and then in the international media. According to the report, 27 people were arrested who were part of the gang that since 2002 had abducted or bought a total of 1 000 children from Guangdong province and sold them to orphanages in Hunan.⁸⁵In our review of the articles, however, we have not found any reporting in the Swedish media in connection with or immediately after the incident in Hunan. It is only later that articles are published about child trafficking and its connection to adoptions to Sweden. For example, an article in Aftonbladet in 2018 describes how the court record shows that four children stolen by the child trafficking gang were adopted to Sweden through FFIA. During the period in question, some 70 children had been adopted through AC, BV and FFIA from orphanages that were involved in the Hunan scandal in various ways and could thus be part of the child trafficking ⁽⁸⁶⁾.

MIA requests information from the Swedish Embassy on child trafficking

Our review of archive material shows that the MIA contacted the Swedish Embassy in Beijing on 29 November 2005. The archive does not contain the MIA's letter, only the Embassy's reply. It states that the question concerns aid workers arrested for child trafficking in China. The embassy states that they have been in contact with several actors in China to obtain information. The Civil Administration Bureau and the External Affairs Department have stated that they are aware that people have been arrested for child trafficking in Hunan but that they have no further information. The Embassy has also spoken with the Hunan Public Security Department, which is investigating the case but cannot provide information while the police investigation is ongoing. In addition, the Embassy has been in contact with the Ministry of Public Security and the Criminal Investigation Department in Beijing, who informed them that the children were sold by their own parents, either directly to the orphanages in question, or via an intermediary. According to the Embassy, nothing in the investigation

⁸⁵ Washington Post, 2006-03-12.

⁸⁶ Aftonbladet, 2018-08-20.

that any of the children are in Sweden or that children who have been brought to orphanages inappropriately risk ending up in Sweden. All of the orphanages mentioned in the investigation are located in Hunan province, but the investigation only concerns a small number of orphanages in Hunan.⁸⁷ It is not clear from the archive material what the MIA does with this information.

A few months later, in March 2006, some articles on the Hunan scandal appeared in the US press. They describe how difficult it is to trace how many Western adoptive parents had their children through child trafficking⁸⁸

MIA meets CCAA in Stockholm regarding child trafficking in Hunan and asks if there are links to adoptions to Sweden

On May 12, 2006, MIA meets with representatives of the CCAA in Stockholm to discuss information on child trafficking.

The notes of the meeting show that the representative of the CCAA informed the MIA that the case was fully investigated and that the legal process was concluded in March 2006. The persons involved in the scandal had been punished. The Chinese side took the incident very seriously but considered that the situation was very special and should not be repeated. According to the CCAA, this was the first time a case of trafficking had occurred in China. The Ministry of Civil Affairs and the CCAA had held a national meeting and informed institutions of the need for increased monitoring and improved procedures to verify that children were indeed available for adoption and not trafficked. All provinces were required to report to the CCAA by the end of May 2006 on the measures they had taken to prevent similar incidents from happening again and on their action plans for the future. 80 children were involved in the scandal, most of them in institutions in China.

About ten children had been adopted to the USA and some more to countries in Europe⁸⁹.

⁸⁷ MIA, letter from the Swedish Embassy Beijing 2005-12-30, dnr 72:689:6/06.

⁸⁸ Washington Post, 2006-03-12, Stealing Babies for Adoption; With U.S. Couples Eager to Adopt, Some Infants Are Abducted and Sold in China. Sunday Telegraph, 2006-03-12, China's great - Scandal shocks West baby sell-off.

⁸⁹ MIA, Notes of meeting between CCAA and MIA on May 12, 2006 regarding child trafficking disclosures, dnr 72:689:24/05.

According to the then Director General of MIA, she asked the CCAA representative at the meeting several times whether any of the children had been adopted to Sweden. In the end he replied that there were four children. All the children were 'really abandoned' according to an investigation by the security services. The Ministry of Civil Affairs and the CCAA had examined the documents and found that all legal requirements for adoption were met. He went on to say that there was never any real child trafficking in these cases, because the people who found the abandoned children handed them over to institutions and claimed compensation for the costs of transporting and caring for the children. The illegality consisted in the fact that orphanage managers paid them compensation, which was against the law. The CCAA had decided to inform the countries concerned orally. According to the representative, no further information about the children or their current families would be disclosed, nor the year in which the adoptions took place, nor the organization that facilitated the adoption. This is to protect the children concerned and their families. The Chinese authorities would also not request the return of the children to China. The CCAA representative expressed the hope that the MIA had confidence in the CCAA and their ability to handle the incident properly. The CCAA would take strong action if any problem arose in the future⁹⁰.

According to MIA's Director General at the time, they did not receive any information from CCAA about which children were involved or which Swedish adoption organizations the children had come through. After the meeting with CCAA, she informed the heads of the three organizations that had authorization for China. She also called MIA's contact person at the Ministry of Social Affairs who informed the head of the Ministry. The Swedish Embassy in Beijing was also contacted. The Director General does not recall whether MIA knew how many children were adopted from Hunan during the period in question, nor does she recall whether MIA asked the adoption organization to provide such information. According to FFIA's then director of operations, MIA already had this information.⁹² AC says in an interview that it was possible to see in their system where in China the children came from. However, AC did not do its own

⁹⁰MIA, Notes of meeting between CCAA and MIA on May 12, 2006 on child trafficking issues, No. 72 689.24/05.

⁹¹ Interview with the then Director General of the MIA on 2024-06-24.

⁹² Interview with FFIA 2024-04-22.

According to AC, MIA and all three adoption organizations in Sweden made an assessment that it was possible to continue to mediate adoptions from China and that the measures taken in China were sufficient.

AC, BV and FFIA to visit China in November 2006

The Swedish adoption organizations AC, BC and FFIA visited China in November 2006. The purpose of the visit was to discuss current and common issues concerning the processing of adoptions with the CCAA and to establish contacts and relations. The FFIA's trip report does not show that they asked the CCAA any questions about Hunan and the Swedish adoptions. However, it is noted that FFIA's contact person in China believes that the Hunan scandal has contributed to the provincial authorities being very cautious and careful when it comes to investigating whether a child is available for adoption or not.

FFIA also writes that they asked the contact person if more orphanages in China are licensed for international adoption. The contact person replied that there is no specific license for orphanages that worked with international adoption. If there was a child available for intercountry adoption, it could be adopted regardless of which orphanage it was in. FFIA writes that they were puzzled by the answer because they had been informed that such a license existed. They also write that this must be followed up⁹⁵.

MIA visits China in March 2007 and raises again the issue of child trafficking in Hunan with the Swedish Embassy and CCAA

On March 6-17, 2007, MIA went on a study and monitoring mission to China. The purpose of the mission, according to the mission report, was to follow up on meetings held with the CCAA in 2005 and 2006, to obtain information on the development of adoption activities and changes in regulations, and to follow the work of Swedish adoption organizations in China.

⁹³ Interview with AC 2023-05-15.

⁹⁴ Written comments from AC 2024-05-23.

⁹⁵ FFIA, Travel report for visit to China, October 12-21, 2006.

It is not clear from the travel report that any specific issues concerning Hunan and adoptions to Sweden were discussed. Instead read separate memos from meetings with the CCAA and the Swedish Embassy in Beijing. At the meeting with the Swedish Embassy, the MIA says that in 2006 they received information from the CCAA that people in Hunan Province had been punished for child trafficking and that four of the children affected by the events had been adopted to Sweden. MIA therefore applied for permission to travel to Hunan province. They wanted to follow the work of AC and FFIA in Hunan by accompanying two groups of adoptive parents to pick up their children there, as well as to learn more about the Hunan incident and the measures taken in Hunan province following the revelations of child trafficking to prevent it from happening again. However, the MIA was not allowed to travel to Hunan, but instead to Jiangsu province. A four-person delegation from the CCAA accompanied them throughout their visit to the province. The notes show that the embassy staff were concerned by the information. The MIA informed that it was generally very difficult to obtain information on criminal investigations in Hunan. The Embassy confirmed this and that it could even be difficult to obtain information on Chinese legislation⁹⁷.

On March 15, 2007, the MIA and the CCAA met. They discussed the cases of child trafficking that had occurred in Hunan Province in 2005. The CCAA told them that new procedures and increased control would be introduced. The MIA wanted to know what measures had been taken. According to the CCAA representative, the case of child trafficking in Hunan was an unusual and special case in China. They reported on what had happened after the child trafficking was revealed:

- The Civil Affairs Bureau and the Security Office in Hunan took several measures and those involved were severely punished.
- A representative of the CCAA visited the province to thoroughly investigate the incident.

⁹⁶MIA, Report of the MIA study and monitoring mission to China, March 6-17, 2007, dnr 74:634:59/06.

⁹⁷MIA, Meeting at the Swedish Embassy on March 9 and 16, 2007, dnr 72 689/05.

- The CCAA wrote a report that was disseminated to all Social Welfare Institutions (SWIs) throughout China. SWIs and Civil Affairs in the provinces were asked to follow the instructions to prevent a similar incident from happening again.
- The Ministry of Civil Affairs and the CCAA had requested the provinces to conduct a review of problems at SWI.

The institution in Hengyang city, Hunan, involved in the irregularities was not allowed to operate in the adoption program for six months. They had to show that they had taken action and improved. The case was closed, the institution in Hengyang had taken action and was allowed to resume international adoption activities.

According to the CCAA representatives, all authorities and agencies in China had taken the incident very seriously and had acted. The CCAA considered that this attitude was important to prevent a repetition, but stated that no complete guarantee could ever be given. The authorities would make every effort to ensure that this did not happen. Furthermore, the CCAA said that the families who had adopted from Hengyang in Hunan had not asked or complained so the incident had not damaged the intercountry adoption program. The CCAA also stated that even before the irregularities occurred in Hunan, there were instructions on what actions to take and what investigations to conduct when children were found. The problem was that these instructions were violated in Hunan, as well as Chinese law and the Hague Convention. The CCAA had stressed the importance of following the instructions. The rules had been drafted in accordance with Chinese law. The law was clear - it was forbidden to sell children in China. If the law was followed, there were no problems with child trafficking. The CCAA held annual conferences for SWIs, where they emphasized the importance of following the instructions ⁹⁸.

On March 16, 2007, the MIA had a follow-up meeting with the Embassy and reported on the meeting with the CCAA. The notes of the meeting indicate that the MIA's understanding is that the Chinese authorities have taken the incident very seriously and have taken steps to prevent a recurrence. Embassy staff are satisfied with

⁹⁸MIA, Meeting between MIA and CCAA in Beijing on March 15, 2007, dnr 72:689/05.

the information provided by the MIA and says that they will discuss the events in Hunan with their European colleagues in China.⁹⁹

In its annual report for 2007, the MIA states that it carried out an inspection trip to China during the year. The purpose of the trip was to follow up on the meetings MIA had held in Sweden with the CCAA in 2005 and 2006. The MIA had received answers to the questions that existed and the MIA had also gained a deeper insight into the adoption procedure in China.¹⁰⁰ The then Director General of the MIA, who participated in the trip, also states that the MIA's contact person at the Ministry of Social Affairs was informed of the events, which was always done.

Adoptive parent informs MIA about reports of abuse in international adoptions from China

In January and October 2008, MIA was contacted by an adoptive parent who had adopted children through FFIA. She wanted to draw MIA's attention to material on adoptions from China posted on her blog by the American Brian Stuy. She encloses excerpts from the blog, including how the Ministry of Justice in the Netherlands is trying to find out how adoptions from China are carried out. Among other things, she points out that Brian Stuy claims that there are serious abuses regarding the "recruitment" of children to orphanages in China and that the conditions by extension also affect international adoption. The person asks what the MIA's position is on this information.¹⁰² In its response, the MIA writes that as an authority it cannot take a position on Brian Stuy's blog in itself, but relates to the overall picture.¹⁰³

MIA and adoption organizations summarize actions taken in the Hunan case

Subsequently, in March 2008, the archives contain correspondence between AC, BV and FFIA, with a copy to MIA, concerning a statement on child trafficking in Hunan. It appears that AC, in consultation with MIA, decided on the following statement:

⁹⁹ MIA, Meeting at the Swedish Embassy on March 9 and 16, 2007, dnr 72:689/05.

¹⁰⁰ MIA, Annual Report 2007.

¹⁰¹ Interview with the then Director-General of the MIA on March 29, 2022.

¹⁰² MIA, email from individual 2008-01-30 and 2008-02-07, dnr 41:76:1/08.

¹⁰³ MIA, email to individual 2008-10-13, dnr 41:76:1/08.

The Swedish adoption organizations were informed about the investigation and judicial process concerning child trafficking in the Chinese province of Hunan already in 2005. The judicial authorities had addressed the issue and we also learned later that a number of people had been convicted of these crimes. The Chinese authorities acted with great determination to punish the culprits and prevent anything similar from happening again. The Swedish adoption authority MIA has raised these issues both in writing and verbally at several meetings with the adoption authority CCAA. Our impression is that the Chinese authorities have shown by their actions that they do not tolerate child trafficking in any form ¹⁰⁴.

It was not until 2011 that Hunan and the issue of the link with adoptions to Sweden were again raised.

Hunan is brought to attention again in 2011 when it emerges that the FFIA may have trafficked children

In November 2011, FFIA is contacted by three adoptive families with children from the Qidong orphanage in Hunan province. The families have received information from Brian Stuy, who runs "research-china", that their children were involved in the Hunan scandal. One of the families has attached an anonymized "Birth Parent Search Analysis" and a report from Brian Stuy. The report states that there is no doubt that the Qidong orphanage was involved in child trafficking in Hunan at the time the child was found.

FFIA contacts MIA and writes that on several previous occasions when they have been in contact with CCAA and the Swedish Embassy in Beijing, they have been told that there is no indication that any of the children involved in the scandal are in Sweden or that children who have been placed in orphanages inappropriately risk ending up in Sweden. The FFIA also writes that the CCAA assured that none of the children adopted to Sweden from the provinces in question had been illegally removed from their biological parents. The families had contacted the FFIA to verify the information and possibly obtain further information. FFIA had in turn contacted its representatives in China, who said that they had no way of obtaining any more information about this, that they could not access the judgment in the court case or obtain the information from Brian

¹⁰⁴MIA, email from AC to BV and FFIA, 2008-03-20, dnr 49:196:2/08.

Stuy confirmed. The FFIA therefore asked the MIA to investigate whether they could obtain this information¹⁰⁵.

Correspondence between MIA, FFIA and the Embassy in Beijing

MIA contacted the Swedish Embassy in Beijing and asked for the Embassy's assistance in providing more detailed information about what had happened, whether the information in the letter was correct, and what action the Chinese authorities had taken. no response in which they stated that "nothing would indicate that any of the children involved in the scandal are in Sweden or that children who have come to orphanages inappropriately risk ending up in Sweden". The embassy also writes that they googled and found information that Chinese mass media have on several occasions written about orphanages in Hunan being involved in the purchase of children. It also appears that prosecutions have taken place and that several people have been sentenced to longer prison terms. The embassy writes that they will probe further with embassy colleagues and get back to us.¹⁰⁷ MIA asks FFIA to find out where the information comes from, whereupon FFIA sends over the travel report from 2009 with references to what CCAA and the embassy have previously said.¹⁰⁸ MIA forwards this and notes from meetings between MIA and CCAA in 2006 and 2007 to the embassy

A few weeks later, the embassy replies to MIA. They write that, as far as they have been able to ascertain, no new information has emerged about the so-called Hunan scandal. The scandal is well known and both local and international media have described the incident. Several responsible persons had to leave their jobs and several were sentenced to long prison terms, including several members of the Duan family. As regards the reply from the Embassy dated December 14, 2005, this was the information provided to the Embassy on that occasion. Since then, other facts have emerged that completely contradict the information provided by the embassy at the time. For example, child trafficking in Hunan was discussed in detail in a meeting between MIA and CCAA on

¹⁰⁵ MIA, letter from FFIA 11-12-20, dnr 47:847:1/11.

¹⁰⁶ MIA, email to the Swedish Embassy Beijing 2011-12-23, dnr 47:847:5/11.

¹⁰⁷ MIA, email from the Swedish Embassy Beijing, 2011-12-28, dnr 47:847:7/11.

¹⁰⁸ MIA, email from FFIA with attached letter from the Swedish Embassy Beijing 2012-01-02, dnr 47:847: nr 11 and 12/11.

¹⁰⁹ MIA, email to the Swedish Embassy on January 4, 2012, ref. no. 47:847:16/11, nos. 11 and 12.

May 12, 2006, in which the CCAA informed the MIA that four children had been adopted to Sweden. The Embassy further writes that Brian Stuy and his organization Research-China.org seem to be well informed, if the information given in the "Birth Parent Search Analysis is truthful. In conclusion, the Embassy writes that they have not been able to obtain information that can confirm or contradict the credibility of the analysis in the individual case ¹¹⁰.

MIA closes the case

FFIA writes to MIA at the end of February 2012 that they have informed the families that MIA is investigating the information regarding Hunan and that FFIA is now waiting for further information from MIA. They therefore ask whether MIA has received any further information.¹¹¹ MIA replies to FFIA on 1 March 2012, referring to the Embassy's reply.¹¹² It is also stated in an official note of the same day that "FFIA is satisfied with the action taken by MIA and considers that the case can be closed".¹¹³

According to representatives of the FFIA, the CCAA wanted to examine whether there was child trafficking in the Hunan case and that the CCAA gave assurances to the FFIA that there was none in their case. What was unlawful was that the orphanages paid travel expenses for those who brought children to the orphanage. The FFIA believed the CCAA's response at the time and they have not received any other information since. There was nothing more they could do and they had to rely on CCAA. "China could not control our adoptive parents. It would have been the same thing. If they have to respect our Central Authority, we have to respect theirs when you have this kind of cooperation. You have to respect their assessments and decisions." The FFIA also believes that the MIA reacted quickly and forcefully and that the embassy handled it well. "The matter was investigated."¹¹⁴

¹¹⁰ MIA, response from the Swedish Embassy Beijing, 2012-01-11, dnr 47:847:16/11.

¹¹¹ MIA, email from FFIA 2012-02-27, dnr 47:847:17/11.

¹¹² MIA, email to FFIA 2012-03-01, dnr 47:847:18/11.

¹¹³ MIA, official note from telephone conversation with FFIA, dnr 47:847:18/11.

¹¹⁴ Interview with FFIA, 2023-09-21.

Guizho 2009 - unclear whether children adopted to Sweden are affected

As described in previous sections, in 2009 TT and several foreign media reported on a new adoption scandal in which 80 baby girls in Guizhou province in southern China were taken from their parents by local authorities. The children were adopted internationally and, according to the reports, could also have come to Sweden. A representative of AC said that it is extremely difficult to say whether any children have arrived in Sweden and that they must first find out what happened and contact the Chinese authorities. According to AC, the queues to adopt children from China are long and the pressure is great. The rules in China are very strict and most children who are put up for adoption are "foundlings" who are carefully investigated. The AC representative says that it is not just taking children, but it is clear that there are always people who break the law ⁽¹¹⁵⁾.

The day after the publication, the Norwegian Central Authority Bufdir contacts MIA. They refer to the latest reports from China in the Norwegian media and ask if MIA knows anything further.¹¹⁶ MIA replies the same day that they currently know nothing more than what is reported in the newspapers and that MIA will ask the Swedish Embassy in Beijing to investigate further.

MIA requests information on the number of children adopted from Guizhou and whether adoptions can be linked to child trafficking

Correspondence then ensues between the MIA and AC, BV and FFIA in which the MIA requests information on the number of children adopted from Guizhou through each adoption organization. AC replies to MIA that 35 children came via AC from seven different institutions in the province in question and that the children came in 2004, 2006, 2007 and 2009. FFIA replies that one child came through FFIA in 2004 and a group of six children in 2008. BV states that a total of seven children came from Guizhou through them¹¹⁸.

¹¹⁵ TT, Expressen, SR Ekot, 2009-07-02.

¹¹⁶ MIA, email from Bufdir 2009-07-03, dnr 72:426:1/09.

¹¹⁷ MIA, email to Bufdir 2009-07-03, dnr 72:426:2/09.

¹¹⁸ MIA, correspondence with AC, BV and FFIA 2009-07-02, dnr 72:426:3/09, 72:426:5/09, 72:426:6/09.

In the correspondence, FFIA provides further information to MIA, AC and BV on the adoptions from Guizhou. According to FFIA's contact person in China, information in Chinese is available on the Civil Affairs website which states that 81 children were adopted from the Zhenyuan orphanage between 2002-2009, of which 60 were adopted internationally. Of the 81 children, three came to the orphanage via the birth control office. They write that the birth control office found these three children and that the families claimed that they found the children abandoned. Civil Affairs writes that it is the birth control office that has failed in its procedures and not investigated the children properly. One of these three children is said to have been adopted to the Netherlands, the other two were not known ¹¹⁹.

MIA emails the Ministry of Foreign Affairs and the Swedish Embassy in Beijing in July 2009, enclosing recent articles in the Swedish and foreign press and requesting the Embassy's assistance in obtaining more detailed information about what happened, what measures the Chinese authorities took and whether any of the children in question were adopted to Sweden.¹²⁰ The Swedish Embassy replies to MIA on July 6, 2009 that they are investigating the matter with the Chinese authorities and will get back to them as soon as they can.¹²¹ On July 14, 2009, the Embassy replies with the message that according to the CCAA the matter is under investigation and that the countries concerned will be kept informed.¹²²

MIA receives questions from the Dutch Central Authority and from two individuals

On September 30, 2009, the central authority of the Netherlands (Ministry of Justice) contacted the MIA and informed it that the Dutch Parliament would be holding a debate on international adoptions from China and Ethiopia on October 6, 2009. They therefore asked for information on cooperation between Sweden and China and whether Sweden had also received information about "misuse or abuse of the adoption procedure" in China.¹²³ The MIA replied that it had received media information about Chinese children being sold for adoption and that

¹¹⁹ MIA, email from FFIA, 2009-07-03, dnr 72:426:9/09.

¹²⁰ MIA, email to the Ministry of Foreign Affairs and the Swedish Embassy in Beijing, 2009-07-03, dnr 72:426:4/09, dnr 72:426:8/09 and dnr 72:426:10/09.

¹²¹ MIA, email from the Swedish Embassy Beijing, 2009-07-06, dnr 72:426:11/09.

¹²² MIA, email from the Swedish Embassy Beijing, 2009-07-14, dnr 72:426:12/09.

¹²³ MIA, email from Ministry of Justice Netherlands, 2009-09-30, dnr 72:607:1/09.

the matter is under investigation under the CCAA and that the countries concerned are informed of it.¹²⁴

MIA is contacted on October 8, 2009 by two individuals. One of them writes that she has been informed that the Dutch Parliament has held a debate on illegal adoptions from Hunan province in China. She writes that it has been stated that several of these children probably ended up in Sweden and that the Norwegian Adoption Authority has carried out an investigation in which it was found that none of the children from Hunan Province were adopted to Norway. The person has searched for information on MIA's and AC's websites but has not found any information and therefore wonders if MIA knows anything about this.¹²⁵ In the archive material there is a note that the question has been answered by telephone, but it is not clear what MIA said. In the answer to the second person, MIA describes what they and CCAA have done in the case. They also write that the MIA will attend a meeting of European central authorities and inform themselves about what has happened in the Netherlands and c o n s u l t with the authorities of the other countries concerned.¹²⁶ However, we have not found any archive material from the meeting with the central authorities.

The then Director General of the MIA says in an interview that the MIA had ongoing exchanges with, among others, the Central Authority in the Netherlands, but she does not recall that they had contact regarding the adoptions from China and that the issue was discussed in the Dutch parliament.¹²⁷

AC, BV and FFIA visit China in October 2009 and ask CCAA questions about child trafficking

In October 2009, AC, BV and FFIA visit China. They meet with the CCAA and ask a supplementary question regarding child trafficking discussed in the media. According to the trip report, the CCAA points out that the media has blown up the events disproportionately, that there is no justice, and that the orphanages and provincial authorities accused have done their job according to Chinese law. Although China has a well-functioning legal system, illegal activities by criminal individuals can occur. This is not unique to China, but occurs

¹²⁴ MIA, email to Ministry of Justice Netherlands 2009-10-02, dnr 72:607:2/09.

¹²⁵ MIA, email from individual, 2009-10-08, dnr 72:426:14/09.

¹²⁶ MIA, email to individual 2009-10-09, dnr 49:625:2/09.

¹²⁷ Interview with the then Director-General of the MIA on June 24, 2024.

in most countries in the world, according to the CCAA. China has dealt with the offenders according to Chinese law. The CCAA assures that none of the children adopted to Sweden from the provinces in question have been illegally removed from their biological parents. The CCAA has the best interests of the child at heart and prefers direct communication with its partners and not rumor-mongering via the internet or media. The CCAA advises the organizations to tell the families who have been worried that they can trust that the information they have received from the children's homes about their children is correct.¹²⁸ We do not see that the Swedish adoption organizations ask any further questions about this.

The archive material also contains an official note by the MIA from a telephone conversation with the FFIA. It appears that in connection with the Swedish adoption organizations' visit, a representative of the CCAA had said that the CCAA had been in contact with the relevant embassies and informed them of the events in Guizhou. The person was offended and angry that the adoption organizations raised the issue of child trafficking at the meeting.¹²⁹ There is also a note from a conversation with BV about the same event. It appears that the representative of the CCAA said that the CCAA had informed the Swedish Embassy sufficiently. Criminals exist in all countries and the CCAA believes that China has been sufficiently clear in showing that measures are taken and criminals are punished in the cases that have come to light. The countries that received these children have been contacted and Sweden is not one of them.¹³⁰

Swedish Embassy informs MIA that they are not going any further in their investigation

MIA writes in an official note that the Swedish Embassy in Beijing contacts them on October 22, 2009 and informs them that AC, BV and FFIA have just visited the Embassy and informed about the meeting with CCAA. The Embassy informs the MIA that they cannot go any further in their investigation and that they will have to rely on the answers CCAA has previously given to the Embassy and now to the adoption organizations.¹³¹ It is not clear from the archival material what the MIA responds to this or whether the MIA takes further action. In the supervision reports for AC, BV and

¹²⁸MIA, Joint travel report for the Adoption Center, Friends of Children and FFIA's trip to China in October 2009, ref. 64:165:20/09, ref. 64:320:2/09, ref. 64:178:5/09.

¹²⁹MIA, Telephone conversation with FFIA 2009-11-06, dnr 61:506:6/09.

¹³⁰MIA, Official note, dnr 61:391:8/09.

¹³¹MIA, Official note, 2009-10-28, dnr 72:426:15/09.

However, the 2009 FFIA states that "The latest information from the CCAA is that none of the children concerned have been adopted to Sweden."¹³²

New reports in 2012 and 2013 on trafficking of Chinese children not clarified by MIA

In April 2012, the MIA again contacts the Embassy in Beijing, citing new reports of trafficking rings making money from the sale of newborn babies. MIA writes to the embassy that it seems to be something else than the previous so-called "trafficking ring".

Hunan scandal and that the MIA would like the embassy's help with more detailed information about what had happened, connections with inter- national adoption and whether there is information that any child has been adopted to Sweden.¹³³ The archive material does not document any response from the embassy, but only a note by the MIA "not answered". It is not clear whether the MIA makes any further inquiries.

In 2013, Bufdir contacted MIA and the Danish National Social Appeals Board, among others, regarding an article in *Aftenposten* about 92 children being rescued from traffickers in Sichuan and Yunnan provinces in China. Bufdir writes that the information is serious and they therefore ask how the MIA assesses the information.¹³⁴ In the archive material, there is a response from the National Social Appeals Board in which they write that they understand that the all related to child trafficking within China. However, they have asked the Danish Embassy in Beijing to investigate the matter. The National Social Appeals Board later replies that the Danish Embassy says that they have no reason to believe that it concerns children adopted internationally.¹³⁵ On the same day, MIA emails the Swedish Embassy in Beijing to ask about the Norwegian news article and whether the Embassy has more information.¹³⁶ The Embassy replies that they have no further information¹³⁷, to which MIA also replies to Bufdir and the National Social Appeals Board. MIA notes in the correspondence that the National Social Appeals Board appears to have obtained what can be obtained in this situation¹³⁸

¹³² MIA, Supervision reports 2009, 2009-12-18, ref. 67:554:12/09, 67:569/09 and 67:570:21/09.

¹³³ MIA, email to the Swedish Embassy Beijing, dnr 73:254:1/12.

¹³⁴ MIA, email from Bufdir, 2012-09-30, dnr 4.3.1:613:1/13.

¹³⁵ MIA, email from the National Social Appeals Board, 2013-10-11, dnr 4.3.1:613:3/13.

¹³⁶ MIA, email to the Swedish Embassy Beijing, 2013-10-11, dnr 4.3.1:613:4/13.

¹³⁷ MIA, email from the Swedish Embassy Beijing, 2013-10-14, dnr 4.3.1:613:7/13.

¹³⁸ MIA, email to Bufdir and the National Social Appeals Board, 2013-10-16, ref. no. 4.3.1:613:8/13.

7.7.4 Unclear donations to Chinese orphanages

As described in previous sections, donations to orphanages were part of the Chinese adoption process. The donations of foreign adoptive parents were important to the orphanages and a key driver of child trafficking in the Hunan scandal, among others.¹³⁹ The number of orphanages involved in the intercountry adoption program increased from around 30 in the early 1990s to around 300 in the mid-2010s.

According to FFIA, the donation was mandatory, you could not proceed in the adoption process unless you paid a donation to the orphanage. The donation had to be paid in cash directly to the orphanage by the adoptive family when they received the child. The families had to carry the money from Beijing to the orphanage in the province where the adoption was to take place.¹⁴⁰ This was later changed so that the donation was paid to the central authority and then transferred to the orphanage in the province. However, it is unclear when the change was made, possibly from 2007. FFIA believes that the Chinese donation system was the fairest compared to other countries because all recipient countries and organizations paid the same fee.

Initially, the Swedish adoption organizations did not see the donations themselves as a problem. The problem was rather that the adoptive families had to travel around with large amounts of cash. According to FFIA, the families and the Swedish adoption agencies were initially allowed to visit the orphanages and could see that improvements were being made for the children. FFIA says this made them feel confident that the donations were going to good causes. However, after the BBC documentary on the Chinese orphanages was broadcast in 1996, China limited the opportunities to visit the orphanages and thus also the opportunities to see what the donations went to⁽¹⁴¹⁾.

¹³⁹ N. Cantwell (2017) pp. 56-57.

¹⁴⁰ Interview with FFIA representative, 2023-09-21.

¹⁴¹ Interview with FFIA representative, 2023-09-21.

Is the donation paid per child mandatory or voluntary?

In 2002, the NIA traveled to China together with the Intercountry Adoption Commission and a representative of the Ministry of Social Affairs. It appears from the NIA's travel report that the donation of USD 3 000 included in the adoption fee was discussed extensively at the delegation's meetings with various stakeholders. It appears that the Swedish stakeholders' view was that the donation was mandatory, while the Chinese stakeholders believed that it was voluntary. The travel report shows that the CCAA says that the donation "is completely voluntary and it is paid to the orphanage without intermediaries or via China Travel Service (CTS). The money will be used for the children who remain at the orphanages for their care, subsistence and education. However, the service fee of USD 365 to the CCAA is mandatory." The Ministry of Civil Affairs also claims, according to the travel report, that the USD 3 000 donation included in the adoption fee is voluntary.

On the other hand, an older or disabled child may mean a lower fee. The Ministry also points out that the State cannot and has never been able to decide on a change in the recommended amount because it is a voluntary donation. They refer to the Donation Law in China, which regulates who can receive donations. According to the law, only orphanages and welfare organizations are allowed to receive a donation and not the CCAA.

The delegation also visits orphanages and asks questions about the donations. According to the travel report, the orphanages say that the parents make the donation to the orphanage either before or usually after the child is handed over. The donation is paid in cash or deposited in the orphanage account. The money goes towards the care of the child. When asked directly, orphanages say that the donation is voluntary and that parents can adopt even if they do not make a donation. If the adopted child is disabled, the adoptive parents can agree with the orphanage to pay a lower donation. The Swedish side emphasizes that it is inappropriate for parents to hand over cash to the orphanage in connection with adoption. The orphanage says that the banking system is not sufficiently developed to be able to send the money to an account and that other countries also hand over donations in cash.

NIA summarizes in the travelogue:

The issue that raised the most discussion during the meetings with the CCAA concerned fees and donation. The CCAA clearly stated that the State bears the costs for all children in the orphanages and that the donation of USD 3 000 included in the adoption fee is voluntary. In contrast, the adoption organizations have definitely not been informed that this is a voluntary donation, but that it is a prerequisite for the adoption to take place. This is how the NIA has always understood this cost as well. This leaves many questions: Why does the CCAA say and the Ministry of Civil Affairs that it is voluntary, how is the money accounted for in the orphanage's accounts (the money is usually paid in cash), how was this money decided upon in the first place,¹⁴² etc.

When the Swedish adoption organizations visit China in 2008, they write in the trip report that the fee of USD 3 000 has remained unchanged for many years. The orphanages are unhappy about this because the value of the dollar has fallen sharply against the Chinese currency, while prices have risen. This means that the orphanages are finding it difficult to keep going. The CCAA is aware of the problem, but does not have the power to increase the fee as it is a so-called "voluntary donation".⁽¹⁴³⁾ In the same year, BV announces that it has paid a higher fee (USD 5 000) for two adoptions in Shangdong province. According to BV, provinces can increase the fee and different provinces can have different care fees. BV has advised its families to pay the requested fee in order not to suffer during the adoption journey. The issue has been checked with AC and FFIA who have stated that they will not pay any increased fees unless notified in writing by CCAA.¹⁴⁴ In a reply to a Danish adoption organization, AC, BV and FFIA write that CCAA cannot increase the fee but that adoptive families may pay more if they wish.¹⁴⁵ In December 2008, CCAA announces that the donation fee is increased to USD 5,000 and they write

In order to better demonstrate the noble spirit of "love beyond borders" embodied in international adoption, we hereby call for all adoptive families who care about the well-being of children living in China's social welfare institutes to offer more care and support.¹⁴⁶

¹⁴² NIA, Travel report of the NIA visit to China and Thailand, June 15-26, 2002, No 74:452/01.

¹⁴³ MIA, Travel report for AC, BV and FFIA from trip to China April 19-28, 2008, ref. 64:121/21/08 and 64:266:4/08.

¹⁴⁴ MIA, correspondence on health care fees, dnr 64:98:6/08.

¹⁴⁵ MIA, 2008-05-29, dnr 64:338/08.

¹⁴⁶ Material from FFIA. CCAA, A letter to adoption agencies and adoptive families, December 2, 2008.

We do not see from the archive material that the supervisory authority or the adoption organizations have questioned the appropriateness of the applicant paying a lower fee for a disabled child. FFIA confirms that the same amount of donation did not have to be paid for a disabled child or for an older child. Nor do we see that the Swedish operators have questioned the donation fee or considered the donation as voluntary. It continued to be paid until 2018. Only in the MFoF's supervision report for 2018 does it appear that the authority investigated the risk of corruption in China's voluntary donation system during the year. MFoF has also initiated a supervision case on the reported care costs of adoption organizations in China. According to the supervision report, cooperation contacts in China and adoptive parents are informed that donations are not permitted under Swedish law. According to the report, the adoption organizations should provide feedback if they see problems when donations are not paid, or if there are requests to pay donations ⁽¹⁴⁷⁾.

In the same year, 2018, the Chinese Central Authority announces that the donation or care fee will be removed. According to the CCCWA, this was because the care fee was defined as a voluntary donation, which the Swedish families could not pay.¹⁴⁸ However, the AC wrote in an authorization application that the care fee was removed as part of adapting adoption activities to the intentions of the Hague Convention.¹⁴⁹ As of 2019, Swedish adoptive parents have not paid donations in China.

What are donations used for and how are they controlled?

Another issue for the Swedish actors has been what the donations are used for and how they are controlled. The MIA writes in its 2007 mission report that during its 2004 mission it found that the orphanages seemed to be dependent on income from adoption activities¹⁵⁰

¹⁴⁷ MFoF, Supervision report 2018, dnr 3.3.6:18/18.

¹⁴⁸ MFoF, dnr 3.1.2 1150/19.

¹⁴⁹ MFoF, Application for authorization for China, to close two pending cases, dnr AD 2021-876.

¹⁵⁰ MIA, Report of the MIA study and inspection mission to China, March 6-17, 2007, ref. 74:634:59/06.

Donations taken up by FFIA during visit to China

The purpose of the donations is discussed when FFIA visits China in 2004. A representative of Civil Affairs in Guangxi Province tells FFIA that Sweden and China have the same goal regarding the purpose of the donations - that they should benefit the children, which has been the case so far. Civil Affairs and the Adoption Registration Office monitor the use of the donations, but it is the orphanages that handle them. It is possible to specify what the donations are used for¹⁵¹

MIA receives questions from an adoptive parent about the donations

In 2008, MIA is contacted by a person who adopted two children from China. She points out Brian Stuy's blog and writes that she has asked FFIA if they know of any follow-up to the donation of 30,000 Swedish kronor that the Chinese orphanages receive for each adopted child. She has read on the CCAA website that the orphanages must provide a receipt to those who paid the donation and inform what the donation is used for. Donations may only be used for the care of abandoned children remaining in the orphanage. The orphanages must be available for supervision. However, she has received the answer from FFIA that the families always receive a receipt that the donation has been paid, but that FFIA is not aware that they have received any specification of what the money has been used for. According to FFIA, both FFIA and MIA have asked for this and CCAA has said that they will review how to improve monitoring. FFIA writes in its response that it is important to handle issues that may be perceived as critical of the CCAA's work carefully so as not to disrupt a well-functioning collaboration. The person therefore wonders whether the MIA has had contact with the CCAA regarding the donations¹⁵².

The MIA replies that they and the former NIA have had an ongoing dialogue with the CCAA and that during their inspection visit to China in 2007, the MIA raised the issue of accounting for donations to orphanages. The MIA was informed that the orphanages are required by law to use the donation money for the children. According to MIA, an annual report is written on how the donation money is used. The report is reviewed by Civil Affairs

¹⁵¹ FFIA, Travel report for visit to China, November 2004.

¹⁵² MIA, email dated 2008-01-30, ref. 41:76:1/08.

Department in cooperation with the Auditing and Financial Department, which carries out spot checks. The CCAA is working to make the accounting system more transparent and to give families a more detailed account of how the money is spent¹⁵³.

We have not seen any annual reports on the donations in the archive material, and in interviews with officials it has not emerged that they have seen any such reports. In an interview with some adoptive families, they said that they had been informed that the donation would go towards the child's care for the time the child was in the orphanage. One of the families had heard that the orphanage was in need of a washing machine and found it strange that the orphanage could not buy it with the donations they received. The families received some kind of proof from the orphanage that they had paid the donation but no further information on what the donation was used for.

7.7.5 Swedish actors have not questioned that children are abandoned and lack background information

The Chinese authorities have made it clear that the children will not be able to trace their origins

The right of children to their name, identity and knowledge of their origin is enshrined in both the CRC and the 1993 Hague Convention.¹⁵⁴ As described in previous sections, children adopted from China have been described as abandoned. In the trade in children in Hunan, the children's documentation had been falsified to make it appear that the children were abandoned. This has also been highlighted by DN in its reports on China in the series "Children at any price"⁽¹⁵⁵⁾.

Apart from the case of the Hunan scandal, our review of the archival material has not revealed any specific cases of falsified or incorrect information in adoptions from China. Such facts often only come to light when individual adoptees are reunited with their original parents and can compare the information. A fundamental problem in adoptions from China is that there is very little background information on the children, which seriously affects the

¹⁵³ MIA, email dated 2008-02-07, dnr 41:76:1/08.

¹⁵⁴ Articles 7 and 8 of the Convention on the Rights of the Child, Article 30 of the 1993 Hague Convention and Chapter 4, Section 23 of the FB.

¹⁵⁵ DN, 2021-02-21, 2021-06-19, 2021-06-23 and 2021-11-21.

makes it difficult for adoptees to trace their origins. The Swedish actors have been aware of this since the agency started in the early 1990s. Since the Swedish adoption organizations have not been allowed to have direct contact with the orphanages, it has been difficult to check how the orphanages have investigated the children's background.

When the FFIA started to provide adoption services in China in 1993, they described that the children were mostly abandoned girls from rural areas. The children were left outside the police station and the police took them to an orphanage or they were abandoned by the mother immediately after birth in hospital. Children could also be left on the street or outside the orphanage.

Often the children had small notes in their pockets with information about when they were born. However, no name was ever given.¹⁵⁶ It is also described that the orphanages kept a name book in which the children's names were entered. All children born in the same year were given the same surname. This always came first. A surname could be the town where the orphanage was located. The staff at the orphanage chose a nickname, which always came last. This name had to fit the child's characteristics and appearance.¹⁵⁷

During the 2002 MIA mission, the CCAA explained that there could be many reasons for the abandonment of children, including population constraints, social and economic difficulties for the parents in caring for their child, or the child having serious illnesses that the parents could not cope with. Every effort was made to find the parents. The documents would include a letter from the person who found the child with information about how it happened or a document in which the police described what the finder had told them in detail. Public Security would confirm this. The CCAA said that it would often be impossible for adoptees to find the biological parents because there was no information.¹⁵⁸

One adoptee we spoke to said that on her return to China she visited the CCCWA to obtain her adoption file, which contained documents not given to her adoptive parents at the time of her adoption, describing who had found her and where. There was no information about her original parents. On her next return to China, she sought out the man who found

¹⁵⁶ NIA, Travel report for the FFIA trip to China May-June 1993, dnr 72:455/93.

¹⁵⁷ A-C Gudmundsson et al, (2015) p. 171.

¹⁵⁸ NIA, Travel report of the NIA visit to China and Thailand, June 15-26, 2002, No 74:452/01.

her. He said that he and a police officer found her in a small town and falsified the documents so that she would end up in a good orphanage in a bigger town in the province. The man had tried to adopt her but could not because he was single. The man's brother, who already had a child, was also not allowed to adopt. When the adoptee asked the CCCWA why the document was not in the adoptive parents' file, the agency simply waved the question away. According to the adoptee, it is common for documents to be missing from adoption files from China.

Even if the Swedish actors saw it as problematic that the children from China lacked background information, it does not appear from the archive material that there was any discussion about the suitability of placing children from China. Nor can we see that the Swedish actors have discussed or problematized the difficulties of ensuring how the children became available for adoption. Representatives of BV say in an interview that the one-child policy was probably one of the reasons why the children were available for adoption, as for a period there were only girls in the orphanages, but that there were also other reasons why the children were left. The starting point for the placement was that the children were in orphanages and that they had the right to grow up in a family. According to BV, the format of the background reports was similar but the content was different. In connection with return trips, where the adoptees visited the orphanages, there could be photos and additional information that the family could then see. BV cannot answer why, in these cases, this was not included in the documents that the family received when the child was adopted. BV has searched various locations in connection with return journeys, such as a rubbish dump, a market, outside an orphanage or a police station.¹⁵⁹ AC representatives say that they did not question that China had children who were abandoned anonymously and had unknown backgrounds. They trusted the Chinese authorities. It is only afterwards that problems with this have emerged.¹⁶⁰

¹⁵⁹ Interview with BV 2023-10-16.

¹⁶⁰ Interview with AC 2023-05-15.

Our review of adoption files

We reviewed a total of 97 files for adoptions from China mediated through AC, BV and FFIA during the period 1993-2017.

The file review shows that all children in the sample are described as abandoned. The only exception is a relative adoption that was carried out through AC. The files state that the child is "abandoned", "found abandoned" or found to be abandoned". From 2000, some files state that the child is "abandoned baby definitely", "definitely an abandoned baby" or "really and abandoned child". It is difficult to determine what this means and what it means for the children who are only listed as "abandoned", but for various reasons it seems to have been considered important to clarify that the children were really abandoned. Children are almost always handed over to orphanages on the day they are found.

About 90% of the children in the sample are girls and about 10% are boys, which is in line with the general picture of intercountry adoptions from China. All children in the sample placed before 2006 were girls. After 2006, about one third of the children are boys. The date of birth is given in about 90 percent of the files reviewed, but because the children are listed as over-given, the date of birth is usually estimated. For a small proportion (just over 10 percent), the file shows that the child had a note with them when they were found, stating the date of birth or information about birth weight or name. Sometimes the child also had clothes, coins or a baby bottle with them. The children were on average 28 days old when found, up to 60% were less than a week old and just over 30% of the children were one day old. This pattern is consistent with the data found in child trafficking in Hunan, where the vast majority of children were infants and girls. However, this does not necessarily mean that the children in the sample were therefore part of the child trade. Birth certificates are found in 92% of the files. The children were on average 18 months old when they arrived in Sweden, the youngest being five months old. There is always a health description of the children in the files. Of the total number of files, a quarter of the children have special needs. From 2007, just over 60 percent of the children have special needs, from 2009 the figure is 75 percent.

Around 90 % of the files reviewed indicate where the children were found. The children come from different provinces in China, but most children come from Jiangxi province (13% of the children in the sample)

and Hunan (12%), followed by Guangdong, Guangxi and Shaanxi. A comparison with the Wuhan University research study on child trafficking¹⁶¹ shows that children have been trafficked from all the provinces mentioned in the study except Fujian. In addition, there is Hunan province where child trafficking has been identified. Overall, almost half of the children have been found in one of the provinces either highlighted in the research study or in the two provinces where child trafficking was uncovered (Hunan and Guizhou). The adoptions from Hunan province have taken place between 1993 and 2015, but most children from Hunan have been adopted between 2002 and 2006, when child trafficking was ongoing.

Almost all the files reviewed contain information on when and the place where the children were found. Most commonly, they were found at the entrance to an orphanage (just over 20 percent of the files), but also at the entrance to hospitals or near train and bus stations. The fact that the children were left at orphanages is interesting if you look at the research study from 2004 in which biological parents who had abandoned their children "naturally" said that they avoided leaving the children in places where the parents risked being discovered, such as at orphanages. This could indicate that the information is fictitious, but it does not necessarily mean that the children were part of child trafficking. We can

otherwise, there are no clear patterns for different provinces or different time periods in terms of where children are found.

It is not equally clear who found the child. This is only stated in just under half of the files we reviewed. Often it is stated that the local police have delivered the child to the children's home, but it is not clear who found the child and delivered it to the police. When such information is given, it is most common that it is a staff member at the children's home or a resident in the area who found the child.

In all the files we have examined, the reason for adopting the child is in all cases that it has been abandoned. Recurring statements are that "the child was found and the birth parents could not be found" or "the child's natural parents is not found". When an abandoned child was found or handed over to an orphanage, the responsible authority at provincial level would advertise for parents and relatives.

If the searches did not yield any results, the authority carried out an investigation in order to declare the child abandoned. An abandonment explanation is found in 66% of the files examined. From 2010 onwards

⁽¹⁶¹⁾ Z. Wang et al (2018), pp. 254-260.

The certificate of abandonment states that "the child's natural parents and her relatives are nowhere to be found" or "we have tried hard to find the child's parents and relatives for two months, but failed". However, there are no more detailed descriptions of what efforts have been made to search for the child's parents or relatives. Copies of advertisements are only found in 8 percent of the files.

In 90% of the files, it is the orphanage (SWI) that investigated the child's background. In no file is there a written decision that the child is available for adoption or that the authorities sought a national solution before international adoption. In all cases, the matching of children and applicants was done by the Chinese central authority.

Just over half of the files state who was the child's guardian before the adoption decision was taken in China. In all cases, it was the director of the orphanage or a "legal representative" who also came from the orphanage.

All files contain an adoption certificate corresponding to an adoption decision issued by a Notary Public Office in China. Until 2008, the adoption is also decided in a Swedish court.

After 2008, a Hague Certificate is issued and the adoption is automatically approved in Sweden. Hague Certificates are available in all files after 2008.

Only in less than 10% of the files is there a so-called donation certificate. It states that the donation fee was 35 000 yuan (or 3 000 USD).

In our file review, we have noted that there is contradictory information in about one in ten files from China, which may indicate that some information is false or at least incorrect. This includes information on who was involved in delivering the child to the orphanage. In one example from Hunan province, the growth report states that Guangchang police station sent the child to Shaoyang SWI (i.e. the orphanage), while the abandonment certificate states that a resident of Shaoyang city found the child and that the Square public security station of Shaoyang city sent the child to Shaoyang SWI. In the files from China, we have also seen some examples of the place of birth being unknown according to the birth certificate, while the place of birth is stated in the medical report. There are also different information about when the child was found and delivered to the orphanage.

The overall picture from the file review confirms the picture of adoptions from China: that the children are described as abandoned and that there is very little information about the children's background beyond the facts at the time they were found. Although the file review cannot say anything about the extent of irregularities, it shows several factors that may pose a risk that the children have not been made available for adoption in the right way. For example, all children are described as abandoned and there are no facts about the children's background before they were found. Another risk factor is the process whereby orphanages, which have clear financial incentives for international adoptions, investigate the background of the children and are the actor that decides whether the children are available for adoption.

7.7.6 Information on irregularities has also emerged in the processing of authorizations for China

Authorization granted until 2019

There have been reports of irregularities in connection with the supervisory authority's review of country authorizations for China for AC, BV and FFIA. Our review covers authorizations from 2005 onwards. We can see that the supervisory authority has developed the authorization assessment over time. The authority generally asks more questions of adoption organizations and collects more information from various actors. From 2009, MIA also starts to make a more formal consultation request to the Swedish Embassy in Beijing. However, as there is no decision memorandum or similar in the files, it is not clear what considerations the supervisory authority made before deciding on authorization. What we do know is that the supervisory authority continued to grant authorization until 2019 despite information about child trafficking. Both the then Director General of the MIA and the AC explained this by the fact that China ratified the 1993 Hague Convention in 2007 and took action in response, that domestic adoptions in China gradually increased thereafter, and thus the adoptions of young healthy girls ceased. The children adopted internationally thereafter were instead children with special needs.

needs.¹⁶² According to the AC, the human and child trafficking data that emerged from 2009 onwards concerned illegal national adoptions and related mainly to newborn boys. However, the latter is not evident from the AC's archival material. According to the AC, they concluded, as they believe other adoption organizations and regulators around the world did, that the measures taken by China in response to the Hunan scandal were sufficient to prevent a similar occurrence. There was no longer any basis for terminating the adoption agency, so the AC and all others continued to cooperate with the CCAA. AC believes that irregularities, crimes and rogue actors can occur in all areas of society. According to AC, regulated international adoptions are possible even in countries where human trafficking occurs¹⁶³.

The Swedish Embassy and ISS have on several occasions pointed out that there is child trafficking in China

We cannot see from the archive material that the MIA has received or taken in any specific evidence of irregularities in connection with the authorization process for China up to 2009. However, the agency has received such information in connection with the handling of the Hunan scandal, among others. Nor can we see that the organizations raise any problems or risks of irregularities in their applications.

In the MIA's processing of country authorization for China for AC, BV and FFIA for 2010-2011, the MIA receives information from ISS about the kidnapping of Chinese children and that the children are sold to orphanages for inter- national adoption.¹⁶⁴ Also in the processing of authorization applications for AC, BV and FFIA for China in 2012-2013, the MIA receives information about irregularities. This time it is the Swedish embassy in Beijing that writes that they are aware that there is trafficking in children for illegal adoption, both national and inter- national. The embassy also refers to a human rights report on China, which states that trafficking in children for illegal adoption (mostly boys) occurs.¹⁶⁵ MIA also receives information from ISS, which states that

¹⁶² Interview with the then Director General of MFoF on 2024-06-11 and written comments from AC on 2024-05-23.

¹⁶³ Written comments from AC 2024-05-23.

¹⁶⁴ MIA, email from ISS 2009-11-02, dnr 61:525:7/09.

¹⁶⁵ MIA, Consultation procedure - your e-mail of 2011-09-10, dnr 61:563:3/11.

states that ISS will publish a report on "the grey zones of intercountry adoption, dealing with all types of abuses and risks in the area of intercountry adoption". ISS also refers to measures announced by the Chinese authorities to counteract "child trafficking".¹⁶⁶In the consultation with the Swedish Embassy in the authorizations for AC and BV 2014-2015 and 2016-2017, the Swedish Embassy again refers to the MR reports. The Embassy writes: "All MR reports address areas relating to children's legal protection and conditions that may be of interest to the MIA when the authority is to consider applications for continued authorization from Swedish adoption associations".¹⁶⁷For the 2018-2019 authorization period, there is a UNICEF report for China for 2016 and an ISS report "Country Situation China" from 2017 that describes child trafficking.¹⁶⁸

In the 2020-2021 authorization review, several stakeholders point to problems with child trafficking in China

MFoF includes the most extensive documentation in the processing of the authorization applications for AC and BV for the period 2020-2021. One reason for this is that MFoF cannot carry out a planned trip to China due to travel restrictions due to covid. MFoF tries to consult with the Swedish Embassy in Beijing for information about child trafficking and risks of child trafficking in China but receives no response. Instead, the authority contacted the Ministry of Foreign Affairs, which referred to the Ministry's report on China from 2019. In response to a question about measures to reduce the risk of child trafficking, the Ministry of Foreign Affairs writes that there is the example of "Shao's orphans" in Hunan province in China, which came to light in 2011. The Shaoyang family planning department had taken 14 babies illegally as "social support payments". The children had been taken to the Shaoyang Welfare Institute where all of them had been named Shao, some of them had been adopted internationally. The children were referred to in the media as "Shao's orphans" or "Shao's abandoned children". Action had been taken against 23 officials at the authorities involved. The Ministry of Foreign Affairs also writes that they have limited information that may be of importance to the investigation.

¹⁶⁶ MIA, email from ISS 2011-11-14, dnr 61:563:9/11.

¹⁶⁷ MIA, Consultation procedure - your e-mail 2013-09-09, dnr 3.1.2:518:3/13 and MIA, Consultation procedure - your e-mail 2015-09-18, dnr 3.1.2:502:3/15.

¹⁶⁸ MFoF, UNICEF (2015) *Family and Parenting Support. Policy and Provision in a Global Context*, dnr 3.1.2:640:6/17 and ISS, Country Situation China, December 2017, dnr 3.1.2:1150:46/19.

torization in China. They refer to research in this area, including the Wuhan University research study on child trafficking in different provinces. In its response to the MFoF, the Ministry of Foreign Affairs also points to "the importance of good scrutiny and close contact with relevant authorities in China".¹⁶⁹ The MFoF also contacts Brian Stuy with questions about the adoption process, the risk of child trafficking and whether China's measures against child trafficking have been effective.¹⁷⁰ Stuy responds:

Not very. The problem, as we saw in 2005, is that there is a wall between countries like Sweden, and the individual orphanages. This prevents you from doing independent research to see if there are problems. (--) You are forced to trust the central government, which has been shown repeatedly to be untrustworthy. They trust the orphanages to be ethical ("Don't ask, don't tell), so there is no way to make sure that baby-buying is not occurring. When a problem arises, like in 2005, the central government takes same public action, and then says it was all an isolated event. Until the next scandal.¹⁷¹

MFoF also contacts ISS, which responds in a long reply with references to several articles on child trafficking and trafficking

¹⁷² The CCCWA is also contacted with several questions concerning, inter alia, the risks of child trafficking, the ability of the State to control child trafficking and the effectiveness of measures against child trafficking:

Regarding the issues you raised in the mail, we attached great attention to them and made careful studies. However, we have little idea of the specific sources of the condition and problems presented, in addition, duties related to some of them fall out of our jurisdiction, therefore we could hardly give answers at this moment.¹⁷⁴

The Swedish adoption organizations end their mediation activities in China

The Swedish adoption agencies AC, BV and FFIA have expanded their agency activities in China at different times.

FFIA announced in 2013 that it would wind down its operations in China in 2014, due to the trend of fewer overseas

¹⁶⁹ MFoF, email from the Ministry of Foreign Affairs 20-05-22, dnr 3.1.2:1150/19 nr 32.

¹⁷⁰ MFoF, email to Brian Stuy 2022-05-12, dnr 3.1.2:1123:16/19.

¹⁷¹ MFoF, email from Brian Stuy 2022-05-14, dnr 3.1.2:1123:19/19.

¹⁷² MFoF, email from ISS 2020-06-05, dnr 3.1.2:1123/19, no 35.

¹⁷³ MFoF, email to CCCWA 2020-05-29, dnr 3.1.2:1150:34/19.

¹⁷⁴ MFoF, letter from CCCWA 2020-06-17, dnr 3.1.2:1150:43/19.

given children and more national adoptions. According to FFIA, it had also become more difficult to match applicants with children in the CPIS system.

In October 2020, BV withdrew its application for authorization for China following a decision by the board. The reason was that BV felt that the adoption process in China had become increasingly difficult. The children in need of international adoption had such difficulties that BV had difficulty finding families who had the resources to meet the children's needs. In practice, BV had not facilitated any adoptions from China since 2018¹⁷⁶.

In October 2020, the AC also announced that the AC's board of directors had decided to terminate adoptions from China. In view of this, the AC wanted to amend its application for authorization to include only the termination of two ongoing cases in China.¹⁷⁷In the MFoF's processing of the AC's new application, the MFoF asked the AC several questions about the risk of corruption, whether there were indications of child trafficking and whether they considered the measures taken to be effective. AC refers, among other things, to the Hunan scandal, that there has been a dialog between the Swedish and Chinese actors about this, that China has taken measures and also ratified the 1993 Hague Convention subsequently. The AC also writes "The Swedish authority has, as far as we know, since then continuously raised the issue of the risk of irregularities in the adoption of children from China with the Chinese Central Authority and the Swedish Embassy in Beijing". Furthermore, the AC writes: "CCCWA took measures to ensure that child trafficking would not occur again, including through regular inspections and training of local provincial authorities and orphanages throughout the country. Since 2019, the care fee included in the adoption fee to China was also removed. The removal of the care fee was part of aligning adoption activities with the intentions of the Hague Convention." It is not until December 2021 that the MFoF informs the AC that they intend to decide on the authorization application. MFoF encloses a list of documents on which the decision is based (including the ISS Country Situation China report from 2017 and the Ministry of Foreign Affairs' human rights report for China from 2019).and gives the AC the opportunity to comment on the documents

¹⁷⁵ MIA, FFIA Country Report for China, No 3.3.2:367:1/14.

¹⁷⁶ MFoF, Decision to cancel the application for authorization, 2020-11-04, dnr AD 2019/1123.

¹⁷⁷MFoF, dnr 3.1.2 1150/19 nr 72 and MFoF, Application for authorization for China, to close two pending cases, dnr AD 2021-876.

¹⁷⁸MFoF, Regarding your application for authorization to work with international adoption mediation in China, dnr 3.1.2:876/21.

responds that they do not intend to comment on the documents for decision.¹⁷⁹In January 2022, AC announces that they wish to withdraw their authorization.

¹⁸⁰Shortly thereafter, the MFoF informs the AC that it has rejected the authorization application.

In February 2022, MFoF contacts the Ministry of Social Affairs, the Swedish Embassy in Beijing, CCCWA and ISS to inform them that there was no longer a Swedish authorized adoption agency authorized to place children for adoption from China.

¹⁷⁹ MFoF, email from AC 2021-12-15, dnr AD 2021-876.

¹⁸⁰ MFoF, email from AC 2022-01-04, dnr AD 2021-876.

¹⁸¹ MFoF, email to AC 2022-01-11, dnr AD 2021-876.

¹⁸² MFoF, dnr AD 2021-876.

8 Irregularities in adoption activities in Poland

8.1 The mission

According to the terms of reference, the Adoption Commission is to clarify the existence of any irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to any irregularities based on the responsibilities and roles of each actor.

Poland is the country in Europe from which most children have been adopted to Sweden. Adoptions have taken place throughout the period studied, but the number was particularly high in the early 1990s. Adoption activity in Poland differs from other countries in that it started mainly through a large number of private adoptions. A large proportion of adoptions have been carried out as private and individual adoptions (about 70%). Since 1992, four authorized associations have been operating in Poland. There is no active authorization for Poland today. Today, international adoption can only be considered in cases of family reunification, kinship adoption and for children for whom families have not been found in Poland (children with disabilities or illnesses). This means that Polish children are in principle no longer adopted to other countries.

Our review of adoptions from Poland included documentation from the authorities and the four adoption agencies that mediated adoptions from Poland. We interviewed representatives of the supervisory authority and adoption agencies at various times. During a visit to Poland in February 2023, we interviewed representatives of the authorities and

and researchers and individuals. In addition, 41 private and individual adoption files between 1978 and 1999 were examined.

8.2 Assessment

The investigator's assessment: Our review shows that there have been irregularities in private and individual adoptions from Poland to Sweden, mainly during the 1980s and 1990s. These included trafficking in children and various ways in which Swedish couples circumvented the system for international adoptions. Swedish authorities have accepted procedures that have made it difficult to assess whether an adoption is in the best interests of the child. We have noted the following in particular during our review:

- Swedish couples have paid pregnant Polish women to travel to Sweden and give birth here. When the child was born, the mother placed the child with the Swedish couple and signed a certificate that she wanted them to adopt the child. The Swedish couple then adopted the child in Swedish courts. Swedish authorities have found it difficult to prevent this activity.
- Swedish men have wrongly confirmed the paternity of children born to Polish women. The Swedish man has been given sole custody of the child and later his Swedish wife has adopted the child in Sweden. Obviously incorrect paternity should not be regulated in Sweden, but according to the Swedish Tax Agency, there are a number of cases where they do not know or suspect that the paternity confirmation is incorrect.
- There have been cases of Swedish couples paying mothers, nannies and various intermediaries to adopt children from Poland.
- In the private and individual adoption files we examined, there are shortcomings in the documentation, for example as regards the child's background and how the child became available for adoption. There is no specific consent document in all the files examined. This means that it has not been possible to ensure that the adoption has been in the best interests of the child and it also makes it more difficult for the adopted person to trace their origins.

- The supervisory authority has tried in various ways to prevent both trafficking in children and circumvention of the adoption process, but it was only when Poland ratified the 1993 Hague Convention in 1995 and tightened its regulations that the problems of private and individual adoptions were reduced. From 1994 onwards, Poland required all intercountry adoptions to go through the authorized organizations of the receiving countries.

8.3 Sweden's adoption activities in Poland

Poland is the country in Europe from which the most children, around 1 675, have been adopted to Sweden. Adoptions have taken place throughout the period in question, but the number was particularly high in the early 1990s. Until 1990, there were only private and individual adoptions from Poland and a large proportion of adoptions have been private or individual adoptions (approximately 70%).¹Since 1992, four authorized associations have been operating in Poland. There is no active authorization for Poland today. Table 8.1 shows the number of children adopted by year from 1969 to 2019. During the 1960s there were just over 50 adoptions from Poland.

Table 8.1 Number of adoptions from Poland per year, 1969-2019

Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of
1969	30	1980	27	1990	120	2000	36	2010	18
1970	29	1981	21	1991	124	2001	34	2011	13
1971	48	1982	18	1992	125	2002	26	2012	15
1972	35	1983	40	1993	70	2003	25	2013	16
1973	9	1984	44	1994	50	2004	21	2014	19
1974	8	1985	32	1995	27	2005	27	2015	10
1975	12	1986	48	1996	36	2006	18	2016	14
1976	10	1987	78	1997	43	2007	25	2017	7
1977	9	1988	53	1998	37	2008	17	2018	
1978	16	1989	69	1999	37	2009	14	2019	1
1979	14								

Source: MFoF.

¹Own calculation based on the fact that the four adoption organizations have placed approximately 560 children out of a total of 1 675 children.

8.4 Background on international adoptions from Poland

8.4.1 Very few international adoptions during the communist era

International adoptions were very rare in Poland for a long time. They accounted for only two percent of all adoptions in the period 1945 to 1983. The adopters were often relatives of the child or of Polish origin.² It was not always about establishing a parent-child relationship but about improving the living conditions of the child. In the 1970s, for example, children of Jewish origin were adopted abroad because of the situation of anti-Semitic elements within the ruling Communist Party in Poland. The majority of these adoptions were to families with Polish roots living abroad³.

8.4.2 International adoptions took off as Poland opened up to the West

From 1983, as the country began to open up to the West, the number of international adoptions began to rise sharply. At the same time, it was recognized that such adoptions were not always decided in the best interests of the child. The lack of specific rules for international adoptions led to various forms of abuse, especially in individual adoptions⁽⁴⁾.

It has mainly been children who have been taken into care by social services and whose parents have been deprived of custody of the child, who have been adopted internationally. Abandoned children in Poland have been rare; most often the parents have been identified after searching the local area⁵.

⁽²⁾ M. Staszewska (2005), *International adoptions in Polish and Swedish law with special emphasis on relations between both countries*. Department of Law, School of Business and Economics, University of Gothenburg, p. 20 with reference to Tadeusz Smyczynski. *Prawo rodzinne i opiekuncze*, (Family and Custody Law). 2003, p. 547.

³ Meeting with Elzbieta Holewinska-Lapinska in Warsaw 2023-02-01.

⁴ Meeting with Elzbieta Holewinska-Lapinska in Warsaw 2023-02-01.

⁵ MIA. *Children First, BF, Trip to Poland May 20-24, 2013*, received by MIA on January 30, 2014, no. 3.3.4:208:7/13.

8.5 Actors, legislation and the Swedish adoption process in Poland

8.5.1 The role of Swedish authorities in adoptions from Poland

The NIA, MIA and then the MFoF have authorized and supervised the mediation of adoptions from Poland.

During the period 1985 to 1996, the Social Welfare Board was responsible for examining the reliability of the means of mediation the applicant intended to use for private adoption. The opinion of the NIA had to be obtained. Since 1997, the NIA, the MIA and then the MFoF have been responsible for examining the acceptability of the intermediation method for private adoption.

Initially, it was Kungl. Majt examined whether the Polish adoption decision could be approved in Sweden. From 1975 until 1976, the Ministry of Justice was responsible for approving the decisions. In 1977, the National Board of Health and Welfare took over, followed by the NIA and MIA. Since 1995, the Polish adoption decision has been automatically valid in Sweden due to Poland's ratification of the 1993 Hague Convention.

The Ministry for Foreign Affairs and the Swedish Embassy in Warsaw have assisted the Ministry of Justice, NIA, MIA and subsequently MFoF and Swedish courts with information on Polish adoption legislation. Since 2005, the MIA and subsequently the MFoF have consulted with the Embassy in Warsaw prior to decisions on authorization.

Sweden has not had an adoption agreement with Poland

In the early 1970s, there were some adoptions of Polish children to Sweden and Sweden started discussions with Poland about an agreement. However, when an agreement was ready to be signed, it was stopped due to the actions of a single Swedish adoptive family. In a memo on how to adopt Polish children, the family had described, among other things, how to exchange money in black at a much more favorable rate in Poland⁽⁶⁾.

⁶NIA. *Brief background on adoptions from Poland*. 1984-03-08. Doss 49:68.

8.5.2 The business started with private adoptions

In the latter part of the 1970s, there were not many adoptions from Poland but they increased again in the early 1980s. These were mediated by Poles living in Sweden.⁷ Adoption activity in Poland differs from other countries in that it began mainly through a large number of private adoptions. There was great pressure to adopt from Poland and many wanted to adopt directly from hospitals or by arrangement with birth mothers they had contact with. The NIA had to give its opinion in many cases on the reliability of the agency. In some cases, the NIA was able to approve, for example in the case of adoption through the Polish authorities, but in many cases the NIA had to advise against proceeding with an adoption through the agency indicated.

In the late 1980s, the Polish authorities began to require adoptions to be mediated through specific organizations in order to increase control over the activity. NIA was then contacted by a family who had adopted children from Poland themselves, and who had then helped others to adopt. The question was whether one of the Swedish adoption organizations could take over and work with the contact in question. The Family Federation for International Adoption (FFIA) and Barnen framför allt (BFA) went through the case together, reviewed the contact and discussed whether they could start a cooperation there. FFIA decided that they were unable to commit the time and resources required. BFA, on the other hand, had been experiencing a decline in adoptions for some time and wanted to expand its activities. BFA received authorization for Poland in 1992, which meant a relief for the NIA as they no longer had to give an opinion on every case concerning the contact in question⁸.

⁷ NIA. *Brief background on adoptions from Poland*. 1984-03-08. NIA 49:68/84.

⁽⁸⁾ C. Lindgren (2010), *International adoption in Sweden. Policy and Practice from the Sixties to the Nineties*, p. 116.

8.5.3 Swedish adoption organizations that have been active in the country

Since 1991, four adoption agencies have been authorized to carry out adoption agency activities in Poland.

Children first (BFA)

BFA was authorized from 1992 to 2019 and has placed 461 children from Poland. BFA cooperated with all three Polish adoption organizations. According to BFA, many of the children had special needs to a greater or lesser extent. The ages of the children ranged from one year to over nine years, and there were many sibling pairs and several siblings placed with families through BFA.

During all the years the organization was active, BFA had the same person employed in Poland who helped the Swedish families practically in the country, among other things with interpreter assistance and was, among other things, helpful both on visits to children's homes and in court hearings.

In January 2017, the Polish Ministry changed the rules for international adoption. In the autumn of 2018, the BFA Board decided not to keep families on the waiting list for adoption from Poland and then in 2019, when the authorization expired, chose not to apply for a renewed authorization.

Adoption Center (AC)

AC was authorized for Poland between 1991 and 1992 and placed 18 children. Several of these adoption cases appear to have started as individual adoptions which were eventually transferred to AC for finalization. The adoptions were carried out in cooperation with the Polish Towarzystwo Przyjaciół Dzieci (TPD).⁹The AC terminated its activities because they did not develop as it wished. The regulation of adoptions that AC thought would take place was not implemented and individual adoptions continued alongside the organized ones.¹⁰Several of the children allocated to AC for placement were difficult to place and AC did not have enough families to

⁹ NIA. Letter from the NIA to the Swedish Embassy in Warsaw, March 26, 1992, dnr 69:135/92.

¹⁰AC. *Report on adoption activities in Poland and Bulgaria*. 92-12-23. Received by the NIA on December 29, 1992, ref. 63:601/92.

could accept children with high special needs. Families who contacted AC after they stopped placing children from Poland were referred to Adoptionsgruppen Skaraborg⁽¹¹⁾.

AC applied for authorization again in 1999 but withdrew the application after a representative of the Polish state adoption organization informed the NIA that it was sufficient for a Swedish adoption organization to place children from Poland. The representative also stated that cooperation with BFA was working well.

Adoption Group Skaraborg (AGS)

AGS was authorized from 1992 to April 2000. Statistics for some years are missing, but AGS seems to have placed between 10 and 20 children per year during the authorization period, i.e. a total of around 80 children. AGS was initially authorized to cooperate with TPD, and later also with both the state and Catholic organizations.

nation. AGS had a contact person in Poland who assisted with contacts in Poland. The contact person worked at the Swedish Embassy in Warsaw. On March 27, 1999, AGS decided that the placement from Poland would cease. AGS found that it was difficult to find suitable parents for the difficult-to-place children proposed for adoption by the Polish authorities.

Frösunda Solidarity Foundation - International Adoptions

The Frösunda Solidarity Foundation was authorized from October 2002 until the end of 2003. The Foundation cooperated with the three Polish adoption organizations and had one person employed in Poland but placed only one child, an adoption which was completed in March 2003. The Foundation applied for re-authorization for 2004 but the application was withdrawn.

¹¹NIA. Official note of telephone conversation 1992-11-27, ref. ad 69/601:92.

8.5.4 Operators in Poland

Before 1994, adoptions did not have to go through an organization, but persons wishing to adopt a Polish child could apply directly to a children's home or to individuals who mediated contact with a children's home. There were regional adoption centers that mediated both national and international adoptions. Decision adoption was decided by the local courts.

In 1990, the Ministry of Health concluded an agreement with the Towarzystwo Przyjaciół Dzieci (TPD)⁽¹²⁾ organization on various forms of child care, including adoption. TPD subsequently concluded agreements with adoption organizations in other countries. However, as there was no legislation regulating international adoptions, there was still no requirement for adoptions to be channelled through the TPD.

As part of Poland's ratification of the 1993 Hague Convention, responsibility for adoptions was transferred from the Ministry of Health to the Ministry of Education in 1994¹³ and a State Adoption Agency was also established.¹⁴ Two agencies were given responsibility for facilitating intercountry adoptions: the State Adoption Agency and the TPD. All intercountry adoptions had to go through these two agencies, which meant that it was no longer possible to adopt a child directly through an orphanage. In 1998, the Catholic Adoption Organization¹⁵ was also authorized to mediate international adoptions¹⁶

In 1999, responsibility for adoptions was transferred to the Ministry of Family and Social Policy, which also became the Central Authority under the 1993 Hague Convention. In 2012, they became responsible for approving the foreign organizations that may cooperate with the Polish adoption organizations.

In 2017, the Ministry of Family and Social Policy decided that the State Adoption Agency would be responsible for keeping a central register of children in need of adoption and qualifying children for intercountry adoption. At the same time, two actors were authorized

¹²Towarzystwo Przyjaciół Dzieci was established in 1919 and was a nationwide organization working on the protection and placement of children.

¹³The Ministry of Education became the central authority in 1995 when Poland ratified the 1993 Hague Convention.

¹⁴Wojewódzki Ośrodek Adopcyjny.

¹⁵Katolicki Ośrodek Adopcyjny.

¹⁶The Catholic Adoption Organization was established by the Bishop of Warsaw in 1994 as a non-governmental organization. Before 1998, they only mediated national adoptions.

to mediate international adoptions: the State Adoption Authority and the Catholic Adoption Organization. However, due to the low number of international adoptions, in practice only the Catholic Adoption Organization mediates intercountry adoptions today¹⁷.

8.5.5 Before 1995, there were no rules on international adoption in Poland

The applicant could go directly to an orphanage

Until 1995, the Polish Family and Guardianship Code only regulated the conditions for national adoption. There were no specific rules for international adoptions, which were treated in the same way as national adoptions. The principle of subsidiarity was not applied. However, foreign applicants were required to have a connection with Poland on the part of both or one of the parties.

The connection could be:

- kinship with the child,
- holding Polish citizenship or nationality and maintaining ties with the homeland, knowledge of Polish and preservation of Polish traditions in the home,
- special merits in promoting good relations between Poland and the country where the adopters lived.¹⁸

The latter could be that the applicant had participated in fund-raising activities for Poland.¹⁹ Consent to the adoption had to be given by the child's parents unless they were deprived of custody of the child, were unknown or there were serious obstacles to obtaining consent. Consent could be given at the earliest one month after the birth of the child.²⁰ Even if paternity was established by a court, the father's consent was not necessary if he was not the child's guardian.²¹

¹⁷ Meeting with the Ministry of Family and Social Policy in Warsaw 2023-02-01.

¹⁸ MINISTRY OF FOREIGN AFFAIRS. Fax from the Swedish Embassy in Warsaw to the Ministry of Foreign Affairs on December 10, 1985, R 34 Ep.

¹⁹ NIA. Letter from the Swedish Embassy in Warsaw to the NIA on June 1, 1987, received by the NIA 1987-06-04, dnr 72:203/87.

²⁰ UD. 1985-04-04 No 58 R34.

²¹ MINISTRY OF FOREIGN AFFAIRS. Embassy of Sweden Warsaw. *Adoption legislation in Poland*. 1985-05-09 No 77 R 34.

There were regional adoption centers (county adoption centers) that mediated both national and international adoptions. There was no supervisory authority. Persons wishing to adopt a Polish child could apply directly to an orphanage or to individuals who mediated contact with an orphanage. Adoption decisions were made by the local courts²² and the NIA examined whether the Polish adoption decision could be recognized in Sweden.

In 1990, the TPD was given specific responsibility for adoptions but adoptions continued to be channeled outside their control

In the late 1980s, international adoptions increased dramatically and the Ministry of Health had to take measures to control the activity. In 1990, in preparation for Poland's ratification of the Convention on the Rights of the Child⁽²³⁾ the Ministry of Health concluded an agreement with the TPD organization on various forms of child care, including adoption. Their responsibilities mainly concerned children from the age of three. In the first instance, the child was to be adopted by a Polish family. If a suitable Polish family could not be proposed within one month, a foreign family could be considered. The TPD concluded agreements with a number of adoption organizations in other countries. The aim was that all applications from foreign adoptive parents would be made through an authorized adoption agency in order to reduce intercountry adoptions and gain control over foreign operators. However, this was not accepted by all local offices of the TPD and regional child and maternity care authorities.²⁴ As there was no legislation regulating international adoptions, international adoptions continued to be channeled outside the control of the TPD directly by the regional adoption centers. The Minister of Justice urged the courts to contact the TPD in adoption cases and find out whether they had spent enough time looking for Polish families for the child.²⁵

In a 1990 letter to the NIA, the Swedish Embassy wrote that although it should be examined in each individual case whether the child could be adopted by a Polish family, this was generally not done. If it was a good outcome

²²NIA. *Report of the NIA visit to Warsaw, February 25-28, 1991 - see also brief first report March 1991*, dnr 72:338/91.

²³ Poland ratified the CRC in 1991.

²⁴NIA. *Report of the NIA visit to Warsaw, February 25-28, 1991 - see also brief first report March 1991*, dnr 72:338/91.

²⁵Meeting with Elzbieta Holewinska-Lapinska in Warsaw on 2023-02-01.

If a national family wanted to adopt a child, the court generally approved the adoption. There were direct contacts between adoptive parents and lawyers or with the mother of a child to be given up for adoption although ultimately a court order was required for the adoption²⁶.

Poland's Supreme Court ruled that the subsidiarity principle should apply to international adoption

Poland ratified the UN Convention on the Rights of the Child in 1991 and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2005. When ratifying the Convention on the Rights of the Child, Poland made a partial reservation on Article 7 and retained the right of adoptive parents to keep the origin of the adopted child secret. This reservation was only withdrawn in 2013²⁷.

In 1992, the Polish Supreme Court issued a judgment concerning the interpretation of the Convention on the Rights of the Child in relation to Polish adoption activities. Among other things, the Supreme Court ruled that the principle of subsidiarity applied in Poland even though it was not regulated by Polish legislation. This meant that international adoption could only take place if there were no possibilities of placing the child in a foster or adoptive family in Poland. Furthermore, the Supreme Court stated that the best interests of the child must be a decisive factor in decisions on international adoption. The Supreme Court also examined the question of how the mediation of international adoptions should be organized and concluded that there should be no monopoly. In contrast, Article 20(d) and (e) and Article 35 of the Convention on the Rights of the Child required adoption agencies to be run by competent and specialized bodies working in cooperation with corresponding foreign organizations.

In response to the Supreme Court ruling, the Ministry of Education announced in 1993 that it intended to reorganize the 39 adoption centres run by the TPD. The aim was to break the monopoly of the TPD²⁸.

²⁶ NIA. Letter from the Swedish Embassy in Warsaw to the NIA of November 23, 1990, ref. 72:338/90.

⁽²⁷⁾ E. Maciejewska-Mrocze and A. Witeska-Młynarczyk (2021), *Managing the Past in the Context of (Dis)Closed Adoption in Poland*. La Revue des Sciences Sociales. 66 2021, p. 78 ff. ²⁸NIA. Letter from the Swedish Embassy in Warsaw to the NIA. *Adoption Centers*, 18 March 1993, dnr 72/195/93.

In 1994, a policy was adopted that applicants must use an authorized organization in their home country

In August 1994, the Polish Ministry of Education issued a decree stating that all international adoptions should go through the authorized organizations of the receiving countries. Applicants could no longer apply directly to regional adoption centers, but only the county adoption center in Warsaw could decide that a child could be given up for adoption abroad. First, they had to search for an adoptive family in Poland for six months. The County Adoption Centre and the TPD could only cooperate with authorized organizations abroad.

8.5.6 In 1995, rules on international adoptions were introduced

Following the call by the UN Committee on the Rights of the Child for Poland to strengthen safeguards for intercountry adoption⁽²⁹⁾, Poland ratified the 1993 Hague Convention on October 1, 1995. In addition, two provisions on intercountry adoption were introduced into the Polish Family and Guardianship Code: the principle of subsidiarity was legislated and a mandatory probationary period (contact period) was introduced.

Regional adoption centers were required to first search for adoptive parents in their region for three months. If they did not find a suitable family, they had to send the child's details to a central registry at the State Adoption Agency in Warsaw, which searched for adoptive parents throughout Poland. If the State Adoption Agency did not find adoptive parents in Poland within three months, they could qualify the child for intercountry adoption.³⁰ The length of time the authorities searched for a national solution before intercountry adoption seems to have fluctuated between years. The BFA's authorization application in 2011 and 2012 states that the local adoption authorities searched for a family for one month and the State Adoption Authority for one month, which meant that in total a national solution was sought for two months.

²⁹The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Poland*, CRC/C/15/Add.31 January 15, 1995.

³⁰MIA. Authorization decision BFA - Poland of 8 October 2007, dnr 61:502/07.

³¹NIA. Application from BFA for authorization for Poland on 29 August 2011, received by the MIA on 31 August 2011 under No 61:602/11 No 1 and Application for authorization Poland on 26 August 2012, received by the MIA on 30 August 2013 under No 3.1.2:535/13 No 1.

The 2015 application states that the total time was three to four months³².

Three organizations received authorization to mediate international adoptions

Once the State Adoption Authority qualified the child for intercountry adoption, one of the three actors (the State Adoption Authority, the TPD or the Catholic Adoption Organization) was tasked with finding a suitable foreign adoptive family for the child. This meant that foreign applicants were no longer allowed to go directly to an orphanage to adopt a child.

The court process would take place in two stages

The trial period in intercountry adoption meant that the court process would now take place in two stages. First, the court decided on a period of contact between the child and the prospective adoptive parents. After the trial period, the court assessed whether the adoption was in the best interests of the child and then made a decision on the adoption³³.

Poland wanted two follow-up reports per year for the first three years after adoption and then one report per year until the child (or youngest sibling in the case of a sibling group) reached the age of seven. If the child reached the age of seven before the end of the first three mandatory reporting years, reporting could not be stopped. Three years was the minimum reporting period for all children regardless of age³⁴.

8.5.7 A new law on family support and foster care in 2012

On January 1, 2012, a new law on family support and foster care came into force, which further tightened the control of the best interests of the child.³⁵ The Ministry of Family and Social Policy became responsible for

³²MIA. Application from BFA for authorization for Poland on 22 October 2015. Received at MIA on 23 October 2015 ref. no. 3.1.2:494:10/15.

³³NIA. *NIA informs 3.1999*.

³⁴NIA. *NIA informs 3.1999* and MIA. *Poland Country Compilation*. 2010, dnr 49:190/10.

³⁵Meeting with the Ministry of Family and Social Policy in Warsaw 2023-02-01.

to approve the foreign organizations that may cooperate with the Polish adoption organizations.

8.5.8 Today, virtually no Polish children are adopted internationally

Today, international adoption can only be considered in cases of family reunification, kinship adoption and for children for whom families have not been found in Poland (children with disabilities or illnesses). This means that Polish children are in principle no longer adopted to other countries. In 2022, there were 7 international adoptions and 2 710 national adoptions. This has remained at a similar level in recent years³⁶.

The adoption process

All 16 regions in Poland must have at least one adoption center. In February 2023, there were 64 regional adoption centers.³⁷In each region, the Ministry of Family and Social Policy appoints a regional adoption center to maintain an adoption bank. The regional adoption centres cooperate with orphanages and organizations responsible for foster care. If a child is available for adoption, information about the child is sent to the regional information bank, which searches for a family nationally. If there is no suitable family nationally, information about the child is sent from the regional information bank to the national information bank of the State Adoption Authority. The State Adoption Authority qualifies the child for intercountry adoption and sends the information to the Catholic Adoption Organization.³⁸After the Catholic Adoption Organization has found a suitable family for the child, the Ministry of Family and Social Policy issues a permit for the adoption under the 1993 Hague Convention. The adoptive parents can then submit an application for adoption to a court in Poland. There is an initial hearing where the court decides on a probationary period during which the prospective adoptive parents stay in Poland

³⁶ Meeting with the Ministry of Family and Social Policy in Warsaw 2023-02-01.

³⁷ Meeting with the Ministry of Family and Social Policy in Warsaw 2023-02-01.

³⁸ Meeting with the State Adoption Authority (Wojewodzki Ośrodek Adopcyjny) in Warsaw 2023-02-02.

with the child to ensure that the adoption is in the best interests of the child. The trial period is at least 14 days but can be longer, the court decides the time based on the circumstances of each case. At the end of the trial period, a new hearing is held where the court decides on the adoption. The court then issues a certificate under Article 23 of the 1993 Hague Convention (Hague Certificate). Once the adoption has become final, a new birth certificate is issued with the names of the adoptive parents instead of the original parents.

8.6 General information on irregularities in Polish adoption activities

8.6.1 Introduction

In this section, we review the general findings on irregularities in intercountry adoptions from Poland.

The explosion of adoptions after the fall of communism became a breeding ground for irregularities

In the wake of the fall of communist regimes in Eastern Europe, adoptions from countries such as Romania, Bulgaria, the Baltic States and Russia exploded in the early 1990s. Adoptions from Poland also surged when Poland began to open up to the West in the mid-1980s. At that time, Poland had no specific regulation for international adoptions, nor was there any authority overseeing the activity. Adopters could go directly to an orphanage to adopt a child or to individuals who put them in contact with a child. Even if a court decided on the adoption, the lack of rules and supervision became a breeding ground for illegal and unethical practices. According to the UN Special Rapporteur on the sale of children and sexual exploitation of children, the risk of irregularities increases when the number of intercountry adoptions suddenly and rapidly increases in a country of origin because the existing infrastructure cannot cope with of managing the business.³⁹

³⁹UN Report of the Special Rapporteur on the sale of children, child prostitution and child pornography. A/HRC/34/55, thirty-fourth session February 27-March 24, 2017, p. 60.

A Polish study revealed irregularities in the 1990s

The researcher Elzbieta Holewinska-Lapinska, in her thesis "Foreign Adoptions in the Practice of Polish Courts", studied international adoptions from Poland between July 1, 1992 and June 1, 1993.⁴⁰ In that year, France was the largest receiving country, followed by Italy and then Sweden (15% of adoptions were to Sweden). Her study showed that one in four intercountry adoptions was channeled through the TPD. In these adoptions, no lawyers were involved. In adoptions mediated directly from a children's home, lawyers were involved in 44% of the cases. This compares to national adoptions, where only 5% were carried out with the help of a lawyer. According to the study, there were indications that there were financial gains for lawyers in these adoptions. According to Holewinska-Lapinska, many of the adoptions contained illegal elements but that the adoptions to Sweden were correct. The reason was that Sweden had clear rules for the adoption process. The biggest problems were found in the adoptions to Italy, which required a probationary period of three years before the adoption could be finalized in Italy. Legally, the child was adopted in Poland but not in Italy, which could lead to the child ending up in an orphanage in Italy, being adopted by other people or coming back to Poland⁽⁴¹⁾.

8.6.2 There has been trafficking in children for adoption

According to media reports, Polish children have been sold to people in Western countries since the early 1990s. A healthy child could cost around USD 25 000.⁴²

In 2013, there were reports of children being sold on the internet, either openly or advertised as adoptions, with mothers looking for wealthy adoptive parents. A change in Polish law in 2010 made it a criminal offense to sell people for work, prostitution, pornography and begging, but the law did not explicitly prohibit the sale of children to another family. The typical 'seller' is listed in the

⁴⁰E. Holewinska-Lapinska (1998), *Adopcje Zagraniczne w praktyce polskich sądów*, Instytut Wymiaru Sprawiedliwości.

⁴¹ Meeting with Elzbieta Holewinska-Lapinska in Warsaw 2023-02-01.

⁴²MINISTRY OF FOREIGN AFFAIRS. Message from Reuters. Embassy of Sweden in Warsaw. *Adoption of children from Poland*, doss 72, dnr 506.

was a young woman who wanted to sell her child mainly because of social problems, unemployment and poor finances. The supply of children was so great that there were counselling services offering mediation in the purchase and sale of children. Several cases of the sale of children had been tried in court, but the courts had not been able to classify it as trafficking because of the lack of clarity in the legislation ⁴³.

8.6.3 The adoption process has been circumvented by false paternity confirmations

Nigel Cantwell⁴⁴, referring to a 2013 Polish report⁴⁵, has described how false paternity confirmations were used to circumvent the adoption process in Poland. According to the report, it was perfectly legal for a pregnant woman in Poland to advertise that she wanted to 'give up' the child in exchange for medical and other costs. After the birth, the mother claimed that the 'client' was the biological father and then relinquished custody of the child in court. According to the Polish report, only a quarter of adoptions in Poland in 2005 were mediated by an adoption center. The reason was that the adoption process was too long and demanding. In the report, the Polish Commissioner for the Rights of the Child⁴⁶ criticized that the Polish law allowed the biological mother to search for potential adopters as it encouraged illegal adoptions⁴⁷.

The fact that false acknowledgments of paternity have been a way of circumventing the adoption process in Poland is due to the fact that Polish family law does not prevent a man who is not the genetic father from acknowledging the paternity of a child.⁴⁸ There is also no verification that the man claimed by the mother as the father is the genetic father of the child.⁴⁹ Sometimes false paternity has been arranged directly between the biological mother and the prospective adoptive parents and sometimes it has been arranged through an intermediary.

⁴³ World Today. *Newborns for sale in Poland*. Published on May 13, 2013.

⁴⁴ Nigel Cantwell is a consultant in the field of children's human rights and has worked for UNICEF and the International Social Service (ISS), among others.

⁴⁵ The report is the basis for an article in The Economist: *Illegal Adoptions in Poland - Baby on Sale*. Published on 2013-07-26.

⁴⁶ Marek Michalak.

⁴⁷ Nigel Cantwell (2017), *The sale of children and illegal adoption*, p. 28.

⁴⁸ See for example the ECHR judgment of May 18, 2006 *Rozanski v. Poland*.

⁴⁹ Meeting with the Ministry of Family and Social Policy in Warsaw on February 1, 2023.

In 2019, a new law entered into force which, among other things, provides that anyone who gives or receives a child for adoption without legal process (for example, by false confirmation of paternity) can be sentenced to imprisonment for up to 5 years. The same applies to anyone who gives a child up for adoption in return for payment⁵⁰.

8.6.4 The UN Committee on the Rights of the Child has called on Poland to strengthen safeguards for international adoption

In 1995, the Committee on the Rights of the Child recommended that Poland review the 1968 Family Code with a view to improving the safeguards for intercountry adoption. The Committee also urged Poland to ratify the 1993 Hague Convention.⁵¹ In 2015, the Committee called on Poland to abolish so-called 'pre-adoption centers' for children under one year of age, avoid large care institutions and accelerate the development of family-based care.⁵² In 2019, the Committee called on Poland to develop detailed provisions on the principles of adoption, including in relation to adoption centers and intercountry adoption.⁵³

8.7 Irregularities in the Swedish adoption business and how Swedish actors have acted and behaved

8.7.1 Introduction

In this section, we review what irregularities have emerged in Swedish adoption activities in Poland, what Swedish actors knew about irregularities and how they acted to prevent or deal with irregularities.

During the Commission's visit to Poland, the consistent picture given by the authorities, organizations and officials we

⁵⁰HCCH (2021), *Questionnaire on the practical operation of the 1993 Adoption Convention. Prel. Doc. 3 of February 2020 for the Special Commission meeting in 2021*, p. 30.

⁵¹The Committee on the Rights of the Child. *Concluding observations of the Committee on the Rights of the Child: Poland*, CRC/C/15/Add.31 January 15, 1995.

⁵²The Committee on the Rights of the Child. *Concluding observations on the combined third and fourth periodic reports of Poland*. CRC/C/POL/CO/3-4. October 30, 2015.

⁵³The Committee on the Rights of the Child. *Concluding observations on the combined fifth and sixth periodic reports of Poland*. CRC/C/POL/CO/5-6. 6 December 2021.

met that the cooperation with the Swedish adoption organizations that mediated international adoptions from Poland worked very well. No person gave any examples of irregularities actually found to be linked to Sweden. Nor did our search of archives and articles give us any indications of irregularities in the adoptions mediated via the authorized Swedish adoption organizations. However, there is information that Swedish couples have circumvented the system for international adoptions in various ways and irregularities in connection with private and individual adoptions, mainly during the 1980s and 1990s. According to the historian Cecilia Lindgren, Poland managed to overcome private adoptions by gradually tightening its regulations and starting formal cooperation through Swedish authorized organizations⁵⁴.

The Adoption Authority has made four visits to Poland: 1987, 1991, 1994 and 2009. The Polish adoption organization TPD has visited Sweden on several occasions, including in 1973⁵⁵, 1982⁵⁶ and 1993⁵⁷. During MIA's consultation with the Swedish Embassy in Warsaw in 2011, the Embassy responded that they had no reason to doubt that the intercountry adoptions carried out in Poland had been carried out in accordance with current practice and in an ethically acceptable manner.⁵⁸ In 2013 and 2015, the Embassy responded that they were not aware of any irregularities concerning intercountry adoptions from Poland to Sweden.⁵⁹

8.7.2 In the 1970s and 1980s there was intermediation via individuals

In the 1970s and 1980s, only private adoptions from Poland to Sweden took place. People who wanted to adopt a Polish child could go directly to an orphanage or to individuals who mediated contact with an orphanage. According to historian Cecilia Lindgren, individual Swedes regularly acted as intermediaries and helped families find children to adopt

⁵⁴ C. Lindgren (2010), p. 160.

⁵⁵ NIA. Minutes 1973/74:1, 1973-09-21.

⁵⁶ NIA. Minutes 1982-08-24.

⁵⁷ Fax from the NIA to the Swedish Embassy in Warsaw on February 8, 1993 and reply on March 24, 1993, received by the NIA on April 5, 1993, ref. 72:60/93.

⁵⁸ MIA. E-mail from the Swedish Embassy in Warsaw to the MIA on September 20, 2011, dnr 61:602:3/11 and 61:602:4/11.

⁵⁹ MIA. Email from the Swedish Embassy in Warsaw to the MIA on September 17, 2013, dnr 3.1.2:535/13 and email on October 9, 2015, dnr 3.1.2:494/15.

in Poland. Under Chapter 7. 54 of the 1960 Child Care Act (1960:97), an individual or association in Sweden was not permitted to carry on brokering activities concerning foster children without the permission of the National Board of Health and Welfare. When the Act on International Adoption Assistance (1979:552) came into force, this also applied to persons resident abroad. With the help of reports from the municipalities, the NIA was able to obtain information on the contacts through which children arrived in Sweden. The intermediaries identified were contacted and informed of the laws and regulations that applied in Sweden. They could also be called to the NIA for an interview.⁶⁰ In our review of the archives, we have found cases where the NIA contacted individuals who acted as intermediaries between Swedish applicants and orphanages in Poland.⁶¹ In these cases, the individuals have placed five or more children. These were persons with a Polish background living in Sweden who had carried out some assistance activities towards Polish orphanages.⁶² In its annual report for 1982/83, the NIA reported that some private mediation of children from Poland seemed to occur and that the Board had written to the Polish Consulate General in the question.⁶³

The NIA and the Swedish Embassy saw no signs of irregularities in the 1980s

In 1986, the NIA wrote to the Swedish Embassy in Warsaw that there was great interest in adopting children from Poland. The number of NIA opinions on the adoption of children from Poland was greater than any other country. In 1985, the NIA gave its opinion on the reliability of the intermediation method in a total of 203 cases. In the same year, 32 Polish children under the age of eight came to Sweden. No particular problems or difficulties in connection with these adoptions had been reported to the NIA. However, concerns had been raised by some Swedish social workers that they did not feel they had sufficient insight into the placement procedure itself. The NIA therefore asked the Swedish Embassy if they had any experience of their own or if they had acted in any case

⁶⁰ C. Lindgren (2010), p. 61.

⁶¹ NIA. Letter to an individual: *Placement of adoptive children from Poland* on April 6, 1981 No 49:97/81, reply to NIA on April 20, 1981 No 49:97/8 and reply from NIA on June 9, 1981 No 49:97/81.

⁶² NIA. *Telephone notes* 1984-02-29, dnr 49:68/84.

⁶³ NIA. *Annual report of the National Intercountry Adoption Agency, NIA, July 1, 1982-June 30, 1983.*

⁶⁴The Swedish Embassy in Warsaw replied that their involvement in individual adoptions had been minimal in 1985, except for the usual visa procedure. They further wrote:

After discussions with people familiar with the situation in the country, it can be said that any fears of irregularities in the mediation process are probably unfounded. The procedure in Polish authorities and courts is time-consuming and bureaucratic, but seems to be carried out correctly. The only major cost is the lawyer's fee, which must be paid in convertible currency. It varies between 500 and 800 dollars.

According to the Embassy, it could become much more difficult in the future for foreign families to adopt from Poland, especially for those without family ties. The development of Polish social legislation had meant that most unmarried mothers had the financial means to care for their children and therefore fewer children were available for adoption. At the same time, more Polish families wanted to adopt. According to the Embassy, there were few opportunities for an "all-Swedish" family to adopt a small child. However, there was a greater possibility of adopting a child older than three years or a child with a disability ⁶⁵.

As the number of adoptions of Polish children to Sweden increased significantly, the NIA traveled to Poland in 1987. The purpose of the trip was to get a clearer picture of how these adoptions took place. Issues discussed included what investigation the court should carry out in an adoption case and the court's obligation to give reasons for an adoption order and guidelines on lawyers' fees.⁶⁶ After the visit, the NIA concluded that nothing had emerged to give cause for concern that adoptions there would not be carried out in a reliable manner. There were several authorities and organizations authorized to represent children in adoption cases.⁶⁷

⁶⁴ NIA. *Adopted children from Poland*. 1986-02-06, dnr 72:51/86.

⁶⁵ NIA. Swedish Embassy Warsaw. *Adoptions from Poland*, 1986-04-03, received by NIA 1986-04-08, 72:51/86.

⁶⁶ NIA. *Report from Kerstin Brydner's and Lars Bertil Svensson's trip on behalf of the NIA to Poland October 19-23, 1987*. 1987-11-23, dnr 72:203/87.

⁶⁷ NIA. *Delegation of matters to the NIA Secretary - supplement*. NIA meeting of January 27, 1988, NIA 9:8/88.

8.7.3 Towards the end of the 1980s, attention was drawn to lawyers charging high fees

In a 1987 letter from the NIA to the Swedish Embassy in Warsaw, the NIA reported that it had written to 53 families who had adopted children from Poland in 1985 and 1986. Of the 20 families who responded, the NIA concluded that there were lawyers who were trying to take advantage of Swedish families seeking children for adoption. The NIA mentioned one lawyer who demanded SEK 50,000 for the prospective adoptive parents to be approved by the Polish authorities. For foreign applicants, there had to be a connection to Poland on the part of both or one of the parties, preferably through kinship, but it could also be that the applicant had participated in fundraising for Poland.

The lawyer had helped the Swedish parents to show that they had been involved in aid activities in Poland. The NIA stated that they had no evidence of this happening and wondered if the Embassy had heard anything similar. NIA also asked if they could refer the families to the Embassy for suggestions of a suitable lawyer.⁶⁸ The Embassy replied that they had also heard rumors that extra payments had been made in the case of people without the necessary connection to get an adopted child. Whether the rumors were true and how much money was required, the Embassy could not say, but in light of the "abundant gift-giving" in Polish society, the Embassy considered that it was not entirely unlikely that such payments could occur. The Embassy mentioned two lawyers who might be able to help⁶⁹.

In a later letter, the NIA asked the Embassy to find out what costs were included in the 2,000 to 3,000 Swedish crowns that Swedish adoptive parents said they paid to lose their Polish citizenship.⁷⁰ The Embassy replied that it was not in a position to officially find out more about the costs involved in an adoption case. The Embassy wrote:

In a country like Poland, non-regular payments for services occur in many contexts and it cannot be excluded that this may also be the case for adoptions⁷¹

⁶⁸ NIA. Letter from the NIA to the Swedish Embassy in Warsaw, April 29, 1987. Ref. 72:203/87.

⁶⁹ NIA. Letter from the Swedish Embassy in Warsaw to the NIA on May 21, 1987, received by the NIA 1987-05-26, dnr 72:203/87.

⁷⁰ NIA. Letter from the NIA to the Swedish Embassy in Warsaw, August 7, 1987, dnr 72:203/87.

⁷¹ NIA. Letter from the Swedish Embassy in Warsaw to the NIA of August 24, 1987, dnr 72:203/87.

In August 1990, the NIA wrote to the Swedish Embassy in Warsaw that Swedish couples sometimes carried out adoptions with the help of lawyers in direct contact with children and their parents. According to the NIA, it was very uncertain whether child welfare authorities were involved in these cases at all. In such cases, the adopters were in breach of the law because the method of placement was different from that specified in their consent. Furthermore, the NIA wrote that rumors had recently circulated that lawyers in Poland had asked for very large sums of money to assist Swedish families in the adoption of children in Poland. In one adoption, a lawyer had charged a fee of USD 8 000, about SEK 50 000. In addition, the Swedish adoptive parents had paid for the biological parents' lawyer, the child's care, etc. The NIA asked the Embassy to investigate the reasonableness of such costs in an appropriate manner. The NIA also wanted to know the Embassy's view on whether the principle of subsidiarity was followed in Poland. The NIA wished to contact the Ministry of Social Affairs and Health in Poland to hear their views on the development of intercountry adoptions in Poland.⁷²In November of the same year, the Embassy wrote to the NIA that they had discussed with their lawyer a bill from a lawyer who was very well known for handling adoption cases but whose fees appeared to be very high. Medical costs would in principle not be incurred if the child was born and cared for in government hospitals. The Embassy had been in contact with the TPD, who expressed great interest in discussing the situation of Polish children with the NIA. The TPD was concerned, among other things, about the large sums known to have been paid by some Swedish couples in Poland⁷³.

NIA traveled to Poland and raised, among other things, the issue of high lawyers' fees

In 1991, the NIA went to Poland, inter alia, to clarify whether the agreement concluded by the TPD with the Ministry of Justice, Health and Education meant that adoptions could only be carried out through an authorized foreign organization or whether Poland still allowed individual adoptions. The NIA found that the ministries were aware of the agreement to varying degrees, they were not aware of the internal rule

⁷² NIA. *Adoption of Polish children to Sweden, August 15, 1990*, dnr 72:338/90.

⁷³ NIA. Letter from the Swedish Embassy to the NIA dated November 23, 1990, received by the NIA on November 28, 1990, no. 72:338/90.

adopted by the central TPD, which required all intercountry adoptions to go through an authorized organization in the receiving country. The NIA concluded that there was a lack of clarity about the role and influence of the TPD in the adoption process. There were contradictions between the central TPD and local TPDs as well as between TPDs and state children's homes and county adoption centers.

During the trip, the NIA also raised the issue of lawyers' fees in the context of its visit to the Ministry of Justice. According to the Ministry of Justice, lawyers charged fees according to a fixed tariff. The Ministry wanted information on lawyers who charged excessive fees, which was later provided by the NIA.⁷⁴ Later that year, the Swedish Embassy in Warsaw wrote to the NIA that the Polish Bar Association had opened a disciplinary investigation into the lawyer in question in connection with the fees charged.

In our file review, we have in a few cases seen what adoptive parents have paid for lawyers' fees, which in these cases have been between SEK 5 000 and 10 000.

8.7.4 In the 1990s, child trafficking in private adoptions came to light

In the summer of 1993, TT reported on a Polish woman who had been reported to the police by her neighbors. She had confessed to leaving her newborn child with a man who belonged to one of the gangs that sold children to other countries, including Sweden. The police managed to track down an intermediary who had a list of contacts linking him to child trafficking. He was suspected of working with a Canadian lawyer who procured parents. According to the prosecutor, the man was looking for mothers who had decided to give birth to their child, but who, for many reasons, mainly financial, could not take care of it. The prosecutor would not say what the children were sold for, but other government sources said that healthy boys could fetch around 200,000 Swedish crowns, while girls fetched a little less. The case was an example of a growing illegal trade in children, sold to Westerners. The head of the TPD said that no one knew the extent of child trafficking because everyone involved

⁷⁴NIA. *Report of the NIA visit to Warsaw, February 25-28, 1991 - see also brief first report March 1991*, August 1991, dnr 72:338/91.

⁷⁵NIA. Letter from the Swedish Embassy in Warsaw to the NIA of August 22, 1991, received by the NIA on August 2, 1991, dnr 72:338/91.

had an interest in keeping the business secret. She also said that she had indications that Poles living in Sweden were acting as intermediaries for women who wanted to have their children in Sweden and sell them.⁷⁶ In a later article, the NIA stated that it had rejected several primary adoption applications where the adoption costs had been considered too high. In addition, the NIA always rejected adoptions that took place through direct contact with families or hospitals in Poland⁷⁷.

Several newspaper articles in March 1994 described a case in which a Swedish couple thought they had adopted a pair of siblings from Poland but there was no legal adoption. The couple had collected the children from a Polish orphanage and paid SEK 6,000 to the director of the orphanage where the children were staying for the adoption.⁷⁸ According to a district prosecutor in Poland, the children left Poland without the family court giving the go-ahead for the adoption.⁷⁹ The NIA stated that they took the case seriously but doubted that Polish children were being "adopted out as mere commodities". The NIA stated that they had recently visited Poland and that the Polish authorities were careful to ensure that adoptions went through the courts⁸⁰.

Poland was critical of Sweden allowing individual adoptions

In February 1993, the Head of the TPD visited Sweden for a meeting with the NIA and the three Swedish authorized associations mediating adoptions from Poland. She reported on the work being done in Poland to change the regulatory system for intercountry adoptions. In this context, she stated that the TPD was the only organization that could guarantee compliance with the Convention. She was also dissatisfied that Sweden allowed adoptions without the involvement of an authorized adoption agency and argued that this was contrary to the Convention. Representatives of the NIA emphasized the control of such adoptions through the NIA and through the municipal social committees. Furthermore, the NIA pointed out that

⁷⁶ TT 1993-08-16.

⁷⁷ Dagens Nyheter. *Private adoptions stopped in Poland*. Published 1994-03-23.

⁷⁸ Expressen. *We acted in good faith*. Published 1994-03-21.

⁷⁹ Dagens Nyheter. *Polish boy questioned by Swedish police about abuse*. Published 1994-03-22.

⁸⁰ Sydsvenskan. *Fornication with Polish children investigated by the police*. Published 1994-03-22.

Sweden did not consider that such adoptions, in the manner in which they were carried out in Sweden, were contrary to the CRC.

From 1994, the NIA did not approve any individual adoptions from Poland

In an opinion on the intercountry adoption route in January 1994, the NIA informed about expected changes in Polish adoption policy. The changes meant that only the County Adoption Center in Warsaw and the TPD could mediate international adoptions. Applicants could no longer apply directly to regional adoption centers. The County Adoption Centre and the TPD could only cooperate with authorized organizations abroad. The TPD had told the NIA on several occasions that it did not accept applications from individuals but only cooperated with authorized organizations. According to the NIA, this meant that individual adoptions from Poland had to stop and that an application for adoption could only be made with the involvement of AGS or BFA.⁸² The NIA visited Poland in March 1994 to clarify the situation.⁸³ As mentioned in section 8.5.5, the Polish Ministry of Education adopted the new adoption policy in August 1994.

However, our file review shows that individual adoptions have also taken place after 1994, for example in 1998 and 1999. In several cases, Poland has made exceptions to the requirement that adoptions must take place via a Swedish authorized organization when it comes to the adoption of a sibling of a child who has previously been adopted to Sweden. The adoptive parents have then been contacted directly and asked if they want to adopt the sibling. We have also seen examples from 1998 of exceptions being made on the grounds of the adoptive parents' Polish origin.

According to NIA, a Swedish documentary on child trafficking gave a distorted picture of adoptions from Poland

In the spring of 1995, TV 3 showed a documentary "Children for sale" in which a woman wanted to sell her newborn son to a journalist from Moderna Tider for just over SEK 1 400. According to the report, lawyers were

⁸¹NIA. Fax from NIA to the Swedish Embassy in Warsaw on February 8, 1993 and reply on March 24, 1993, received by NIA on April 5, 1993, dnr 72:60/93.

⁸²NIA. *Opinion on the method of intermediation in adoption*, January 21, 1994, No. NIA 46:281/93.

⁸³We have not been able to find this travel report at the National Archives.

in Poland was a leader in the child trade, charging 15 000 to 30 000 Swedish crowns for the placement of an infant. The younger the child, the higher the price. The price also included false papers so that the adoption could be legalized in the buyer's home country. The lawyers got in touch with women who wanted to give up their children by hiring midwives. A midwife in Poland earned the equivalent of SEK 1,500 a month and could be enticed to provide information for a few thousand kronor. The journalist also called the Swedish Embassy in Warsaw and pretended to be interested in adopting a Polish child. When he asked for a lawyer somewhere in Poland who could help him with an adoption, a woman replied that the embassy had a list of lawyers. At first, she was reluctant to provide the list, saying that the list was no longer relevant because some of the lawyers on the list were not available. When the journalist asked why, she told him that two of them were in custody. The list that the embassy eventually sent by fax contained 200 lawyers all over Poland. The two detained lawyers were removed from the list.⁸⁴ A letter from the Ministry of Foreign Affairs to Moderna tider states that the list was a copy prepared by the Polish Bar Association and not a list prepared by the embassy. The fact that the embassy provided the list was purely a service measure and did not mean that the embassy vouched for the lawyers on the list.

The NIA also reacted to the program and wrote a letter to the head of the TV3 program distancing itself from the program as it gave a distorted picture of adoptions from Poland. The NIA considered that the woman who had been offered money for her child had been misled by the reporter and that it appeared that the NIA was indifferent to irregularities in adoptions. According to the NIA, it had been in contact with Poland to check that the loopholes in the legislation had been closed. According to the NIA, the program gave the impression that the children adopted to Sweden had been bought, which was not the case⁸⁶.

⁸⁴ Aftonbladet. *Sweden involved in child trafficking*. Published 1995-04-19.

⁸⁵ NIA. Letter from the Department of State to Modern Times, December 22, 1994.

⁸⁶ NIA. Letter from NIA to TV 3 dated April 28, 1995, ref. 49:151/95.

NIA alerted Polish authorities to "unclear elements" in adoptions from Poland

In 1995, NIA wrote to the Swedish Embassy in Warsaw asking the Embassy to contact the Ministry of Education and the Ministry of Justice to find out what the rules on intercountry adoption were in Poland. NIA wrote that they wanted to point out to the ministries that they were concerned that there were signs of unclear elements in adoptions from Poland and that Swedes were given different information about how adoptions should proceed. The NIA had several examples of Swedes who had consent for adoption through an authorized Swedish organization being helped in various ways to adopt by other means. The NIA considered that one way of improving control of the operation was for both countries to maintain the requirement for the involvement of an authorized adoption agency.⁸⁷ In the same year, the NIA informed the Polish Ministry of Education that Swedish families were being allowed to adopt a Polish child and bring it to Sweden before it was clear that they would be allowed to adopt the child. In one case, a court in Poland had decided that a family could bring a child to Sweden for medical care and rehabilitation. The NIA decided that the situation that had arisen meant that it was best for the child not to be subjected to a new separation and concluded that the child needed more medical care. The NIA therefore directed the adoption agency to provide adoption assistance. The NIA wished to draw the Ministry's attention to the problems that could arise when a Swedish family prematurely received a child they wanted to adopt and wanted the Ministry to draw the attention of orphanages and courts to the problems.⁸⁸

In our file review of private and individual adoption cases from Poland, we have also seen some examples of individual adoptions being carried out even though the consent only applied to adoption through an authorized Swedish adoption organization. In the file review, we have also seen examples of the child arriving in Sweden a month before an adoption decision was made in Poland.

We have also seen examples of adoptive parents choosing the child they want. In one case, the prospective adoptive parents have described that pregnant women who wish to give their child up for adoption contact the Polish organization and agree in writing

⁸⁷ NIA. Letter from the NIA to the Swedish Embassy in Warsaw, January 31, 1995, No 72:28/95.

⁸⁸ NIA. *Case NN, County Adoption Center in Warsaw*. 1995-12-20 dnr 72:251.

asserts all continuing rights to the child. When the child weighs 3.5 kg, the child is moved from the maternity hospital to an orphanage. The Polish organization is informed that the child has arrived at the orphanage and the applicants are notified to come to the orphanage as soon as possible. Applicants are not required to accept the child if it does not meet their expectations.

8.7.5 Improper adoptions in the context of sponsorship

The so-called Poland Project started in 1989 and aimed to support children in eight orphanages in north-western Poland. The children were given Swedish sponsor families who paid for their schooling, clothes, medicine, toys and pocket money. The Poland project also arranged so-called pick-up trips for the children to stay with the sponsoring families for Christmas and summer. The management of the Poland project set up AGS, which was authorized from 1992 to April 2000⁸⁹.

In 1994, Swedish and Polish media reported on irregular adoptions in connection with sponsorship activities in Sweden. Interpol had uncovered Polish child trafficking where several children had been sold or disappeared and were being sought in Sweden and elsewhere. Among other things, the Poland Project had helped a Swedish couple pay SEK 6,000 to bring two brothers to Sweden for adoption, see section 8.7.4 The person responsible for the Poland Project had reduced the fee from SEK 9,000 to SEK 6,000.⁹⁰ The same orphanage director who sold the brothers was suspected of raping a child living in the orphanage and was also accused of "lending" children to homosexual men through a disguised sponsorship scheme.

Sweden, the Netherlands and Belgium were among the countries where Polish Interpol would ask for help in finding missing children. Several orphanages were suspected of being involved and several orphanage directors were suspected of accepting money to "put the children on the plane" and several children had not returned as planned. Several returning children also reported being sexually abused and participating in pornographic film shoots. The Poland Project stated that if Polish children had been exploited during their stay in Sweden, it had been through other channels. According to the article, AC had warned about the sponsorship activities that could

⁸⁹ NIA. Letter from the NIA to the Swedish Embassy in Warsaw, March 26, 1992, dnr 69:135/92.

⁹⁰ Expressen. *Swede accused of selling children*. Published 1994-03-22.

giving the children false hopes and that the control of the sponsor families was inadequate.⁹¹

A letter from the Poland Project to the Swedish Minister for Development Aid in 1994 states that Poland has decided on new rules for Polish children staying in Sweden during holidays. The reason was that a Swedish family had taken two children from one of the Poland Project's orphanages and had not returned them as required by the Polish authorities. The new rules required, among other things, that a leader from the orphanage accompany the children and stay with them during their stay. According to the Poland Project, the new rules made it impossible to carry out the holiday stays in the future and the question was whether the Minister for Foreign Affairs could influence the Polish authorities on this matter. ⁹²In his reply, the Minister for Foreign Affairs expressed his admiration for the work of the Poland Project but stated that he could not interfere in the legislation of a foreign country. However, he had brought the problem to the attention of the Embassy in Warsaw⁹³.

8.7.6 Lack of documentation in the files regarding the child's background and how the child became available for adoption

Our file review of private and individual adoptions from Poland shows that the documentation in the adoption files is inadequate, for example as regards the child's background and how it became available for adoption. This makes it difficult to determine whether the adoption has been in the best interests of the child and it also makes it difficult for the adoptee to trace their origins.

We examined 41 private and individual adoption files between 1978 and 1999. These almost never state who has investigated the child's background or that an investigation has been carried out. In almost half of the files examined, there is no description of why the child is being given up for international adoption. In the other cases, there is sometimes a general statement to the effect that the mother is not able to take care of the child or that she wants to give the child up for adoption. Sometimes financial reasons are given, for example that it is a young single mother or that the parents already have several children. In some cases, there are deficiencies in the care of the child and in some cases the child is

⁹¹Dagens Nyheter. *Polish children disappeared. Police suspect trafficking*. Published on March 21 1994, Expressen. Swede raped the godchild. Published 1994-03-21.

⁹²MINISTRY OF FOREIGN AFFAIRS. Letter from the Poland Project to the Minister for Development Cooperation. Received by the Ministry of Foreign Affairs on February 23, 1994, dnr 54/012 R 34 ep.

⁹³MINISTRY OF FOREIGN AFFAIRS. *Poland project - children in Polish orphanages*, April 11, 1994, dnr 101/023 R 34 Ep.

taken by social authorities. The files we have examined do not generally state who has decided that the child is available for adoption. In the few cases where it is stated, it has been the TPD.

Specific consent documents are missing in all files reviewed

In the 41 files from Poland that we have examined, there is no specific consent document from the child's mother in any case, although the mother's full name appears in almost half of the cases. On the other hand, several files show that the mother has given consent, even though it is not included in the file. In this case, the Polish adoption decision states that the mother has given her consent to the adoption. However, it does not appear from any file that the mother was present in court.

There is often no information about the parents

In our file review of private and individual adoptions from Poland, we have not seen any of the children described as abandoned. Nevertheless, information on the parents' names, ages, addresses and living situations is often missing. In our sample of files, the mother's full name is included in just under half of the files we examined. Something about the mother's living situation is given in about 40 percent of the files, and her age in about 20 percent of the files. The father's full name appears in about a third of the files, some information about his living situation in about 20% of the files, and his age is given only in exceptional cases.

Where there is information on the mother's situation, it is very brief, for example that she is married or divorced. Relatively often it is stated that she is single, sometimes she has children from before. In some cases, the mother has several children with the father. There are also examples of social problems or abuse in the home. In cases where there is information about the father, it is about whether he is married to the mother or not, how many children he has or what he does for a living.

In the examined files from Poland, only in exceptional cases is there an original birth certificate with the child's original name. The birth certificates are issued at the time of adoption.

Such a new birth certificate is found in approximately 30% of private and individual files from Poland. In the new birth certificate, it is just as common for only the child's Swedish name to be given as for the original name to be included. In some cases, a Polish first name is also given after the Swedish first name. About one third of the new birth certificates issued in connection with adoption state the names of the adoptive parents. The new birth certificate is usually drawn up just over two weeks after the adoption decision, but sometimes also three to four weeks after the adoption decision. We have also seen examples of a new birth certificate being issued before the adoption decision. In Poland, there have been two variants of birth certificates, a longer and a shorter one. The shorter birth certificate has only contained the child's new Swedish name and the name of the adoptive parents, while the long version has contained the child's original name and the name of the original parents.

There is conflicting information in the adoption documents

In the private and individual files from Poland that we have examined, we have noted contradictory information in almost every tenth file. As this is a limited sample, we cannot conclude that this applies to adoptions from Poland in general, but it does show that contradictory information exists. In some cases, the names of the child's father are different. We have also seen examples where the mother is stated to be anonymous, while her name appears elsewhere in the file. There are also different names for the child in the file, which may be due to a so-called child swap, i.e. the applicants have received a child certificate for a named child but then adopted another child with a different name.

It is rarely clear whether a national solution for the child was sought first

Less than one in ten files indicate that a national solution was sought before the child was adopted in Sweden. There has been some improvement over time. The 1990 agreement between the Polish Ministry of Health and the Polish organization TPD stipulated that children should be adopted by a Polish family in the first instance, and in 1992 the Supreme Court ruled that

The principle of subsidiarity applied in Poland despite the fact that it was not enshrined in Polish legislation. Despite this, only one in four acts from 1993 onwards indicates that a national solution was sought first. However, we have very limited information on this, as we have examined few files from this period. However, we have seen examples from both 1994 and 1999 where it is not clear from the file that a national solution was sought before the child was adopted in Sweden. In 1995, Poland also ratified the 1993 Hague Convention and legislated on the principle of subsidiarity.

8.7.7 Polish pregnant women have traveled to Sweden to give up their baby for adoption to Swedish couples

In 1990, a Swedish couple asked the Swedish Ministry of Foreign Affairs about the possibility of adopting a child that a Polish woman was expecting. The couple wrote that they had previously been in contact with the NIA and had mentioned a similar case of a Polish woman who had come to Sweden with the intention of giving birth and placing the child for adoption. They had then been informed that there could be legal uncertainties in an adoption of that kind. The couple therefore wanted answers to a number of questions, including what objections the Polish authorities might have to such an adoption, whose obligation it was to contact the Polish authorities (the Swedish Social Welfare Board, the NIA, the Ministry of Foreign Affairs or the couple's lawyer) and whether it was at all necessary to obtain the consent of the Polish authorities. Furthermore, the Ministry replied that it did not know what objections the Polish authorities might raise, but that the matter might arise if the child applied for Swedish citizenship. Furthermore, the MFA informed about the obligation of Swedish authorities to investigate paternity if the child is domiciled in Sweden⁹⁴.

⁹⁴MINISTRY OF FOREIGN AFFAIRS. Letter from a Swedish couple to the Ministry of Foreign Affairs, September 30, 1990, dnr 274/021 R 34 Ep.

⁹⁵Ministry of Foreign Affairs. Reply to individual: *Adoption - Poland* on October 3, 1990, dnr 276/030 R 34 Ep.

Swedish authorities have found it difficult to stop the activity

In 1992, a municipality reported a person to the police on suspicion of having brokered a Polish child to Swedish spouses with a view to their adopting the child. The background was that the municipality's social services department had been contacted by a couple who, through an intermediary in Poland, had been offered the opportunity to adopt a child expected by a woman in Poland. The intermediary would bring the woman to Sweden, the child would be born here, handed over to the couple and then the woman would return to Poland. The couple had a permit to receive a child for adoption through an authorized association. According to the social services, the intermediary had placed children with Swedish spouses on five occasions. The caseworker at the social administration had contacted the NIA, which saw no other way to stop this than to advise the family and point out the unethicity. The case officer then contacted the district court, which confirmed the risks of an adoption not being possible, the unethical nature of the action and that the case had to be stopped. The caseworker contacted the Swedish Immigration Service, which did not feel able to interrupt the process. The caseworker met with the couple and advised them and was then told that the cost would be 50,000 to 120,000 Swedish kronor, which covered travel, accommodation, medical care for the mother and child, and travel for the intermediary. The intermediary denied that there was any financial arrangement between the couple and the mother. The intermediary did not know that the action could be against the law but was aware that private arrangements had to be approved by the NIA. The intermediary denied that she had placed children with more than three families. In the police report, the municipality wrote that they considered it remarkable that neither the NIA, the district court nor the Swedish Immigration Service could advise on legal remedies to prevent the practice, which the social welfare board described as ethically indefensible and incompatible with Swedish views and legislation. The purpose of the municipality's police report was to try to prevent the risk of a repetition, to obtain clarification of what is considered to be mediation activities and what such assistance in individual cases entails, and, if necessary, to draw the legislator's attention to any shortcomings in the legislation.

⁹⁶NIA. *Police report concerning suspicion that the placement of foreign children with Swedish families has taken place in violation of SoL § 31 and LIA § 1.* 1992-04-08. Received by the NIA on April 13, 1992, dnr 49:219/92. NIA 1992 FI:265B.

There is no mention of the case in the NIA's annual report for 1992, and the existence of Polish women who gave birth in Sweden with the intention that the child would then be adopted by a Swedish couple has not been problematized or in any way made visible by the NIA in any of its annual reports during the 1990s.

Swedish media have drawn attention to the issue

Swedish media have also reported that Swedish couples have paid pregnant Polish women to come to Sweden and give birth here. The Swedish couple was able to contact a lawyer in Poland and paid a sum of money. A pregnant Polish woman then joined the family and lived there for the last few months before giving birth. The child was then born in a Swedish hospital and the Swedish couple paid for the hospital stay. When the reasonable period of six weeks had passed, the Polish woman signed a certificate that she wanted to give up the child. The NIA stated that they did not receive these cases but that they had been called by the social services in the municipalities who had "felt squeezed by not being allowed to appoint an adoptive family as is normal"⁽⁹⁷⁾.

The issue has also attracted attention in Parliament

A parliamentary motion in 1993 describes how it has become increasingly common for pregnant women from other countries, mainly Poland, to come to Sweden to give birth and then give the child up for adoption to parents in Sweden. The Swedish parents undertake to pay for the hospital stay that the birth entails in return for the parents being allowed to adopt the newborn child. This circumvents both Polish and Swedish law. According to the motion, there is nothing inherently wrong with this form of adoption, but the problem is that a large number of legal issues under Swedish law are unresolved and need to be clarified, such as how paternity is to be investigated and established. Furthermore, the citizenship issue is not entirely clear. It is also unclear who should pay the costs of childbirth if the Swedish couple considers these to be too expensive or if there are complications after childbirth and adoption that force the woman to be hospitalized. According to the motion

⁹⁷TT 1993-02-28.

these issues must be clarified for the foreign woman, the Swedish parents and the adopted child.⁹⁸The Social Affairs Committee rejected the motion on the grounds that the problems raised were already being considered by the responsible authorities. The NIA and the Social Welfare Board were aware of a couple of cases similar to those mentioned in the motion and the NIA had started working on the issue but had not yet reached a position. The committee report states that the National Children's House would hold a conference on the subject where the issues raised in the motion would be addressed. The National Board of Health and Welfare intended to map the extent of the problem prior to the forthcoming conference.⁹⁹The National Children's Hospital organized a conference on Swedish adoptive children together with the National Board of Health and Welfare in May 1993. One of the issues discussed was how the rights of the child should be safeguarded when women with foreign citizenship gave birth to their child in Sweden and immediately gave it up for adoption.¹⁰⁰Unfortunately, there is no archived documentation from the conference at the National Children's Hospital or the National Board of Health and Welfare. Nor has the National Board of Health and Welfare, in its searches of the archives, found any case dealing with the issue in question¹⁰¹.

The NIA visited Poland in 1994, but as we have not been able to find the travel report at the National Archives, it is unclear whether the issue was raised in connection with the trip.

In 2006, a new criminal offense was introduced, giving authorities a better chance to investigate the circumstances of these cases

In connection with Sweden's ratification of the Optional Protocol on the sale of children, child prostitution and child pornography, a new offence was introduced in Chapter 7, Section 2 of the Criminal Code - improperly obtaining consent or permission for the adoption of a child. The provision, which entered into force on July 1, 2006, aims to prevent the brokering of children for adoption from being used as a tool in the sale or trafficking of children. The preparatory works to the provision state that there have been cases of heavily pregnant women coming to Sweden from other countries to give birth here, who are then re

⁹⁸The Swedish Parliament. Motion 1992/93:So445 by Liselotte Wågö (m). *Adoptions of children born in Sweden by foreign women*.

⁹⁹ SoU 1992/93:15 *Social policy - direction and appropriations*.

¹⁰⁰ The National Children's House. *Conference invitation. Swedish adopted children*. May 24-26, 1993.

¹⁰¹E-mail to the Adoption Commission from Allmänna Barnhuset 2024-09-09 and e-mail to the Adoption Commission from the National Board of Health and Welfare 2024-09-11.

left in Sweden for adoption. The authorities have not had sufficient tools to investigate the circumstances. According to the government, the new offense would improve the conditions for investigating these cases¹⁰².

8.7.8 Swedish men have wrongly confirmed the paternity of Polish children to circumvent the adoption process

In 1995, the NIA and the Swedish Embassy in Warsaw communicated about the existence of false paternity confirmations by Swedish men. NIA wrote that it had again heard reports of irregularities in adoptions to other countries. NIA described a case where a man claimed to be the father of a child born to a woman in Poland. The intention was that his wife would adopt the child. However, he later stated that he was not the father of the child. The NIA requested the Embassy's comments on the problem and any other information that might be of interest to the authority.¹⁰³ The Swedish Embassy replied that over the past year the Embassy had noted an increasing number of false paternity confirmations, where foreign men had claimed paternity of Polish children.

This had been highlighted in the Polish media and in the latest case it had concerned a Swedish citizen. The confirmation of paternity had reportedly been made by the man on the recommendation of and in consultation with a Polish lawyer. In that case, the man had been arrested and charged with forgery and false certification. In addition, the man's lawyer, the lawyer's wife who worked as an intermediary for the child and the biological mother were arrested. All were charged with child trafficking. The Embassy wrote that this case, like many others of the same nature, had provoked discussions in the Polish press about the necessity of some kind of control when issuing birth certificates, where foreign men are listed as biological fathers. In conclusion, the Embassy stated that a social administration in Sweden had notified the Embassy by telephone of a new similar case¹⁰⁴.

¹⁰²Prop. 2005/06:68 *Sale of children, child prostitution and child pornography - Optional Protocol to the Convention on the Rights of the Child* p. 43.

¹⁰³ NIA. Fax from NIA to the Swedish Embassy in Warsaw 1995-12-01.

¹⁰⁴NIA. Fax from the Swedish Embassy in Warsaw to the NIA. Received 1995-12-20, dnr 72:257/95. NIA 1995 FI:351 case number 70-79.

We have seen examples of a likely false paternity case in our file review.

False paternity can still occur today

As stated in section 8.6.3, Polish family law does not prevent a man who is not the genetic father from confirming the paternity of a child. Thus, it is still possible for a Swedish man to falsely confirm the paternity of a Polish child in order to circumvent an international adoption process. Obviously incorrect paternity should not be registered in Sweden.¹⁰⁵ If it is clear that there is no genetic link (or consent to assisted reproduction), the Swedish Tax Agency can refuse to register the paternity. However, according to the Swedish Tax Agency, there may be a number of cases where the Tax Agency does not know or suspects that the paternity confirmation is incorrect¹⁰⁶.

8.7.9 Also in the 2000s, there have been suspicions that a Swedish couple bought a child in Poland

In July 2003, the Swedish media reported that a couple living in Sweden was suspected of human trafficking in Poland. A Polish woman had sold her newborn baby to the couple for USD 200 (SEK 1,8000). Three weeks later, the police found out that the child had been sold and three people were arrested. During questioning, the Swedish-Polish couple had said that they wanted to adopt the child. The third arrested person, a Polish woman, was suspected of mediated the contact between the mother and the Swedish couple. The child was taken into custody and returned to the Polish adoption center that would have originally taken care of the child. The Swedish Ministry of Foreign Affairs confirmed the story and told the media that they would follow the case⁽¹⁰⁷⁾.

MIA traveled to Poland in 2009 with the aim of, among other things, investigating Poland's compliance with the principle of subsidiarity and obtaining information on the costs and fees paid by the BFA for adoptions from Poland.

MIA's conclusion after the trip was that there was widespread criticism among various agencies involved in the adoption process that it took a long time

¹⁰⁵ Section 8(2)(5) of the Parental Responsibility in International Situations Act (1985:367).

¹⁰⁶ Meeting with Skatteverket 2024-05-27.

¹⁰⁷ Aftonbladet. *Swedish woman bought a child for 200 dollars*. Published 2003-07-05 and Expressen. *Sold his son to Swedes*. Published on 2003-07-06.

to withdraw custody from unfit parents and that most children could be adopted within Poland if that decision was taken earlier. It does not appear that the NIA raised the issue of child trafficking to Sweden¹⁰⁸.

¹⁰⁸MIA. *Report of the MIA mission to Poland, May 24-29, 2009*, No 33.

9 Irregularities in adoption activities in Sri Lanka

9.1 The mission

The purpose of the investigation assignment is, among other things, to clarify the occurrence of any irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to any irregularities based on the respective actors' responsibilities and roles.

The review of adoptions from Sri Lanka has included documentation from authorities, adoption organizations and interviews with people working in several of the adoption organizations that mediated adoptions from Sri Lanka. The activities took place during the years 1973-2020. We have also interviewed people who have been adopted from Sri Lanka. In addition, some 40 adoption files between 1974 and 1996 have been examined, mainly private and individual files.

However, 12 of the files examined concern adoptions mediated by an organization: primarily Barnens Vänner (BV, formerly SLBV) but also some from Barnen Framför Allt (BFA) and Adoptions- centrum (AC).¹ We have also conducted a general review of approximately 40 files from Föreningen Indo-Swedish Intercountry Adoption (ISIA) during the 1980s.

Sri Lanka is one of the major countries of origin for intercountry adoptees in Sweden. Sweden is one of the largest recipient countries in the world of children from Sri Lanka. It is known to have

¹In many files from the 1970s, it is not clear from the file whether it is a private or organized adoption, and in some cases the adoption is not purely private or organized. We have categorized the 9 files from the 1980s that were in BV's own archive as an adoption via BV, and not as a private adoption.

There have been irregularities in Sri Lanka's adoption activities, and the intercountry adoption activities of several other countries have been examined. We have taken note of the observations made by others.

9.2 Assessment

The investigator's assessment: Our review shows that there have been irregularities in Sri Lanka's adoption activities, including child trafficking, "baby farms", false mothers and falsified documents. Swedish authorities and organizations have also accepted procedures that have made it difficult and in some cases impossible to assess whether an adoption is in the best interests of the child. In our review, we have noted in particular the following:

- In Sri Lanka, there has been child trafficking, i.e. intermediaries have been paid to place children. This has occurred repeatedly during the 1970s and 1980s, and these actors have been involved in adoptions to Sweden.
- Trafficking in children in Sri Lanka has also led to other illegalities such as "baby farms", false mothers and forged documents. There are examples of this also occurring in adoptions to Sweden. We have also seen many examples of children being "swapped" during the adoption process.
- The private and individual adoption files we examined often lack information on how and why the child was given up for adoption and whether national solutions were sought before international adoption. Specific consent documents from the child's parents are also often missing, although they are often named in the file. This means that it has not been possible to ensure that the adoption was in the best interests of the child.
- There is evidence of coercion of the child's mother in adoptions to Sweden. For example, the contact person of an adoption organization offered poor single mothers work if they gave up their child for adoption.

- There have been irregularities in private adoptions from Sri Lanka. This has been known. Government officials in Sri Lanka have repeatedly asked the Swedish government and the supervisory authority (NIA) for help in stopping privately mediated adoptions, without result. Sweden has also been criticized by the other Nordic countries for not restricting privately-mediated adoptions.
- The NIA has continuously received information about problems with adoptions from Sri Lanka. This concerns both private and individual as well as organized adoptions. The Agency undertook seven missions to Sri Lanka in the period 1976-1991 to monitor the activities. Despite knowledge of the existence of irregularities, the impression is that the supervision has been uncritical and has not resulted in any sharp measures.
- When authorizing the adoption organization BV, the NIA could have acted more forcefully and set stricter requirements for continued authorization, for example by demanding that cooperation with a heavily criticized contact person should cease and ensuring that those requirements were followed. The NIA has had great faith in the Swedish organization's ability to avoid irregularities and has not acted forcefully enough in its role as supervisory authority.
- Swedish actors, both adoption organizations and authorities, have known that poverty and corruption have been widespread in Sri Lanka and that the adoption system has been weak and lacked effective control mechanisms. Despite the fact that there have been extensive irregularities in international adoptions from Sri Lanka, Swedish actors have chosen to continue with adoptions from there for almost four decades.
- The archive material shows that for almost 20 years there have been extensive contacts between the NIA, the Swedish Embassy in Colombo, the Ministry for Foreign Affairs and the adoption organizations concerning adoption activities. However, it appears that the NIA and the Swedish government did not act sufficiently forcefully in relation to the irregularities highlighted in the media and the information they received.

9.3 Sweden's adoption activities in Sri Lanka

Swedish adoptions from Sri Lanka started in the early 1970s when Sri Lanka became a tourist destination for Swedes through cheap charter trips. The first adoptions from Sri Lanka took place on private initiative. In total, around 3,400 children have been adopted from Sri Lanka. 90% of these adoptions took place between 1973 and 1989. During this period, Sweden was the country that adopted the most children from Sri Lanka. For example, in 1980, Sweden adopted about twice as many children as the second largest receiving country. From 1996 onwards, only a few adoptions have been made from Sri Lanka. Table 9.1 shows the number of children adopted per year 1973-2021²

Table 9.1 Number of adoptions from Sri Lanka per year, 1973-2021

Year	Numb er of	Year	Numb er of	Year	Numb er of	Year	Numb er of	Year	Numb er of	Year	Numb er of
1973	15	1980	350	1990	53	2000	1	2010	1	2020	1
1974	52	1981	268	1991	109	2001	2	2011	6	2021	0
1975	124	1982	251	1992	71	2002	1	2012	0		
1976	141	1983	278	1993	24	2003	0	2013	0		
1977	131	1984	308	1994	18	2004	2	2014	0		
1978	213	1985	279	1995	20	2005	2	2015	0		
1979	121	1986	275	1996	1	2006	2	2016	0		
		1987	186	1997	1	2007	1	2017	0		
		1988	54	1998	1	2008	2	2018	1		
		1989	24	1999	3	2009	1	2019	0		

Source: MFoF.

The statistics cover both adoptions through adoption organizations and individual adoptions. The proportion of private and individual adoptions from Sri Lanka has been relatively high. Over the whole period, it is estimated that about one third of adoptions from Sri Lanka have been private and individual adoptions.³This proportion was highest in the 1970s, when as many as 86% of adoptions from Sri Lanka were private adoptions.⁴

²<https://www.mfof.se/sarskilda-innehallssidor/statistik/statistik-om-internationella-adoptions/foreign-born-children-who-immigrated-for-adoption-purposes.html>. Retrieved 23-11-27.
³The estimate is based on the information we have on the total number of adoptions and information on the number of adoptions from the Swedish adoption organizations.
⁴Data from Statistics Sweden (total number of adoptions) and data from authorized organizations. Refers to the period 1976-1979.

9.4 The background to intercountry adoptions from Sri Lanka

The surge in intercountry adoptions from Sri Lanka in the 1970s can largely be explained by poverty and other social circumstances in the country, combined with the increased demand for children in rich Western countries and the high level of tourism in the country. Children of poor parents were given up for adoption for purely economic reasons, and unmarried mothers gave up their children for adoption also for social and cultural reasons. The typical example was a young girl who became pregnant before getting married. According to the Buddhist moral code in the villages, the whole family turned their backs on her. She was forced to go to Colombo and not return until the baby was born and delivered.⁵ National adoption has been prioritized for children in need of a new family only in the 2000s.⁶

9.5 Legislation, actors and the Swedish adoption process in Sri Lanka

During the period when many adoptions took place from Sri Lanka to Sweden, the Sri Lankan Adoption Act was amended on three occasions: in 1977, 1979 and 1992. The main purpose of the amendments was to limit private adoptions. At the same time as the laws were reformed, the Swedish adoption process in Sri Lanka also changed. In the early 1970s, those wishing to adopt a Sri Lankan child could apply directly to the Sri Lankan courts. However, following legislative changes in 1977 and 1979, the process was changed so that applications had to go through the authorities in Sweden and Sri Lanka.

⁵See e.g. NIA's travel report Sri Lanka 1982, see beskickningsarkivet dnr 11/154 R 34 1983-12-05; Letter from the Swedish Embassy in Colombo 1983; Commissie onderzoek interlandelijke adoptie (2021), *Committee on the Investigation of Intercountry Adoption. Unofficial translation Report*; Le Conseil fédéral, Suisse (2020), *Illegal adoptions of children from Sri Lanka: historical review, search for origins, outlook. Federal council report in response to the Rebecca Ruiz postulate 1/.4181 of December 14, 201/*.

⁶<https://www.ui.se/landguiden/lander-och-omraden/asien/sri-lanka/>. Retrieved 2023-05-25; FFIA newsletter January 2013, received from FFIA; FFIA country report 2014, received MIA 2014-06-11, no. 3.3.2:367:1/14; FFIA country report Sri Lanka 2007, received MIA 2007-06-04, no. 64:352:1/07.

9.5.1 Five Swedish organizations have been active in Sri Lanka

Five Swedish adoption organizations have mediated adoptions from Sri Lanka: AC, BV, BFA, Familjeföreningen för Internationell Adoption (FFIA) and ISIA.

Adoption Center

AC operated in Sri Lanka from 1973 to 1983. AC was authorized for Sri Lanka in December 1979. In total, AC placed 149 children from Sri Lanka during the period 1973-1983.⁷ AC ceased operations in 1983.⁸

Friends of the Children - International Adoption Agency

BV was authorized for Sri Lanka in December 1979 and operated in Sri Lanka until 2013. BV is the Swedish organization that has placed the most Sri Lankan children in Sweden, almost 1,300 children. The cooperation started with the organization Mount Lavinia Friendship Society (MLFS), which was located in Mount Lavinia just outside Colombo. MLFS had both a maternity home and a "guest house" where all families who would adopt lived during their stay in Sri Lanka. MLFS was BV's largest Sri Lankan cooperation organization throughout the period. Cooperation with MLFS continued until the 1990s. Following a gradual decline in the number of children available for intercountry adoption in the country, BV ended its activities in Sri Lanka in 2013⁹.

Children Above All

BFA was authorized to act as an adoption agency and was active in Sri Lanka from 1981 to 2011. In total, BFA has placed 316 children from Sri Lanka.¹⁰ BFA cooperated mainly with two orphanages, The Haven and God Shepherd Convent in Colombo. However, the

⁷ www.adoptionscentrum.se.

⁸ Gudmundsson et al. (2015), *Adopted from another country: on cooperation with children's countries of origin*.

⁹ www.bvadopt.se; Interview with BV representative 2023-10-16.

¹⁰ www.bfa.se. Retrieved 2023-05-25.

They also had limited cooperation with, for example, the Fridsro orphanage and the Society of Friends for Needy¹¹.

The Family Association for International Adoption

FFIA was active in Sri Lanka from 1982-2014. FFIA first worked with St. Leonard's Home in Gampola, which was run by the Catholic Sisters of the Blessed Virgin. FFIA had a representative who lived in the community. She was a social worker, and her husband was a lawyer in adoption cases. The contacts came through the large Swedish Kotmale project outside Gampola, a large SIDA-supported project. FFIA also cooperated with St. Lewis Children's Home in Katana, at the request of NIA. During a period in 1991 when BV was prevented from working on adoptions, FFIA took over some cases from BV, with children from the Friends in Need Society in Kurunegala.¹² By the time FFIA finished its work in Sri Lanka in 2014, it had placed 167 children from there.¹³

Indo-Swedish Intercountry Adoption Association

ISIA was active in Sri Lanka and was authorized to mediate adoptions there during the period 1984-1988. We have not found any information on the number of children placed, but the National Archives has 81 adoption files from ISIA during this period, concerning adoptions from Sri Lanka.

9.5.2 The role of Swedish authorities in adoptions from Sri Lanka

The NIA, and later also the MIA, have granted authorization for the organizations' activities in Sri Lanka. They have also exercised oversight over the activities.

¹¹Interview with representative of BFA 2023-09-29; Letter from NIA to the Swedish Embassy in Colombo 1986-11-07 NIA dnr 46:202/86 and 49:402/86.

¹²FFIA's document on Sri Lanka, received from FFIA without number and date; Interview with former FFIA employee 2023-09-21.

¹³www.ffia.se. Retrieved 2023-05-25; Written information from FFIA received via email 2024-04-15.

During the period 1974-1979, the NIA was responsible for receiving and processing applications for the adoption of children from Sri Lanka and elsewhere, under the cooperation agreement between the NIA and AC. In 1975, the Sri Lankan authorities demanded that all adoptions, including private ones, be processed by the NIA.¹⁴ The NIA's mediation committee (FU) then approved the applications without examination. In the fall of 1976, for example, the FU had to consider on several occasions cases where Swedish families through private contacts in Sri Lanka had had children assigned to them. The families had then been informed by the Sri Lankan authorities that in order for them to be able to have children from Sri Lanka, their case had to be processed by the NIA. The FU decided that the NIA's office would write to the head of the DPCCS in each individual case and state that in the cases in question it had no objection to the families receiving the designated children.¹⁵ The NIA raised the issue of the possibility of reviewing positive advance decisions on several occasions. However, this never materialized in practice. However, Sri Lanka later changed its procedures and no longer required a recommendation from the NIA.

From 1985, the NIA was given the task of advising the social welfare boards on the reliability of the intermediation method, and the NIA had to handle many individual adoptions from Sri Lanka.

The Swedish Embassy in Colombo has played an active role in keeping Swedish actors informed about the functioning of adoption activities in Sri Lanka.

Adoptions from Sri Lanka have been decided in Sri Lankan court and then approved in Sweden. Until 1977, it was the Ministry of Justice that examined whether an adoption decision from Sri Lanka could be approved in Sweden. In 1977, that responsibility was transferred to the Social Welfare Board, followed by the NIA. However, our file review indicates that almost half of the private and individual adoptions from Sri Lanka may nevertheless have been decided in Swedish courts. This is due, at least in some cases, to the lack of a document from the court in Sri Lanka which meant that the National Board of Health and Welfare/NIA did not approve the adoption. The applicants have then instead turned to the Swedish court which made the adoption decision. Since Sri Lanka's ratification of the 1993 Hague Convention in 1995, the Sri Lankan adoption decision has been automatically recognized in Sweden.

¹⁴Adoption of Children Amendment Law, No. 6 of 1977; NIA Protocol 1975:6 1975-09-02; Departmental letter from the Ministry of Social Affairs to private individuals 1977-12-14 dnr 3051/76 and dnr 3052/76.

¹⁵NIA annual report 1976/1977.

There has been no agreement between Sri Lanka and Sweden on adoptions, although work began in the mid-1970s to develop an agreement to regulate private adoptions.

9.5.3 The actors in Sri Lanka

The Department of Probation and Child Care Services (DPCCS) is the agency in Sri Lanka that has been involved in placing children for intercountry adoption since 1977. Its responsibilities have varied somewhat over time, but it has been tasked with receiving adoption applications, making matches and sending child proposals, as well as assessing adoptive parents and providing opinions to the courts. Many adoptions in

However, Sri Lanka has been mediated by private actors, which can be individuals or orphanages. However, even in the privately mediated adoptions, the DPCCS has been tasked with providing an opinion on the adoptive parents.

Lawyers played a central role in Sri Lanka as they assisted applicants in the court proceedings and in obtaining birth certificates and certificates of consent from the mother. The courts reviewed the documents and made the adoption decision.

For a time, Sri Lanka had a system of representatives for different countries. Sweden therefore had a contact representative in Sri Lanka, who received a fee from the NIA. But in May 1977 Sri Lanka abandoned this system and Sweden's representative in Colombo ended his assignment¹⁶.

9.5.4 Before 1977, people could go directly to court to adopt - but consent was required

Since 1944, Sri Lanka has had a law on domestic adoptions. A provisional law in 1964 allowed British citizens to adopt children from Sri Lanka. Under it, other nationalities also started adopting children from Sri Lanka. When adoptions from Sri Lanka to Sweden took off in the early 1970s

¹⁶NIA Minutes 1977-05-11; NIA Minutes 1976-08-19; NIA Minutes 1976-09-17 and NIA Minutes 1977-02-17; Chairman's Decision 1976-09-13, see Annex to NIA Minutes 1976-08-19.

Sri Lanka's adoption regulation thus consisted of a revised version of the 1944 Adoption Act¹⁷.

The regulation required, among other things, that parents, guardians or custodians give their consent to the adoption. An exemption could be granted if the child was abandoned or if the person with custody was not in a position to consent or if the court otherwise considered that consent should not be obtained. The Act stated that anyone wishing to adopt a child should apply to a court in Sri Lanka which would consider whether the conditions for adoption under Sri Lankan law were met. The court would also make sure that the person who agreed to the adoption order understood what it meant and that the order was permanent. If the requirements were met, the court issued an adoption order and compiled a 'schedule' containing the name, sex and date of birth of the child, the names and addresses of the applicants and the date of registration and adoption order. This information is then recorded by the central registration authority. This meant that each child adopted had to be registered in a special register, and an extract from that register served as proof of the adoption⁽¹⁸⁾.

Upon return to Sweden, the Sri Lankan adoption decision had to be approved by the Ministry of Justice.

9.5.5 From 1977, applications would go through the authorities

In October 1976, adoption activities in Sri Lanka were completely stopped pending a change in the law. The Sri Lankan Ministry of Social Welfare wanted to change adoption rules to address the problem of direct intermediation of adoptions, whereby applicants, lawyers or other persons had direct contact with pregnant women or women with young children, and where they jointly went to court to apply for an adoption.¹⁹The new Adoption Act came into force on February 18, 1977.²⁰Only adoptions mediated through the Sri Lankan agency DPCCS were allowed and an intermediary agency

¹⁷Adoption of Children Ordinance, 1956 revision; Adoption of Children (Amendment) Act. No. 1 of 1964; NIA travel report Sri Lanka 1979.

¹⁸NIA travel report Sri Lanka 1979; Letter with current legislation from the Swedish Embassy in New Delhi to the Ministry of Foreign Affairs Stockholm 1973-01-04, received by the Ministry 1973-01-12 dnr 10 R 34 Bce.

¹⁹NIA Minutes 1976-10-25; NIA Minutes 1977-01-19; Letter from the Sri Lankan Embassy in Stockholm to the NIA "Adoption of Sri Lanka Children by Foreigners" 1976-11-12, received NIA 1976-11-15 dnr 49:1387/76.

²⁰NIA Minutes 1977-03-23.

was set up by the DPCCS. The Act also required that applications for adoption be made through the NIA's Intermediary Committee, both private and inter-agency adoptions.²¹ As described above, the Sri Lankan authorities had begun to require this as early as 1975.

Swedish couples wishing to adopt a Sri Lankan child would now send their application to the NIA's Placement Committee, which after processing would forward it to the Director of the DPCCS. The DPCCS would screen the adoptive parents and send child proposals directly to the applicants if they were deemed suitable. Applicants would then inform the DPCCS and the NIA whether they accepted the child proposal and when they intended to arrive in Sri Lanka. At least one parent was required to be present at the completion of the adoption in court.

Upon returning to Sweden, the adoption documents from Sri Lanka from 1977 were to be sent to the National Board of Health and Welfare, and not as before to the Ministry of Justice, with a request for approval of the adoption in Sweden.²²

The new practice introduced after the amendment of the law in the so-called direct placement cases turned out to work poorly. The court gave the DPCCS 14 days to give its opinion on the social situation of the woman and the child. Because there were so many of these cases, DPCCS social workers had to devote virtually all their time to working on them and were unable to place children from the orphanages, with the result that virtually all adoptions from orphanages ceased, at least from the state ones.²³ Private placements and proposals of children directly to applicants continued.²⁴

9.5.6 Legislative change in 1979 aimed to make all adoptions go through DPCCS, including those from private orphanages

In June 1978, the Sri Lankan government again suspended international adoptions pending legislation. The intention was to re-establish the private adoption business. An amendment to the Adoption Act was passed in July 1979, and foreign nationals were again allowed to adopt children from Sri Lanka. The amendment included

²¹ Adoption of Children Amendment Law, No. 6 of 1977; Annex to "Report of the NIA visit to Sri Lanka, November 23-30, 1991" NIA No. 60:607/91, received from FFIA.

²² NIA memo June 1977 "Memo on the adoption of children from Sri Lanka" (no. and date missing).

²³ Annex to the "Report of the NIA visit to Sri Lanka, November 23-30, 1991" NIA dnr 60:607/91, received from FFIA.

²⁴ NIA Minutes 1977-10-19; NIA Minutes 1978-01-20; NIA Minutes 1978-06-06.

bar that all adoptions should go through the responsible authority DPCCS, including those from private orphanages. The original legislative proposal from the Ministry of Social Affairs had been to ban all private adoptions. But the working group that was set up felt that the DPCCS lacked the resources to handle all adoption activities and that private adoptions should therefore be allowed for the time being. However, the intention of the amendment was to make it clear that private adoptions would be exceptional²⁵.

With this change in the law, the application process also changed slightly. Applicants would now send their application documents to the Sri Lankan Embassy in Sweden, which would forward them to the DPCCS. If the DPCCS considered that a suitable child was available in a government or DPCCS-registered orphanage, applicants were informed of this. It was still possible to adopt children directly from a child's mother, but the new system was designed to maneuver out the intermediaries, and applicants were required to travel to Sri Lanka only after receiving child proposals from the DPCCS. Applicants needed to hire a lawyer to help them with the application for court proceedings, birth certificate and certificate of consent from the mother. The DPCCS interviewed the adoptive parents and reviewed the application documents, including for those who adopted through private orphanages. The DPCCS then submitted an opinion and application for adoption to the court, which, after interviewing the adoptive parents and the birth mother, took a decision on the adoption. Then, as before, the adoption decision had to be registered with the registration authority, from where the adoptive parents received a certificate of adoption (adoption certificate). The adoptive parents could then apply for a Sri Lankan passport for the child and an entry visa to Sweden²⁶.

A request for approval of the Sri Lankan adoption order would then be sent to the NIA for administrative approval. For the NIA to approve the adoption in Sweden, the Sri Lankan

²⁵Adoption of Children Amendment Act No. 38 of 1979; NIA Travel Report Sri Lanka 1979. The new adoption legislation is also described in a memorandum prepared by the DPCCS June 19, 1979, which the Swedish Embassy in Colombo sent to the Swedish Ministry for Foreign Affairs on 1980-04-03 with Dnr XIII:18 1980-03-26 R 34 and which is also included in an appendix to NIA's travel report Sri Lanka 1979; NIA Protokoll 1979-06-20.

²⁶See e.g. Letter "Adoption legislation" from the Swedish Embassy to the Swedish Ministry of Foreign Affairs 1982-10-01, diplomatic mission file no. 99 R 34; Letter from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs Stockholm "Adoptions" with DPCCS guidelines in the appendix 1980-04-03, diplomatic mission file no. 47 R34.

the adoption certificate. However, in many cases no adoption certificate had been issued. The court's adoption order proved to be sufficient anyway²⁷.

The new rules proved to be easy to circumvent and direct mother-to-child transfers continued. Applicants did send their application documents to the embassy, which forwarded them to the DPCCS. However, applicants were then able to circumvent the new DPCCS procedures by traveling to Sri Lanka before receiving child proposals. There they contacted a private intermediary who nominated a child and suggested a lawyer to help. The judge had to ask DPCCS for an opinion on the situation of the child and the biological mother and the suitability of the applicants. This procedure meant that DPCCS officials did not have time to place children themselves.⁽²⁸⁾ As a result, there were still few children coming from the DPCCS orphanages.

9.5.7 Legislative change takes time, creating uncertainty for the actors involved

On June 3, 1987, the Sri Lankan government decided to ban foreign adoptions of Sri Lankan children through a cabinet decision. This followed the revelation of baby farms and because of the mistrust that existed in Sri Lanka towards adoptions to other countries. A special commission was set up to review the then existing adoption laws and their application. In July 1988, the Sri Lankan government decided to allow inter-country adoptions again, but only from the seven government orphanages in the country. The aim was to get away from the private orphanages and intermediaries who made big money from adoptions. In January 1989, the Sri Lankan government also approved a proposal for a new law allowing adoption from "voluntary children's homes" in addition to the seven government homes. This showed that However, it proved to be a lengthy process before the new law was adopted²⁹.

²⁷Letter from the National Board of Health and Welfare (1st Law Bureau) to the NIA "PM ang. godkännande av adoption i Sri Lanka" 1980-07-04, NIA dnr 49:157/80; The National Board of Health and Welfare's NIA's account of discussions with a Sri Lankan judge during a visit to Sri Lanka in November 1980, 1980-12-18 NIA dnr 49:157/80; Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs 1981-08-05, Beskickningsarkivet dnr II:54 R 34; Letter from the Swedish Embassy in Colombo to the Swedish Immigration Service 1981-11-24, Beskickningsarkivet dnr VI:66 R 191 A.

²⁸Annex to "Report of the NIA visit to Sri Lanka, November 23-30, 1991", NIA dnr 60:607/91 received from FFIA.

²⁹Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs 1988-07-21 NIA dnr 72:258/88;

NIA's notes from a meeting with Sri Lanka's Minister of Social Affairs 1988-07-26 NIA dnr 72:258/88; Letter to NIA 1989-01-18 (dnr not shown, possibly NIA dnr 42:402/89); NIA's

The lengthy process created uncertainty for the actors involved. The DPCCS acted on the basis of the government's cabinet decision and rejected adoption applications for children from non-government orphanages. However, local courts continued to allow the adoption of children from non-government orphanages. They did not take into account the opinions of the DPCCS, but decided according to the applicable law.³⁰ The government's cabinet decisions needed to be approved by the government in order to become final and then published and submitted to parliament for approval. As that process had only just begun, the courts continued to allow the adoption of children from non-governmental orphanages.³¹

The Sri Lankan courts acted in a way that put the DPCCS in a difficult situation and which upset the Ministry. It also created uncertainty as to how the NIA would act. Pending the change in the law, the NIA applied the decision of the Sri Lankan government and decided to only accept applications for adoption from government orphanages. They wanted to respect the decision of the Sri Lankan government. However, the NIA continuously received requests for the possibility of adopting children directly from a Sri Lankan organization. The NIA also received complaints from applicants who criticized the NIA for questioning how the courts ruled on adoption cases. The BV Board also objected to the NIA's interpretation of Sri Lankan law.³²

9.5.8 New legislation in 1992 banned private adoptions

Finally, in March 1992, Sri Lanka adopted a new Adoption Act which limited the possibilities for international adoptions. The change in law meant that adoption through private agencies in Sri Lanka

minutes 1988-08-24; NIA Dnr 72:609/92; NIA annual report 1989/1990 and 1990/1991.

³⁰Telex from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs Stockholm 1988-12-23 NIA dnr 72:258/88; NIA's statement to the Ministry of Social Affairs regarding complaints against NIA 1989-12-15 NIA dnr 42:402/89; NIA's letter "What is happening in Sri Lanka?" (unclear no. but possibly it belongs to dnr 42:402/89 dated 1989-12-15).

³¹Letter from the Swedish Embassy in Colombo "Adoptions - Sri Lanka" 1989-11-30 NIA dnr 72:258/88.

³² NIA:s telex till svenska ambassaden i Colombo 1988-12-12 NIA dnr 72:258/88; Telex från svenska ambassaden i Colombo till NIA 1988-12-23 NIA dnr 72:258/88; Brev från NIA till svenska ambassaden i Colombo "Adoptioner från Sri Lanka" 1989-09-11 NIA dnr 72:258/88; NIA:s brev "Vad händer i Sri Lanka (oklart dnr men ev. belongs to no. 42:402/89 with date 1989-12-15); Letter to NIA in November 1989; Letter from SLBV to NIA 1991-05-29 NIA no. 1:178/91; Letter from private persons to the Ministry of Social Affairs no. B 5324/89 (see NIA dnr 42:402/89).

was banned. Adoptive parents were no longer allowed to search for adoptive children on their own, but all adoptions were to be mediated through the government agency DPCCS and authorized organizations in the receiving country. Applications were to be made to the DPCCS in Colombo and only the Director of the DPCCS was authorized to place Sri Lankan children for adoption. Adoptions could only be carried out from government orphanages and government registered orphanages. No private orphanages or agencies were allowed to cooperate directly with foreign organizations anymore.⁽³³⁾ In the first instance, parents for the children were to be sought within the country.

An annual quota for international adoptions was to be applied.³⁴ The new law, which is still in force, also provided for a total prohibits paying or otherwise rewarding individuals in connection with an adoption. The discovery of such transactions could result in a fine of 10,000 rupees and/or up to two years' imprisonment.³⁵ The prohibition on adoptive parents paying for adoption agencies is also clarified in the guidelines issued by the DPCCS in connection with the new law.³⁶

In 1995, Sri Lanka ratified the 1993 Hague Convention and thereafter adoptions from Sri Lanka declined even further. The UN Committee on the Rights of the Child noted in its 1995 Concluding Observations that Sri Lanka's new legislation on intercountry adoption ensures protection against the sale and trafficking of children. The Committee also welcomed the fact that Sri Lanka was one of the first States to ratify the 1993 Hague Convention³⁷

The Swedish adoption organizations describe in the 2000s that Sri Lanka works in accordance with basic principles

³³Adoption Of Children (Amendment) Act, No. 15 of 1992; Letter from the Sri Lankan Embassy in Stockholm to the Swedish adoption organizations 1993-07-27 NIA dnr 72:372/93; Swedish Embassy in Colombia letter to NIA 1992-02-25 "New Amendment to the Sri Lankan Adoption Act" NIA 72:119/92.

³⁴ Adoption Of Children (Amendment) Act, No. 15 of 1992, section 3b.

³⁵Adoption Of Children (Amendment) Act, No. 15 of 1992, section 14. See also NIA Annual Report 1991/1992; Swedish Embassy in Colombia letter to NIA 1992-02-25 "New Amendment to the Sri Lankan Adoption Act" NIA 72:119/92; Report of the Regulatory Letter for 1997 NIA dnr 1:425/96; NIA Country Reports 1993 and subsequent years.

³⁶DPCCS guidelines "Child adoption procedure for the guidance of foreign applicants" received NIA 1992-03-17 dnr 72:119/92.

³⁷CRC/C/15/Add.40, *Concluding observations of the Committee on the Rights of the Child: Sri Lanka*. Committee on the rights of the child. June 21, 1995.

in the UN Convention on the Rights of the Child and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption³⁸

The Swedish adoption agencies describe in their country reports that unrest with war in the country affected the placement activities in the 2000s, but that the situation stabilized in 2009. There was a negative attitude towards international adoptions in the country and few international adoptions were mediated. The focus was on domestic adoptions and around 50 children were placed with families abroad each year. From at least 2010, foreign adoptive parents can only apply for children with special needs.³⁹In 2006, the DPCCS updated its guidelines for international adoptions from Sri Lanka.⁴⁰

9.5.9 Criminal investigation, adoption freeze and review 2012

In 2011, the Sri Lankan Police Department conducted a criminal investigation to ensure that the intercountry adoptions facilitated between 2001 and 2011 were carried out properly. The investigation revealed that no irregularities had occurred, but to further prove this, the Department wanted to see the follow-up reports of the children placed, as well as information on the current health status and general condition of the children⁽⁴¹⁾.

Sri Lanka introduced a freeze on new applications in early 2012 to investigate the orphanages where irregularities were suspected and to review the process for intercountry adoptions.⁴²The system was to become even more transparent and compliant with the Hague Convention. Children could not be placed internationally with the approval of only a few people at the DPCCS. Subsidi-

³⁸BFA Country Report Sri Lanka 2007 MIA dnr 64:345:1/07; BFA Country Report Sri Lanka 2008 MIA dnr 64:357:1/08.

³⁹FFIA country report Sri Lanka 2007 MIA dnr 64:352:1/07 and FFIA country reports 2008 and 2009; FFIA document on Sri Lanka, received from FFIA [no. and date missing]; BV country report Sri Lanka 2007 MIA dnr 64:377:1/07 and BV country reports Sri Lanka 2008-2010.

⁴⁰DPCCS 2006-11-06 "Intercountry child adoption procedure Sri Lanka" MIA dnr 61:392:1/07; BFA country report Sri Lanka 2007 MIA dnr 64:345:1/07.

⁴¹FFIA Country Report for Sri Lanka 2012 MIA dnr 64:371:1/12.

⁴²BFA country report Sri Lanka 2012 MIA dnr 64:331:1/12.

the principle of diarchy would always apply and international adoption would be the last resort⁴³

In 2012, the DPCCS set up a committee ("Place Committee") to oversee international adoptions. The committee would review each international application and handle all matching. The committee would work from a formal queue list where the applicant's login date would be recorded and applicants would then be matched in turn.⁴⁴ A quota for intercountry adoptions was introduced at the same time and a maximum of 100 children would be placed internationally. Adoptions from Sri Lanka were to be restricted to children who could not be placed domestically, mainly children with special needs and older children⁴⁵.

By the summer of 2012, adoptions from Sri Lanka had resumed, but with longer waiting times than before.⁴⁶ DPCCS informed partner organizations that intercountry adoptions from Sri Lanka would continue but that domestic adoptions would be prioritized and that children with special needs available for intercountry adoption would be matched with waiting applicants.⁴⁷

Even in 2025, Sri Lanka limits the number of intercountry adoptions to a maximum of 100, and all foreign adoption requests must go through the Director of Probation and Child Care Services and be processed by designated district courts in Sri Lanka.⁴⁸

9.6 General information on irregularities in Sri Lankan adoption activities

In this section, we review the general findings on irregularities in intercountry adoptions from Sri Lanka.

In later sections, we analyze how Sweden has been involved in this.

⁴³FFIA notes March 2012 following information from DPCCS; FFIA newsletter March 2012; FFIA annex to Sri Lanka 2013 country report, received from FFIA; FFIA annex to Sri Lanka 2014 country report MIA dnr 3.3.2:367:1/14.

⁴⁴FFIA newsletter September 2012, received from FFIA; FFIA country report Sri Lanka 2013 MIA dnr 3.3.2:351:2/13; BFA country report 2013 MIA dnr 3.3.2:353:1/13; BV country report 2013 MIA dnr 3.3.2:352:1/13; BFA's authorization application 2013 MIA dnr 3.1.2:538/13. ⁴⁵FFIA's authorization application 2013 MIA dnr 3.1.2: 682:1/13; BFA's authorization application 2014 MIA dnr 3.1.2:690:1/14; BFA's authorization application 2013 MIA dnr 3.1.2:538/13.

⁴⁶FFIA Newsletter June 2012, received from FFIA.

⁴⁷FFIA Newsletter January 2013, received from FFIA; FFIA Country Report 2014 MIA dnr 3.3.2:367:1/14.

⁴⁸The morning 2025-02-03 "Sri Lanka limits foreign adoptions to 100 in 2025".

9.6.1 Previous investigations have revealed irregularities in Sri Lanka

There is relatively extensive documentation of irregularities in the adoption business from Sri Lanka, in particular linked to private adoptions. For example, both the Netherlands and Switzerland have investigated intercountry adoptions from Sri Lanka and found systematic and widespread child trafficking, baby farms and other irregularities in the country from the 1960s through the 1990s. These included corruption, the placement of children for payment or under duress, and falsified documents or inadequate documentation, which later made it more difficult for adoptees to trace their origins. The ZHAW report, conducted by a Swiss research team, found that the networks of lawyers and adoption agencies that were created in Sri Lanka used dubious and even illegal methods to satisfy the demand for children from Europe, including Sweden.⁴⁹

Another group of researchers in Switzerland analyzed all 85 cases of adopted children from Sri Lanka in the Canton of St Gallen in Switzerland between 1973 and 2002. Their report shows that, among the cases examined, there was not a single one in which all the legal provisions in force were complied with. The authorities involved often ignored obvious features of commercial adoption processes in Sri Lanka. The Swiss researchers write that it is clear that Sri Lankan children were turned into a "commodity" by the parties involved⁵⁰

A report by the French government in 2023 concludes that there have been irregularities in adoptions from Sri Lanka to meet the growing demand for children.⁵¹

Following the discovery of irregularities in adoptions from Sri Lanka in the 1970s and 1980s, Sri Lanka repeatedly stopped intercountry adoptions and also tried to tighten the rules on international adoptions.

⁴⁹ The Federal Council, Switzerland (2020).

⁵⁰ Berthet and Falk (2022), *The adoption of children from Sri Lanka in the Canton of St Gallen 19/3-2002*.

⁵¹ French Ministry of Justice, Foreign Affairs and Social Affairs (2023), *Related interdepartmental mission illegal practices in international adoption in France*.

9.6.2 Child trafficking in the context of international adoptions

In the mid-1970s, the Sri Lankan media began to report on the trafficking of children for international adoptions from Sri Lanka. Overall, there were a lot of articles in the 1970s and 1980s about child trafficking and middlemen who made a lot of money by placing children for international adoptions. The Sri Lankan press wrote about clever businessmen who aged intermediaries and bought small children from poor parents to then sell them on to charter tourists, including Swedes. Often lawyers, doctors and high-ranking officials acted as intermediaries, and their earnings were reported to be around SEK 3,000 per child (in today's money).

The articles also reported that Sri Lanka has become known for selling children, that children are sold like any other commodity and that adoption brokering to foreign adoptive parents has become a 'big business' or a 'slave trade'. Several articles called on the Sri Lankan government to act to end the trade in children.⁵² There were also reports that there were keen buyers in Scandinavia and that having a child from an exotic country had become a status symbol or gimmick in Scandinavia and the rest of Europe.

Following a report in a Sri Lankan Sunday newspaper, Sri Lankan police raided a home where three babies were found and three mothers were taken for questioning. The police launched an investigation into a woman who was buying newborn babies for between 1 000 and 5 000 rupees and then selling them on to foreign adoptive parents for up to 30 000 rupees.

Swedish newspapers also drew attention on several occasions to what was being reported in Sri Lanka about the adoption market that had emerged. For example, they wrote that adoption

⁽⁵²⁾ E.g. Expressen 1976-06-19 "Toddlers sold to Sweden for SEK 100"; Göteborgsposten 1976-06-20 "Swedes buy children for SEK 3000 each"; Observer 1981-12-20 "Lankan babies sold at Rs 100 000"; Sun 1981-12-03 "Baby sales"; Sun 1981-12-08 "The dirty baby mudalalis"; The Island 1981-12-11 "The dark side of adoptions"; Weekend 1982-01-03 "Rs. 300 000 for a Lankan baby"; Daily Mirror 1982-01-05 "The market for babies"; Daily Mirror 1982-01-06 "Bonn won't adopt bonnie babies"; Daily News 1982-01-02 "Stop the baby-selling racket". ⁽⁵³⁾ E.g. Weekend 1982-01-03 "Lanka's 'bundles of joy' end up as household pets"; Daily Mirror 1982-01-05 "The market for babies"; Sunday times 1982-01-03 "Lid blown off Sri Lankan baby racket". ⁵⁴ Weekend 1981-11-29 "Baby - this is big business"; Ceylon Daily News 1981-12-01 "Police to probe traffic in children"; Sun 1981-12-01 "Baby running racket busted".

of children to many Swedes, among others, had become a business in Sri Lanka and that the intermediaries received around SEK 10 000 for the child while the original parents received only a few kronor. The Swedish media also reported that the police had uncovered a gang that had sold hundreds of children to foreign couples, including several Scandinavians⁵⁵.

Representatives of the Sri Lankan Ministry of Social Welfare were asked to comment on the situation and admitted on several occasions that child trafficking was taking place:

- The Deputy Minister of Social Affairs stated that many of the 242 infants adopted by foreign couples in 1979 had been bought for between SEK 4 000 and 13 000 and that this must be stopped. He said that the authorities were aware of the wealthy and high-ranking women who organize and profit from the trade.⁵⁶
- The Sri Lankan Minister of Social Welfare confirmed in the Sri Lankan media in 1981 that he had trafficked children to Scandinavian countries. He was aware of groups of professionals and high-ranking people running "baby farms" where children are bought, kept and then sold to foreign adoptive parents for large sums of money. He said that Sri Lankan laws were not sufficient to prevent child trafficking: "I know all this is going on. But I am helpless. There is no law at present to prevent it".⁵⁷
- In an article in DN in 1983, the Secretary of State at the Sri Lankan Ministry of Social Welfare stated that there were illegal adoptions that were in fact sales of babies and that the Sri Lankan Ministry of Social Welfare had already drawn attention to this in 1978.

In several of its activity reports during the 1980s, the NIA noted that there were reports of child trafficking from Sri Lanka.⁵⁹In its 1982 trip report, the NIA explicitly stated that the problems of child trafficking persist.⁶⁰In 1985, Sri Lankan

⁽⁵⁵⁾ E.g. Expressen 1976-06-19 "Toddlers sold to Sweden for SEK 100"; Göteborgsposten 1976-06-20 "Swedes buy children for SEK 3000 each"; DN 1979-12-11 "Sri Lanka stops adoption"; Afton- bladet 1981-12-01 "Liga sålde barn till Sverige?"; DN 1981-12-02. "Foreign couples allowed to buy children"; TT 1982-02-22.

⁵⁶Daily News 1979-12-10 "Racket bared: babies sold to foreigners"; Sun 1979-12-10 "90 per cent able bodied beggars".

⁵⁷Sun 1981-12-03 "Laws inadequate to curb the baby trade"; Sun 1981-12-21 "No provisions in law to ban adoption"; Sun 1981-12-02 "Ministry condemns baby running racket"; The Island 1982-12-21 "The secret of Asoka's beaming smile"; TT 1982-02-22.

⁵⁸ DN 1983-04-13 "'Illegitimate' children are sold via 'baby farms' to Scandinavia".

⁵⁹ NIA annual reports 1979/1980 and onwards.

⁶⁰NIA's travel report Sri Lanka 1982, see the mission's archive no. 11/154 R 34 1983-12-05.

press about a new wave of child trafficking and that the business had become more organized. Sri Lankan police had identified a network and traced a large number of locations where newborns and mothers were living while waiting for buyers for the children. The police detained 16 mothers and 16 babies. One woman had sought out the women in the countryside, bought the children cheaply and intended to sell them on. The operation was organized by a larger network⁶¹

There is also research showing extensive child trafficking in Sri Lanka. Loibl (2019) writes that Sri Lanka is one of the countries with adoption scandals and widespread trafficking of children for adoption purposes. She believes that there are strong indications that the adoption scandals that have been uncovered are only the tip of the iceberg⁽⁶²⁾.

9.6.3 Existence of baby farms

In the early 1980s, Sri Lankan media reported on 'baby farms' and 'baby factories' linked to Switzerland, where mothers sold their babies even before birth. The pregnant woman who had agreed to sell her baby was offered accommodation until the baby was born. One article describes foreign agents taking orders from prospective adoptive parents for babies even before the babies were born, and placing babies through catalogs and mail order services. Both the foreign and domestic agents were well paid, while the poor mother received very little compensation.⁶³ A Sri Lankan journalist described in 1983 that there were many baby farms that were never discovered.⁶⁴

From the mid-1980s, the Sri Lankan police discovered several baby farms and this phenomenon increasingly attracted the attention of the Sri Lankan press.⁶⁵ The newspapers reported on "baby brokers" who sought out pregnant women and persuaded them to give up their babies for adoption. They were located near maternity hospitals and abortion clinics and specifically sought out women who had become pregnant outside

⁶¹Weekend 1985-06-23 "Scandal that is the baby trade"; Sun 1985-06-20 "Trade in babies"; Sun 1985-06-19 "Baby trade".

⁶²Loibl (2019), *The transnational illegal adoption market: A criminological study of the German and Dutch intercountry adoption systems*.

⁶³Sun 1982-05-09; Weekend 1982-05-09 "Babies sold before birth"; Sun 1982-05-11 "Babies on sale".

⁶⁴DN 1983-04-13 "'Illegitimate' children are sold via 'baby farms' to Scandinavia".

⁶⁵See e.g. Weekend 1985-06-23 "Scandal that is the baby trade"; Sun 1985-06-20 "Trade in babies"; Sun 1985-06-19 "Baby trade"; Sun 1987-01-29 "Social service organization implicated in baby trade"; Sun 1987-01-22 "Lanka's babies are big business"; Sun 1987-01-26 "Other baby farms put up shutters"; Sun 1987-01-28 "Hunt for bogus assistant commissioner".

marriage or unmarried, uneducated women. The pregnant women were allowed to stay on the baby farm until the baby was born, and the children were left in private child centers.⁶⁶The Sri Lankan press also reported that people from the legal and medical professions were believed to be directly involved.⁶⁷One high-profile example was the 1987 police crackdown on

a tourist hotel outside Colombo that had been operating as a baby farm. The police took both the woman who ran the baby farm and 20 women who were staying there for questioning. 22 children were taken into custody. Sri Lankan newspapers reported that pregnant women had been locked up there to prevent them from escaping and that the women were forced to have sexual relations with foreigners. One woman claimed to have been beaten. The Swedish Embassy writes that the impression from the media reports was that those involved may have been guilty of crimes such as prostitution, illegal hotel business, deprivation of liberty, etc. The baby farm was also not registered with the DPCCS.⁶⁸There were many articles in the Sri Lankan press about this.⁶⁹One article describes the farm as resembling a "slave camp" hidden behind the luxurious "guest house" which was right by the sea with a swimming pool, restaurant and bar. In the farm there were 20 beds with dirty mattresses separated by a screen.⁷⁰

The Swedish media also reported on this. TT and Expressen reported that women with newborn babies had been locked up in prison-like conditions, and that Scandinavian and Swedish couples had checked in and bought children. A poor new mother was said to receive around SEK 200 for her child, while the adoptive parents had to pay SEK 40,000-60,000 for the adoption, including travel, legal fees, medical examinations, etc.⁷¹TT wrote about baby farms in Sri Lanka as an example of how the sale of children has become an industry and that Sweden was a major importer.⁷²Government representatives in Sri Lanka have confirmed on several occasions that baby farms existed:

⁶⁶Sun 1987-01-22 "Lanka's babies are big business"; Sun 1987-01-26 "Other baby farms put up shutters".

⁶⁷Sun 1987-01-30 "No law to act against baby trade says police"; Sun 1987-02-02 "Baby farm boom".

⁶⁸Telex from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs Stockholm 1987-01-22, received by NIA 1987-01-23 with dnr 72:31/87.

⁶⁹See e.g. Sun 1987-01-22 "Officials uncover plans breed 'superbabies'"; Daily News 1987-01-22 "Hotelier, 22 women held in baby trade case"; Sun 1987-01-24 "'Tourists' at the farm demand their babies"; 1987-01-25 "Baby trade - the price and prejudice"; The Island 1987-01-29 "Babies remanded - legality questioned".

⁷⁰Sun 1987-01-24 "'Tourists' at the farm demand their babies".

⁷¹TT 1987-01-21; Expressen 1987-01-21 "Scandinavians bought children on 'baby farm'".

⁷²TT 1992-02-25.

- In the mid-1980s, the Secretary of State for Social Affairs described to the NIA so-called "Nursing Homes" that took in pregnant women and paid money for the baby.⁷³
- In the late 1980s, the Minister of Health stated in the Sri Lankan media that she was aware of the existence of baby farms until 1987 and that new information on baby farms would be investigated by a committee.⁷⁴ In a Dutch documentary in 2017, the Sri Lankan Minister of Health confirmed the existence of baby farms. He said in an interview that the state was aware of the existence of many baby farms and major problems with child trafficking in Sri Lanka in the late 1980s.⁷⁵

9.6.4 Children sometimes became available for adoption through persuasion - and in some cases through theft

The Dutch report states that in Sri Lanka's adoption activities during the period 1967-1998, there was systematic theft of children, kidnapping and the handing over of children for payment or under duress. Poverty or other social and cultural circumstances of birth mothers were exploited (war, disasters and social taboos, etc.).⁷⁶ The Swiss report also states that poor women were exploited to deliberately become pregnant and sell their children for adoption.⁷⁷

The Vice-Chair of the UN Committee on Enforced Disappearances confirmed in 2021 that there are a number of cases in Sri Lanka where children's identities have been falsified. The children were either forcibly disappeared or stolen while their guardians were not present. According to the Committee, there are many stories of women who gave birth and were told that the child was dead, and that the child was then sold to middlemen in Sri Lanka and then on to Swiss families. The Committee also notes that there are stories of

⁷³ NIA trip report Sri Lanka March 1986.

⁷⁴ Sun 1989-11-21 "Baby farms flourishing"; 1989-11-21 (Unclear from which newspaper) "Four baby farms in Ratmalana - C.V.", see NIA dnr 72:258/88.

⁷⁵ BNNVARA, *Zembla: Adoption Fraud Part 2* (TV program), Netherlands, 2017. <https://www.youtube.com/watch?v=YSsbRcobbUA>.

⁷⁶ Intercountry Adoption Review Committee (2021).

⁷⁷ The Federal Council, Switzerland (2020).

"baby farms", where women were deprived of their freedom and forced to give birth children who were then adopted out.⁷⁸

Newspapers in Sweden and other countries have also subsequently reported on irregularities in how children became available for adoption. In 2021, DN described the adoption business in Sri Lanka as deeply corrupt and as a "veritable industry" where children had been stolen, sold, housed on baby farms in cramped, unhygienic spaces.⁷⁹ The BBC wrote in 2001 that there were hospital workers who looked for vulnerable young mothers and offered to find better homes for their children.⁸⁰

A 2017 Dutch documentary shows that parents have been persuaded to give up their child for adoption to a child finder and that children have been stolen from their parents. The documentary also shows hospital staff falsely informing the biological parents that their child was stillborn and then receiving part of the money for the child⁸¹.

Already in the 1980s and 90s, there were media reports of persuasion and theft of children. DN wrote about a Sri Lankan journalist who had tracked down some of the mothers who had been on baby farms. Several of the mothers had been employed as maids by wealthy families and had become pregnant after being raped. When the pregnancy was discovered, they were fired and did not dare to go home because an unmarried, pregnant woman would be ostracized from her village. They were therefore easy prey for the agents of adoption agencies. The journalist told DN that the agents obtained information about which mothers were unmarried and persuaded them. Sometimes the children were kidnapped⁸²

The Dutch Embassy in Sri Lanka also reported that after eight months of pregnancy, Sri Lankan women were taken by agents to lawyer-run 'homes' in Colombo to give birth and were persuaded to give up children for adoption. In raids on six homes, two children (5 and 10 days old) were found with unknown mothers. According to the Embassy, child theft could not be ruled out⁸³.

A report by the French government in 2023 describes that children in Sri Lanka have not only been abandoned voluntarily or under pressure for money,

⁷⁸A Swiss article from 2021-08-30 about the ZHAW report: UN body puts illegal adoptions in new, criminal light - SWI swissinfo.ch.

⁷⁹ DN 2021-04-11.

⁸⁰ BBC 2021-03-14.

⁸¹ *Zembla: Adoption fraud* (2017).

⁸² DN 1983-04-13 " 'Illegitimate' children are sold via 'baby farms' to Scandinavia".

⁸³ According to the Intercountry Adoption Review Commission (2021).

but also stolen from maternity wards and placed on baby farms to meet the growing demand for children.⁸⁴

9.6.5 "Fake mothers" occurred adoptions from Sri Lanka

There are reports of so-called "fake mothers" or "acting mothers" in the Sri Lankan adoption business. These are women who were paid to pretend to be the mother of the child and give their consent to the adoption. They attended court hearings and signed false birth certificates. Both the Swiss investigation (ZHAW report) and the Dutch documentary *Zembla: Adoption Fraud* describe that this occurred in Sri Lanka.⁸⁵ The NIA also wrote in a memo in the early 1990s that they were aware of the existence of "fake mothers" in Sri Lanka.⁸⁶

An article in the Sri Lankan press tells the story of a Swiss couple who discovered that the biological mother was different when they went to sign the adoption papers. The child was also different when they arrived at court. The report led to Switzerland banning the Swiss private organization involved from brokering adoptions from Sri Lanka just a few days later⁸⁷

9.6.6 Lack of documents and false documents

Several previous investigations have revealed major shortcomings in the documentation of adoptees' files. The Dutch review identifies systematic shortcomings in documentation that conceal the origin of the children and make it difficult for adoptees to trace their roots.

They note that personal data and documents are often missing and that documents have been falsified. Their survey of adoptees shows that about one fifth of Sri Lankan adoptees have discovered that their birth certificates were incorrect. The names and addresses of the biological parents were also often wrong⁸⁸.

⁸⁴ French Ministry of Justice, Foreign Affairs and Social Affairs (2023).

⁸⁵ The Federal Council, Switzerland (2020).

⁸⁶ NIA staff note 1991-12-23, based on a letter to the NIA 1991-12-23.

⁽⁸⁷⁾ E.g. Weekend 1982-05-09 "Babies sold before birth"; Sun 1982-05-15 "Swiss ban babies from Lanka"; Weekend 1982-05-16 "Swiss ban after 'Weekend' story"; NIA Minutes 1982-06-17.

⁸⁸ Intercountry Adoption Review Committee (2021).

The Swiss study (ZHAW report) has analyzed individual adoption files and also concludes that information is systematically missing from the children's documents or is falsified. Often the biological parents' declarations of consent are missing from the documents and the entry permits contain falsified information about the children⁸⁹.

The Swiss review of 85 adoption files of children from Sri Lanka to St Gallen also shows that it was common for the origins of the biological mothers and children to be concealed or their identities falsified. Most commonly, the child's birth certificate, the child's medical report or the biological parents' declaration of consent were missing. It was also common that the child's birth certificate is not signed by the biological parents, is not signed at all or is illegible⁹⁰.

After the Dutch documentary was broadcast in 2017, the Sri Lankan Minister of Health stated that nearly 11 000 intercountry adoptions may have been carried out using false and manipulated documents. This corresponds to the majority of all intercountry adoptions during 1970-1995⁹¹.

Following the Dutch documentary in 2017, a 28-year-old woman adopted from Sri Lanka to the Netherlands also sued the Dutch State and the organization Stichting Kind en Toekomst. She was born in Sri Lanka in 1992 and was adopted shortly afterwards by her Dutch adoptive parents. She felt that her adoption was careless and that the adoption documents were false, leaving her unaware of her origin and the circumstances under which she was given up. She considered this a violation of her fundamental rights and argued that the State and the adoption agency had acted illegally. The court rejected the claims, arguing that the limitation period had passed. However, the Court of Appeal held that the adoption agency had not sufficiently fulfilled its core obligations and had relied on the Sri Lankan documents, despite the fact that at the time there were clear signs of irregularities in inter-country adoptions from Sri Lanka and elsewhere. The organization should have made more effort to obtain information about the child's arrival and the reasons why the child was available for adoption.

⁸⁹ The Federal Council, Switzerland (2020).

⁹⁰ Berthet and Falk (2022).

⁹¹ See e.g. BBC 2021-03-14 "Sri Lanka adoption: The babies who were given away".

The court also held that the state should have critically examined how the adoption organization fulfilled its basic obligations in practice and that the state, through closer supervision, would probably have discovered the irregularities.⁹² However, the Dutch Supreme Court decided in April 2024 that the case should be referred back to the Court of Appeal in Amsterdam, because in its judgment it had not taken into account the concrete circumstances of the case, but only general indications of irregularities.⁹³

9.6.7 Sri Lankan officials accused of being involved in irregularities

One factor that has made it difficult to stop child trafficking in Sri Lanka's adoption business is that influential people in society were involved in the business, including DPCCS officials.⁹⁴ Officials have been accused of being linked to child trafficking, baby farms and fake mothers. But most often the allegations were that DPCCS officials were involved in private adoptions outside the rules then in place regarding orphanages and the process.⁹⁵ Individual DPCCS officials were not supposed to broker adoptions. There were also reports that the DPCCS manager who ran an orphanage with her husband for adoptions to Australia was making money from the adoption business⁹⁶.

⁹²Fiom.nl 2022-07-14 "Dilani Butink equated in Sri Lanka adoption case",

See <http://database.againstchildtrafficking.org/node/50817>. Retrieved 2024-10-11.

⁹³Prakken d'Oliveira Human Rights Lawyers 2024-04-19 "Supreme Court: case about illegal 'adoption' of Dilani Butink from Sri Lanka referred back to the Appeals Court in Amsterdam", see <https://www.prakkendoliveira.nl/en/news/2024/supreme-court-case-about-illegal-adoption-of-dilani-butink-from-sri-lanka-referred-back-to-the-appeals-court-in-amsterdam>. Retrieved 2024-10-11.

⁹⁴Letter and memorandum from the Swedish Embassy in Colombo to the NIA 1984-10-24 "International adoptions Sri Lanka - Sweden", in the diplomatic mission archives 1984-11-02 dnr 12/130 R 34.

⁹⁵"Minutes of a meeting at the NIA with the organizations authorized for Sri Lanka. 1981-01-28" NIA dnr 6:24/81; Letter from the Swedish Embassy in Colombo 1986-07-10 NIA dnr 46:202/86; Letter from NIA to the Swedish Embassy in Colombo 1986-11-07

NIA dnr 46:202/86 and 49:402/86; Letter from NIA to the Swedish Embassy in Colombo 1987-03-31 NIA dnr 61:128/87; Sun 1989-07-27 "Lankan babies up for export again"; Commissie onderzoek interlandelijke adoptie (2021).

⁹⁶Letter from the NIA to the Swedish Embassy in Colombo 1987-03-31, NIA dnr 61:128/87 (also 49:402/86); Tidningen Sydvasen nr 2 1992.

9.7 Irregularities in Swedish adoption activities and how Swedish actors have acted and behaved

9.7.1 Introduction

Our review of the archives shows that there have been widespread irregularities in adoptions from Sri Lanka. The adoption business in the country quickly developed into a business and there was trafficking in children. It is unclear to what extent the irregularities have occurred in adoptions to Sweden. Sweden has adopted the most children from Sri Lanka of all countries. For example, in the second half of 1979, Sweden received more than twice as many children for adoption from Sri Lanka as the second largest receiving country.⁹⁷ In 1983, Sweden accounted for 300 of the 800 children adopted inter- nationally.⁹⁸ In some cases, suspicions of irregularities concern Sweden specifically. For example, two Swedish women have been reported to the police for irregular adoption activities, and BV's contact person in Sri Lanka ran an adoption business with several questionable elements.

In our limited sample of private and individual adoption files from Sri Lanka in the 1970s-1990s, about one-third of the files contained some form of irregularity in the form of incorrect date of birth, contradictory information, child swapping or that actors in Sri Lanka circumvented the permitted cooperation with Swedish organizations. This does not include the many cases where consent documents or other relevant documents to ensure that the child is available for adoption are missing, nor the adoptions that have taken place without the intermediary route being approved. We have also seen similar irregularities in our even more limited sample of files from the adoption organization BV in the 1980s. However, we have examined a very limited number of files, which means that we cannot draw general conclusions about Swedish adoption activities in Sri Lanka.

Swedish actors have been aware of irregularities in adoptions from Sri Lanka to Sweden since at least 1980, as evidenced by intensive correspondence between Swedish and Sri Lankan actors over a long period of time. There has been open talk of child trafficking. Despite this, adoptions have been allowed to continue. Swedish

⁹⁷ Information from the State Secretary in the Ministry of Social Affairs in a memo from the Swedish Embassy in Colombo.

⁹⁸ Letter from the Swedish Embassy in Colombo to the NIA 1984-10-24 "International adoptions Sri Lanka - Sweden" beskicksningsarkivet 1984-11-02 dnr 12/130 R 34.

authorities have also spent a lot of time dealing with adoptions from Sri Lanka. The NIA has carried out seven inspection visits to the country and has during certain periods restricted BV's authorization. The NIA has also worked to establish a cooperation agreement between Sweden and Sri Lanka to address the problem of privately mediated adoptions, as this was where the risk of irregularities was considered to be greatest.

In a study, social anthropologist Daniel Cidrelius has examined more than 300 news articles and reports on adoptions from Sri Lanka to Sweden between 1970 and 2019. He shows that child trafficking in the adoption business in Sri Lanka has been discussed in the media since the mid-1970s. The media has reported on middlemen who made money on the adoptions and an emerging adoption market that benefited from charter tourism and demand for adoptive children, as well as baby farms and poor mothers who were persuaded to give up their children for adoption. Cidrelius shows that the major Swedish morning and evening newspapers highlighted private adoptions as the problem and that adoptions should be carried out through authorized adoption agencies. He also reports on articles about adoptees seeking origin in Sri Lanka who have discovered child swapping, consent under pressure or adoption against the will of the parent, and incorrect background information,⁹⁹ among other things

9.7.2 There was child trafficking and financial gain in adoptions to Sweden, which Swedish operators knew about

Our archival review shows that both Swedish and Sri Lankan actors have openly talked about the ongoing trafficking of children in Sri Lanka's adoption business from the mid-1970s to 1992.

In the mid-1970s, there were first signs of child trafficking in the adoption business

In the mid-1970s, the first reports came to Sweden that children were being trafficked for adoption in Sri Lanka. Swedish newspapers reported that Sri Lankan children were being sold to

⁹⁹Daniel Cidrelius (2023). *The Knowledge Negotiation of Adoptive Child Trafficking - Discourses on Approaches*, e.g. p. 144 ff.

including Swedish adoptive parents on charter vacations and that Swedes "buy children on the black market" from, among other places, Sri Lanka.¹⁰⁰ In addition, the NIA received information from actors in Sri Lanka that child trafficking was taking place in the country, with intermediaries making a lot of money from the adoptions. This is evident from NIA travel reports, newspaper statements by the chairman of the NIA and a departmental letter from the Ministry of Social Affairs:

- As early as 1975, the NIA received alarming reports of irregularities and tendencies towards child trafficking in the Sri Lankan adoption service. They were told that it was rapidly becoming organized in the same way as, for example, prostitution and drug trafficking.¹⁰¹
- During a visit to Sri Lanka in March 1976, the NIA was informed of problems in the adoption business, after it had been "running rampant" for a number of years. The social welfare authorities in the country were very concerned about the adoption of "children who were neither abandoned nor orphaned" which was taking place directly in the courts¹⁰².
- A representative of the NIA described in DN in 1976 that she had heard of orphanage directors in Sri Lanka being bribed to hand over children, and parents selling their children to get money for food.¹⁰³

The existence of child trafficking in adoptions from Sri Lanka was discussed between Swedish and Sri Lankan officials as early as the 1970s.

In 1979, data on child trafficking in adoptions came to Sweden

Around 1980, the NIA, the Swedish adoption organizations, the Swedish Embassy in Colombo and the Swedish Ministry for Foreign Affairs began to receive information about irregularities in adoptions from Sri Lanka to Sweden. During the NIA's trip to Sri Lanka in 1979, for example

¹⁰⁰Expressen 1976-06-19 "Småbarn säljs till Sverige för 100 kr"; Göteborgsposten 1976-06-20 "Svenskar köper barn för 3000 kr styck" (both referring to the newspaper Honey in Sri Lanka); GT 1978-03-28 "Därför ökar den illegala barnhandeln".

¹⁰¹ NIA's travel report Sri Lanka 1982, see the mission's archive no. 11/154 R 34 1983-12-05.

¹⁰²Letter from NIA to the Ministry of Social Affairs "Adoption of children from Sri Lanka" 1977-02-16 NIA dnr 49:1711/76; NIA travel report from 1976.

¹⁰³DN 1976-08-16 "Many sad experiences".

NIA to warn Swedish families about a pair of Sri Lankan brokers working illegally who were already known to both NIA and AC. One of them had taken fees equivalent to 10,000 Swedish crowns, which Swedish families had confirmed to the AC.¹⁰⁴ A Swedish couple who had used the other intermediary described in a letter to the NIA that the child was handed over to them in the hotel room, which they were not allowed to leave until the court proceedings were completed a few weeks later. The couple had to pay a lot of money to various intermediaries, and there were bribes to get legal assistance in court and to get various documents and passports for the child. The couple describes that the children were treated as commodities and that they could be asked if the child was good enough or if they wanted a prettier one⁽¹⁰⁵⁾.

Correspondence between the Swedish Ministry of Foreign Affairs and the Embassy in Colombo from this time shows that both Swedish and Sri Lankan actors talk about improper and illegal adoption activities linked to Sweden. For example, the Ministry of Foreign Affairs writes that the NIA is seriously concerned about the continued reports of improper adoption transactions involving Sri Lankan children and Swedish parents and that the NIA wants to travel

to Sri Lanka to find "appropriate measures to curb the illegal adoption activities involving Swedes". The Ministry of Foreign Affairs also points out that the Secretary of State at the Ministry of Social Affairs in Sri Lanka had expressed concern about the high incidence of improper adoptions¹⁰⁶.

From 1980 onwards, the MFA and NIA received many newspaper articles about child trafficking in Sri Lanka, not least from the Swedish Embassy. The Sri Lankan and Swedish press reported on adoption scandals and child trafficking involving children intended for Swedish families.¹⁰⁷ The media reports prompted various actors to comment on the information. In 1979, the Sri Lankan press reported that the

¹⁰⁴NIA's report from a trip to Colombo, Sri Lanka 1979-10-21-27, received by the Swedish embassy in Colombo 1979-12-26, mission archive no. I:10 R 34.

¹⁰⁵NIA 49:39/80; NIA report from trip to Colombo, Sri Lanka 1979-10-21 to 1979-10-27 NIA dnr 9:362/79; Embassy in Colombo dnr XII:47 1980-04-01 R 34; UD dnr 22:A 190 R 34 1980-10-24; UD dnr 22:A R34 1980-10-07; UD 1980-10-03 dnr 1157 R34.

¹⁰⁶Letter from UD Stockholm to the Swedish Embassy in Colombo 1980-10-03, received by the Swedish Embassy 1980-10-06 dnr IV:151 R 34; Letter from the Swedish Embassy in Colombo to UD Stockholm 1980-10-24, Beskickningsarkivet dnr III:190 R 34.

¹⁰⁷NIA Minutes 1981-12-17; Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs Stockholm 1981-12-02, beskickningsarkivet dnr III:201 R 34 (also NIA dnr 72:331/81); Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs Stockholm 1981-12-03, received NIA 1981-12-04 dnr 72:331/81; Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs "Adoptions from Sri Lanka" 1982-01-19, received NIA 1982-01-22 dnr 72:331/81; Letter from the Swedish Embassy to the Ministry of Foreign Affairs Stockholm 1981-12-24, received NIA 1981-12-29 dnr 72:331/81.

Sri Lanka had discovered that Sri Lankan children were being sold to foreign couples for adoption, BV wrote to the Swedish Embassy in Colombo that they were well aware that Swedes and other Scandinavians were traveling to Sri Lanka to adopt children in violation of the country's laws.¹⁰⁸ Following newspaper articles about the trafficking of children for adoption to Scandinavian couples, a representative of the NIA told DN that they were not surprised by the information that there had been illegal adoption of children from Sri Lanka but that they had not known about it before. The head of the AC office told Aftonbladet that she was not surprised and that they had long suspected that such things were happening in Sri Lanka.

AC had earlier that year, at a meeting with NIA and the other adoption organizations, expressed concerns about the way adoptions were conducted in Sri Lanka.¹¹⁰ AC also later described that they were critical of the situation in Sri Lanka because of the corruption in the country and that there was a lot of money involved in adoptions. This was one of the reasons why AC did not want to refer families to BV, when BV asked about it in 1982.¹¹¹

In the early 1980s, the NIA noted in several activity reports, and also in other memoranda, that child trafficking was taking place in Sri Lanka.¹¹² This means that the government, at least at a general level, was informed about this. However, at that time it was unclear how extensive the problems were and to what extent they concerned adoptions to Sweden.¹¹³

During the 1980s, adoptions developed into business activities

The NIA outlined the reasons for the growth of child trafficking in its 1982 travel report. The agency argued that the adoption business had grown because of the high demand for children of

¹⁰⁸ Letter from the Swedish Embassy in Colombo UD Stockholm 1979-12-21 dnr III:56 R 34.

¹⁰⁹ DN 1981-12-02 "Foreign couples were allowed to buy children"; Aftonbladet 1981-12-01 "Liga sålde barn till Sverige?" (UD Stockholm informs the Swedish Embassy in Colombo, the mission archive 1981-12-02 dnr IV:146 R 34).

⁽¹¹⁰⁾ "Minutes of the meeting at NIA of the organizations authorized for Sri Lanka" 1981-01-28, from the AC archives.

¹¹¹ Notes from conversation between BV and AC 1982-03-09, AC's archives.

¹¹² NIA annual reports 1979/1980 and several years onwards; NIA "PM om adoptions som förmedlas utanför auktoriserad organisation" 1981-11-05, submitted to the Minister of Social Affairs at a meeting 1981-11-16, NIA dnr 49:300/81.

¹¹³ Letter from the Swedish Embassy in Colombo to the Swedish Foreign Ministry "Adoptions from Sri Lanka"

1982-01-19, received NIA 1982-01-22 dnr 72:331/81; dnr 99 R 34 1982-10-01; NIA letter to social office in Växjö 1983-03-18 (unclear who sent the letter and when).

mainly Swedish families and "the large supply of children through the tourist industry". During the NIA mission, it became clear that the Ministry of Social Affairs and the DPCCS had almost completely lost control over adoptions and that the activities were characterized by resignation and indifference. According to the Swedish Embassy in Colombo, the problems were built into the system where those involved earned a lot of money. For example, a lawyer's fee of 3,000 rupees in an adoption case was equivalent to an annual income for a worker in Sri Lanka.¹¹⁴ Similarly, the Swedish Embassy in Colombo wrote in 1983 that the problems of child trafficking had probably worsened because of the increased demand for children and that the business was driven by self-serving profit-making at all levels. Many single mothers gave up their children for adoption for social or economic reasons, and poor parents with many children gave up children for adoption for purely economic reasons. The original parents received around 100-500 rupees, while the adoptive parents usually had to pay around 6 000 rupees for a child¹¹⁵

During its visit to the Ministry of Social Welfare in Sri Lanka in 1984, the NIA was told again that there were concerns about pressure on parents. The Swedish Embassy reported in 1984 that they had received information about pressure on poor parents and about agents looking for suitable adoptive children in children's hospitals. According to the State Secretary, adoption agents often visited mothers of newborn babies in the hospitals and offered payment if they gave up their children for adoption. People in a desperate financial situation often fell for such offers. There were also reports of police pressure and reports of theft of children. The NIA wrote in 1986 that there had been repeated criticism both in Sweden and Sri Lanka of commercialized adoption activities and that there were questions about how some children become available for adoption¹¹⁶

At a meeting with the FFIA in 1987, the head of the DPCCS was very critical of the way the adoption business worked. Although the foreign adoption organizations and adoptive families did not directly buy children from their parents, there were intermediaries who made a lot of money from the business¹¹⁷.

¹¹⁴ NIA's travel report Sri Lanka 1982, see the mission's archive no. 11/154 R 34 1983-12-05.

¹¹⁵ Letter from the Swedish Embassy in Colombo to the NIA 1984-10-24 "International adoptions Sri Lanka - Sweden", diplomatic mission archive 1984-11-02 dnr 12/130 R 34.

¹¹⁶ NIA letter 1986-08-22, in FFIA archives; Letter from the Swedish Embassy in Colombo to NIA 1984-10-24 "International adoptions Sri Lanka - Sweden" beskickningsarkivet 1984-11-02 dnr 12/130 R 34.

¹¹⁷ FFIA "Report" 1987-03-23 received NIA 1987-03-25 dnr 61:128/87.

Our review of private and individual files sometimes reveals information on what the adoptive parents paid for the adoption. Several files from 1982 show that one of the private contacts who placed the most children in Sweden charged SEK 14 000 in addition to travel and living expenses, which the NIA considered to be high costs. Another private contact charged SEK 25,000, but in that case it is not clear what was included in the costs. A file from 1990 shows that BV's contact person was paid SEK 10,000, in addition to travel and accommodation in an adoption he arranged privately alongside the BV cooperation. Another file from 1991 shows that the adoptive parents paid SEK 9,000 for lawyer's fees and stamp duty, plus SEK 26,000 for food, accommodation and travel.

Irregularities continued throughout the 1990s

During the 1990s, the NIA reported back to the Government that the frequent allegations of irregularities, bribery etc. in connection with international adoptions from Sri Lanka were certainly justified.¹¹⁸ The NIA also describes in its 1991 travel report that reports of irregularities, bribery etc. continued to circulate.¹¹⁹ According to the minutes of a meeting with the Sri Lankan Embassy in Stockholm and the Swedish adoption organizations in 1992, the ambassador had mentioned that there were illegalities in the adoption business, both in Sweden and in Sri Lanka.

In retrospect, adoption organizations have described high risks of widespread corruption and financial incentives

Former BV staff described in an interview with us that there was a lot of money involved in the adoptions and that "anything to do with money is a risk". Former FFIA staff described that it was extremely difficult to work in Sri Lanka and that there were high risks due to the corruption in the country. They state that DPCCS

¹¹⁸ Annex to NIA's annual and country reports 1993-1997, in which NIA reports on developments in the field of adoption in, inter alia, Sri Lanka.

⁽¹¹⁹⁾ "Report of the NIA's visit to Sri Lanka, November 23-30, 1991", NIA No. 60:607/91 received from the FFIA.

¹²⁰ The minutes of a meeting with the Sri Lankan Embassy in Stockholm and the Swedish adoption organizations on 30 January 1992 (no. not shown).

was a corrupt authority. They also describe that the BV contact person in Sri Lanka had relatives within the DPCCS and that the BV contact person was allowed to go to the front of the queue with his court cases.

9.7.3 BV contact person made business out of adoptions

BV worked with a Sri Lankan businessman who ran an orphanage, hotel, food service and transportation service for prospective foreign adoptive parents. The guesthouse had 12 rooms and was a profitable business. The contact person was criticized for being commercially driven. He has himself confirmed the high costs, but has justified them with the actual expenses of the business.

The children came mainly from single young mothers or married mothers with problems. The mothers were admitted to the maternity home run by the BV contact person about three to four months before the birth of the child, and were then provided with the home's assistance program. The operation provided daily milk distribution to a total of about 800 children at eight milk distribution centers. These were sometimes attended by the Sri Lankan Minister of Security, who also supported the operation¹²¹.

Criticism of the adoptive families providing financial support to the biological mothers led BV to draw up an agreement in 1982

In the autumn of 1980, the NIA office began to receive criticism from several quarters about BV and its contact person in Sri Lanka.¹²² At a meeting between the NIA and the Swedish adoption organizations in 1981, it emerged that 95 percent of the families who adopted through BV's contact person provided financial support to the biological family after the adoption was completed.¹²³ BV later explained that each family that adopts a child through the contact person's organization contributes 1,400 kroner to a social program, in addition to the adoption costs. Many of the single mothers who give up their children for adoption are employed at the organization's dry milk centers.¹²⁴ AC was very critical

¹²¹Letter and memo from the Swedish Embassy in Colombo to the NIA 1984-10-24 "International adoptions Sri Lanka - Sweden", in the diplomatic mission archives 1984-11-02 dnr 12/130 R 34.

¹²²NIA Minutes 1980-10-30.

⁽¹²³⁾Minutes of the NIA meeting with the organizations authorized for Sri Lanka. 1981-01-28" NIA dnr 6:24/81.

¹²⁴Letter from BV to NIA 1981-09-16 NIA dnr 45:68/81; Letter from NIA to BV "Förfrågan ang. SLBV:s arbetssätt" 1981-05-20 NIA dnr 6:24/81.

that the Swedish adoptive families provided financial support to the birth mother. The AC also pointed out that the adoptive family should not pay adoption costs itself, which was also stated in the NIA's regulations. The NIA also found this remarkable. NIA felt that AC should discuss this further with BV, but AC pointed out that they had already done so on several occasions and that NIA should now take it further¹²⁵

In May 1982, an agreement was signed between BV and their contact person regulating the Swedish adoptive parents' costs for the adoption. The agreement also regulated BV's costs for contributing to the running of the orphanage (SEK 45,000 per month) and their welfare program (SEK 15,000 per month).¹²⁶ BV was satisfied with the agreement, and NIA writes that questions and misunderstandings about the costs of the adoptions should be settled once and for all.¹²⁷

Prior to this negotiation in 1982 and on several other occasions, BV contacted the NIA for advice and assistance on how to maintain a high ethical standard.¹²⁸ As early as the autumn of 1979, BV requested guidelines from the NIA on the assistance activities of authorized organizations.¹²⁹ BV endeavored to follow the advice and gradually improved its adoption activities, for example, so that adoption costs are paid in Sweden, so that applicants do not have to handle large sums of money on the trip.¹³⁰

From 1983, the NIA received reports that BV's contact person was running a commercial adoption business and circumventing the rules

In 1983, several problems in adoptions through BV came to light. There are several examples of adoptive parents traveling to Sri Lanka to adopt a child through BV, but during the trip adopting another child through BV's cooperation contact. The second child was then adopted privately without BV's intermediation, but still with the help of BV's

⁽¹²⁵⁾ "Minnesanteckningar från kansliträff AC/NIA 1981-02-16" in AC's archive AU 1981-03-10 point 8a; Adjusted minutes from the cabinet meeting 1981-01-28, received NIA 1981-05-20 dnr 6:24/81.

¹²⁶ Included, for example, as an annex in NIA No 72:147/83.

¹²⁷ NIA's travel report Sri Lanka 1982, see the mission's archive no. 11/154 R 34 1983-12-05; BV's report from a visit to Sri Lanka May 1982, received by NIA 1982-06-14 with no. 69:245/82.

¹²⁸ SLBV's statement on a letter from the Swedish Embassy in Colombo 1983-07-05 "Case: NIA 72:147/83" (found in the mission's archive 1982 without no.).

¹²⁹ NIA Minutes 1979-10-31.

¹³⁰ SLBV's statement on a letter from the Swedish Embassy in Colombo 1983-07-05 "Case: NIA 72:147/83" (found in the diplomatic mission's archives 1982 without a number).

contact person. In these cases, the NIA was not informed that the family had adopted two children at the same time.¹³¹ In 1983 it was also discovered that BV had approached adoptive families directly to inform them that they could adopt a sibling of the child they had previously adopted, even though these families no longer had valid consent. The NIA explained to BV the inappropriateness of the procedure and that BV must always contact the investigator before discussing a child proposal with the family⁽¹³²⁾.

Swedish families started to react to the fact that the BV contact person charged extra for various services on site in Sri Lanka. One couple describes having to pay a deposit to cover food, drink, travel and telephone calls. They thus had to pay to eat 15 meals at the contact person's guesthouse. The contact person had also tried to charge them a second time for a trip to a nearby town, even though it had already been paid for in Sweden. He also demanded extra money for the biological mother's rehabilitation, even though the applicants had already paid rehabilitation costs in Sweden. The contact person had also asked the applicants to tell the head of DPCCS that they had paid a lower amount for lawyer, medication and administration than they actually had. An official at the NIA writes that she finds this suspicious¹³³.

Correspondence between NIA and BV in November 1983 shows that BV had been aware since the summer that their contact person was trying "dirty tricks" and that he was "up to his tricks".¹³⁴ BV also describes his actions in response to this. BV had paid back the money that the families had been wrongly paid and had serious discussions with the contact person. BV had made it clear that families should be informed of the deposit before the trip, that BV did not accept that Swedish families should contribute to the mothers' rehabilitation, and that it took seriously the allegation that the applicant had given an incorrect amount for the costs.

¹³¹ BV's letter to NIA regarding an individual adoptive family 1983-06-15 received NIA 1983-06-16 (no file number); BV's report to NIA on children coming through BV's organization attached to BV's letter to NIA regarding an individual adoptive family 1983-06-15 received NIA 1983-06-16 (no file number).

¹³² NIA official memorandum 1983-08-11 (no number given, but possibly 69:172/83).

¹³³ Letter from NIA 1983-11-18, NIA dnr 49:340/83.

¹³⁴ NIA note 1983-11-09 and letter from NIA 1983-11-18, NIA dnr 49:340/83.

¹³⁵ Statement to the NIA 1983-12-15.

The rates were slightly reduced compared to the 1982 agreement. BV continued to look for alternative adoption organizations in Sri Lanka.¹³⁶

In April 1984, SVT's program *Magasinet* dealt with the "adoption scandal" surrounding BV's contact person. A few months later, the newspaper *Sydasien* wrote a critical article based on this TV program. They used BV as an example of the fact that adopting through an organization approved by the Swedish State was not a guarantee.¹³⁷ Both the NIA and BV rejected the criticism. The NIA would not acknowledge any general or widespread criticism of BV about the costs and told the South Asia newspaper that BV fulfills all the requirements that the NIA set for an adoption intermediary. BV wrote in its submission to the NIA that it can completely reject the criticism thanks to its frequent contacts with its contact person and its surveys of families who have adopted through it⁽¹³⁸⁾.

However, NIA continued to receive information from families who had been asked for extra money on arrival in Sri Lanka to bring the child home, even though they had already paid a sum to cover all costs. There were families who had to pay extra to visit the children in the orphanage and felt obliged to take advantage of various offers¹³⁹.

Our interviews with people who previously worked at BV confirm that the contact person charged extra beyond what was agreed before departure and that the price of accommodation could go up overnight. The contact person's handling of money was a challenge for BV. The BV board had to travel to Sri Lanka on several occasions to deal with this¹⁴⁰.

Audit of the activities of the BV contact person revealed shortcomings in the financial part

The NIA decided in December 1984 to carry out an audit of some of the cooperation contacts of adoption organizations in Sri Lanka, including BV's contact organization.¹⁴¹ The activities were criticized in the financial aspects and the accounts were considered weak. The auditors made several recommendations.

¹³⁶Letter from BV to the Swedish Embassy in Colombo 1984-04-03, received by the Swedish Embassy 1984-04-12, no. 14/110 1984-04-12 R 34 (the agreement is also included in BV's application for authorization for 1985, received by the NIA 1984-10-23, no. 60:280/84).

¹³⁷ South Asia magazine, September 1984.

¹³⁸ Letter from BV to NIA 1984-12-07 NIA dnr 49:298/84.

¹³⁹ Letter from the social administration in Örebro to the NIA 1984-11-01 NIA dnr 49:298/84.

¹⁴⁰ Interview with BV representative 2023-10-16.

¹⁴¹NIA annual report for 1985-1986.

The audit report shows that the BV's contact person received a salary which was about ten times higher than any of the other employees' salaries (15 000 rupees per month). In addition, he was charging Rs. 10,000 per month for traveling on behalf of the association, without any official association decision on these fees.¹⁴² Based on the audit report, the NIA concluded that BV's contact person was charging excessive rent for the orphanage. In addition, BV had paid large sums to the contact person for the repair of the orphanage and BV's money had also been used for the construction of a temple (a total of 550 000 rupees). The rent was reduced retroactively and the contact person promised to pay back the amounts for the construction of the temple and the repair of the orphanage. The BV and their contact person also agreed that the firm that had carried out the NIA's audit would carry out an annual audit of the operation⁽¹⁴³⁾.

In 1990, BV suspends its cooperation with the contact person's organization and the NIA starts making demands and limiting BV's authorization

In November 1990, BV suspended its cooperation with their contact person's organization because of the problems that had emerged. The Swedish families had been burdened with more costs in Sri Lanka than were regulated in the agreement between BV and the organization, a relatively large number of private adoptions to Sweden were carried out with the help of the organization's lawyer and probably also with BV's contact person as an assistant, and there had been frequent child swaps, i.e. the families had received a different child than they had been informed of before departure from Sweden.

After BV had signed an agreement with this organization for 1991 which regulated the costs and required adaptation to international guidelines, BV decided to resume cooperation in February 1991, i.e. three months later.

¹⁴²Letter from the Swedish Embassy in Colombo to the NIA 1985-11-12 "Audit of adoption organizations in Sri Lanka" received by the NIA 1985-11-15 dnr 69:342/84.

¹⁴³The Swedish Embassy's audit of the activities of the authorized organizations' contacts in Sri Lanka etc., NIA dnr 69:342/84.

¹⁴⁴PM 1991-03-13 NIA dnr 60:378/89.

¹⁴⁵Letter from BV to NIA concerning the decision to resume cooperation on February 19, 1991 and new agreement on December 22, 1990, both in NIA file No 60:378/89.

with his contact in Sri Lanka". In addition to previous problems, it was discovered that BV's contact person had entered into an organized collaboration with a person in Sweden who helped the applicant to adopt privately with his consent to adopt through an organization¹⁴⁶.

In March 1991, FFIA, AC and BFA insisted that NIA should withdraw BV's authorization if BV continued to cooperate with this organization. The reason for this was the suspicion that BV's contact person had been involved in private adoptions to Sweden, suspicion of unreasonable financial compensation in the implementation of these adoptions and suspicion of payment of bribes in Sri Lanka.¹⁴⁷ The NIA took a serious view of the fact that BV's contact person had been involved in private adoptions to Sweden in addition to his cooperation with BV. He had for many years cooperated with a person in Sweden to arrange children for private adoption. He also helped BV's own members to bypass their queue of applicants and allegedly received around SEK 30,000 extra per adoption, in addition to the amount charged by the agency in connection with the adoption.⁽¹⁴⁸⁾ (Read more about this in section 9.7.4.)

Subsequently, the NIA imposed a series of decisions restricting BV's authorization and requiring measures to be taken in order for BV to continue its brokering activities. The first restriction was imposed by the NIA in March 1991. The NIA then decided not to authorize BV to cooperate with this activity or the contact person in question.¹⁴⁹ However, in June 1991, the NIA decided to re-authorize BV, but only for the remainder of the year and only for placements from State orphanages. BV then cooperated directly with DPCCS. The NIA took the decision after BV made changes in its working methods, changed contact persons and announced cooperation with a state orphanage instead of the former orphanage¹⁵⁰.

The NIA visited Sri Lanka in November 1991 to review BV's activities on the spot. During the visit, the NIA perceived that the former

¹⁴⁶NIA's reply to BV's request to continue adopting via MLFS 1991-03-20 and PM 1991-03-13, both NIA dnr 60:378/89.

¹⁴⁷ Letter from FFIA, AC and BFA "Regarding adoptions in Sri Lanka" 1991-03-06, NIA dnr 60:378/89.

¹⁴⁸NIA minutes 1991-02-20; NIA's statement in response to an appeal from BV concerning the NIA's decision to limit the association's authorization in relation to what the association had requested 1992-05-20 NIA dnr 60:81/92.

¹⁴⁹NIA minutes 1991-03-20; NIA's statement in response to an appeal from BV concerning the NIA's decision to limit the association's authorization in relation to what the association had requested 1992-05-20 NIA dnr 60:81/92.

¹⁵⁰NIA's authorization decisions 1991-06-25, nos. 60:378/89 and 72:336/91; SLBV report to NIA 1991-05-22 NA no. 60:378/89.

the contact person would probably still have influence over the placement. Even if he was not involved in the management of the adoption cases themselves, the applicants would mainly stay in his guesthouse and he would continue to manage transportation, tourist services, passports, etc.

During the trip, BV families in the hostel also described 'child swapping' as having become very common. NIA's survey of 35 families who had adopted through BV between June and December 1991 showed that 16 of the families had experienced child swaps. Five of them had experienced two or more child exchanges. NIA noted again during the visit that the BV contact person had placed children privately in addition to his cooperation with BV at the time. In addition, it emerged that only a small proportion of the children who came to Sweden through BV seemed to come from the state orphanages, even though DPCCS was responsible for the allocations. Based on the findings of the visit to Sri Lanka, the NIA decided to limit the authorization to three months, until 31 March 1992¹⁵¹.

In our file review of private and individual adoptions from Sri Lanka, we have seen examples from 1990 where BV's contact person and his lawyer have helped to arrange adoptions privately to Sweden, alongside the BV cooperation. Our sample of BV's files from the 1980s also shows that in three out of eight files there has been a child swap, i.e. the adoptive parents have brought a different child home from Sri Lanka than they had a child certificate for. In one case, the adoptive parents were informed by BV on the day they were to travel to Sri Lanka that they would have a different child than the one they thought, because the child's mother had fallen ill and could not give her consent to the adoption. The family traveled anyway and adopted another child without consent for that particular child. In another case, the child the adoptive parents were supposed to pick up died during their stay in Sri Lanka, and then they adopted another child instead without obtaining a new permit.

However, so-called child swaps have not only occurred in adoptions via BV. We have also seen several examples of child swapping in ISIA's adoptions from Sri Lanka in the mid-1980s. The applicants had adopted a different child in Sri Lanka than the child for whom they had received a child decision. In both BV's and ISIA's files we have also seen examples of

¹⁵¹Report from NIA's visit to Sri Lanka 23-30 November 1991", NIA no. 60:607/91 received from FFIA; NIA's authorization decision 1992-03-18 no. 60:81/92; NIA's statement in connection with an appeal from BV regarding NIA's decision to limit the association's authorization in relation to what the association had requested 1992-05-20 NIA no. 60:81/92.

For example, adoptive parents have come back to Sweden with two children, even though the child proposal was for one child.

Several of our interviews with private adoptees from Sri Lanka also revealed that their adoptive parents were supposed to have another child, but the mothers changed their minds at a late stage and the Sri Lankan authorities quickly arranged for a new child.

NIA continued to grant BV authorization despite non-compliance

In the authorization decision in March 1992, the NIA writes that BV does not show that the association has control over all costs in Sri Lanka in connection with adoption, nor that these costs are reasonable.¹⁵² Despite this, the NIA decided to give BV authorization, but with a limitation to August 1992 and with some specific requirements. BV would unfold its organized cooperation with the contact person and offer the families real freedom of choice in, for example, the accommodation. BV would also find new acceptable arrangements for the transfer of funds to reimburse the costs of adoptions in the child's country of origin¹⁵³.

In June 1992, it emerged that BV had set aside and paid a sum per child for those adopted children who were staying with their relatives during the adoption process.¹⁵⁴ The NIA wrote to the Swedish Ministry of Social Affairs that this new information did not tally with the information previously provided by BV. The NIA also argued that the description of what these amounts related to, to whom they were paid and what BV's instructions contained was vague and that the NIA should examine this information separately.⁽¹⁵⁵⁾ The NIA argued that BV did not have control over the costs in its adoption cases in this respect either

BV appealed the NIA's decision to limit the authorization to August 1992, but the government rejected the appeal, holding that

¹⁵²NIA authorization decision 1992-03-18 dnr 60:81/92. See also Press release from NIA 1992-03-27 dnr 60:81/92; South Asia No 2 1992.

¹⁵³NIA's authorization decision of 18 March 1992 No 60:81/92. See also "News via NIA from the NIA meeting on March 25, 1992" No 3/92, received from FFIA; Press release from NIA 1992-03-27 dnr 60:81/92.

¹⁵⁴Letter from BV to the Ministry of Health and Social Affairs "Concerning BV's appeal" received NIA 1992-06-23 dnr 60:81/92.

¹⁵⁵Letter from NIA to the Ministry of Social Affairs 1992-07-10 "Appeal from BV regarding decision by NIA to limit the association's authorization in relation to what the association requested" NIA dnr 60:81/92.

¹⁵⁶NIA's opinion on an appeal from BV 1992-05-20 NIA dnr 60:81/92.

The NIA had been justified in limiting the authorization period.¹⁵⁷ Nevertheless, shortly thereafter, the NIA decided to extend the authorization until October 1992 to give BV the time and opportunity to meet the requirements set by the NIA in its March 1992 decision.

The NIA subsequently decided to grant BV authorization until December 1993 for cooperation with DPCCS. The reason given was that BV had visited Sri Lanka and implemented the changes required by the NIA to grant authorization. BV had discontinued its organized cooperation with the previous contact person, offered the families freedom of choice of accommodation and lawyer and appointed a new BV representative in Sri Lanka. However, according to an article in the South Asia newspaper, the new social worker had previously been employed by the previous BV contact person, which reduced credibility.¹⁵⁹ A person at the Swedish Embassy also expressed doubts to NIA as to whether the new BV representative would be able to stand free from the previous contact person. The person at the Swedish Embassy also saw a weakness in the fact that BV's contact person was still involved in BV's aid program, and also described that the aid funds from BV and the Swedish adoptive families were not mentioned as Swedish aid in Sri Lanka, but it appeared that the large amounts were donated by the former contact person.¹⁶⁰ Also in 1993, NIA received reports from adoptive parents that the contact person still had a great deal of influence and financial interests in the adoption cases.¹⁶¹ However, NIA writes that they have not found support for the former contact person being involved in the adoption procedure, based on their questionnaire responses from adoptive parents and what BV and their employees in Sri Lanka have stated:

¹⁵⁷ BV's appeal to the Government 1992-04-14 received NIA 1992-04-15 dnr 60:81/92; Government decision "Appeal by Sri Lanka Barns Vänner - Internationell adoptionsförening, SLBV angående auktorisation för internationell adoptionshjälp" 1992-08-20 Socialdepartementet dnr S92/3675/J ärendenummer 3.

¹⁵⁸ Press release from NIA 1992-08-26; NIA Minutes 1992-08-26 NIA dnr 60:81/92; NIA Minutes 1992-10-21.

¹⁵⁹ South Asia Magazine No 2 1992.

¹⁶⁰ Note from a telephone conversation with the Swedish Embassy in Sri Lanka in November 1992, NIA dnr 60:548/92.

¹⁶¹ Letters from spouses who adopted from Sri Lanka received NIA 1993-02-11 dnr 65:72/93; "Reply to NIA's questionnaire 1993-04-22, addressed to families who adopted children from Sri Lanka through SLBV between November 1992 and March 1993" 1993-06-16 NIA dnr 65:212/93.

¹⁶² Letter and report from spouses who adopted from Sri Lanka received NIA 1993-08-25, no. 65:72/93; BV's letter to NIA 1993-03-15 incl. appendix with letter from BV's representative in Sri Lanka, NIA no. 65:72/93.

The NIA thus continued to grant BV authorization throughout this period, despite many doubts.

9.7.4 Two Swedish women have been reported to the police for irregularities

A Swedish woman was arrested by Sri Lankan police in 1987, but the charges were later dropped

In 1987, a Swedish woman was arrested in Sri Lanka on suspicion of illegal adoption activities. She arranged adoptions in Sri Lanka for the Swedish organization ISIA. In February 1987, the Sri Lankan authorities accused her of selling adopted children to Sweden and other countries. The police broke into the orphanage and arrested the Swedish woman and the administrator of the orphanage. The Sri Lankan press reported that the police had found 10 women, 23 babies and 7 pregnant women aged between 18 and 25. The police suspected that the home specialized in selling Sri Lankan babies to Swedish couples and that this had been going on for four years. The Swedish media also reported on the allegations. Nearly 100 children were said to have been sold to foreigners, mainly to Sweden. The Sri Lankan authorities also said they had evidence that the Swedish woman had bought children and forged birth certificates.¹⁶³

The Swedish woman was released by the police after 24 hours. The charges were eventually dropped because there was insufficient evidence.¹⁶⁴ She claimed that she was innocent and that the charges were in retaliation for making her uncomfortable with the authorities the previous year when she publicly opposed child prostitution in Sri Lanka. She refused to leave the country despite Sri Lankan police demanding her deportation because she had been granted a visa for activities other than adoption brokering, and she sued Sri Lankan police and passport authorities for human rights violations. The cases concerned the violation of her "fundamental rights" by the police

¹⁶³Telex from Swedish Embassy in Colombo to UD Stockholm 1987-02-02, received by NIA 1987-02-03 with dnr 72:31/87; Sun 1987-01-31 "'Baby farm' behind home for the handicapped"; The Hindu 1987-02-02 "Sri Lankan police raid 'baby farms'"; Daily News 1987-02-02 "Baby 'farm' a terrorist fund collection unit?"; Daily News 1987-02-02 "Was Swedish woman involved in 'baby farm' racket?"; Sun 1987-02-03 "Arrest of Swedish woman: Controller of Immigration calls for report"; Sun 1987-02-05 "Most ended up In Sweden: Baby Farm sold 100 infants to foreigners".

¹⁶⁴NIA's annual report for 1986-1987; Letter from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs Stockholm 1988-02-08 NIA dnr 69:511/87; Aftonbladet 1987-02-04; DN 1987-02-27 "Sri Lanka promises to review deportation"; Expressen 1987-04-21.

her unlawful arrest and her appeal against the revocation of her visa by the Immigration Service.¹⁶⁵

The police tried unsuccessfully to find mothers who could testify that they had been persuaded to give their children up for adoption in return for payment.¹⁶⁶ The trial of the administrator of the orphanage and other employees and residents of the orphanage had to be postponed several times because the police did not have sufficient evidence to prosecute.¹⁶⁷ By March 1987, 10 of the 23 children taken into custody during the raid had been identified. The identity of their mothers had also been established and the mothers stated that the care at the orphanage was in accordance with their wishes. This, according to the Swedish Embassy, refutes the police statements in the press that the children had been kidnapped, that the mothers were not the biological mothers, that none of the children were handicapped and that all the children were under one year of age.¹⁶⁸ Representatives of the Swedish Embassy in Colombo defended the Swedish woman in the media on several occasions and told the newspapers that they had had a good insight into her activities for a long time and that they found it difficult to believe that there had been any irregularities. They considered that she had been made a scapegoat in the heated campaign against foreign adoptions that had been going on in the Sri Lankan press for some time. The Swedish Embassy also made statements in the Sri Lankan media explaining how adoptions were regulated in Sweden to ensure that adoptions were carried out properly.¹⁶⁹ We do not see from the archival material that the NIA initiated any investigation of the adoptions she mediated to Sweden.

¹⁶⁵Letter from the Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm "Swedish nationals threatened with deportation" 1987-03-10; Letter from the Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm 1987-04-29 NIA dnr 72:31/87; Letter from the Swedish Embassy in Colombo to UD Stockholm "Expulsion of Swedes from Sri Lanka" 1987-02-25 UD dnr R34 (complete dnr missing); Letter from the Swedish Embassy in Colombo to UD Stockholm 1987-02-04 "Publicity about suspected child trafficking" UD dnr R34 (complete dnr missing); Letter from the Embassy in Colombo to UD Stockholm "Adoptions" 1987-02-10 UD dnr R 34 (complete dnr missing).

¹⁶⁶Letter from the Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm "Adoptions" 1987-02-10 Ministry of Foreign Affairs dnr R 34 (full dnr missing).

¹⁶⁷Letter from the Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm "Swedish threatened with deportation" 1987-03-10 which was also received by the NIA 1987-03-13 with Dnr 72:31/87; Letter from the Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm 1987-02-27 NIA dnr 72:31/87; Letter from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs in Stockholm 1987-03-30 UD dnr R34 (complete dnr missing).

¹⁶⁸Letter from the Embassy in Colombo to the Swedish Ministry of Foreign Affairs in Stockholm "Swedish threatened with expulsion" 1987-03-10.

¹⁶⁹Letter from the Swedish Embassy in Colombo to the Ministry of Foreign Affairs Stockholm 1987-02-04 "Publicitet om misstänkt barnhandel" UD dnr R34 (full dnr missing); The Island 1987-02-07 "Swedish Embassy explains adoption laws"; Daily News 1987-02-09 "Strict laws govern adoption by Swedes, says embassy".

NIA reported a Swedish woman to the police in 1991

In 1991, NIA received information from BV that their contact person was cooperating with a Swedish woman to carry out adoptions alongside the cooperation with BV. BV had understood that his involvement in side adoptions had ceased, but this was not the case.¹⁷⁰ The Swedish woman had, according to BV, advised the applicant on how to avoid the opinion of the NIA, and they had had to pay large sums of money to adopt through her; 60-65,000 SEK in addition to the usual costs of travel, accommodation and other fees. It was stated that SEK 4,000 was a donation to the Swedish woman. BV estimated that at least 20 Swedish families had adopted in this way in 1990 and that this might have meant that she was providing adoption assistance in violation of the law on international adoption assistance. The Swedish woman had also been suspected seven years earlier of private mediation and of providing illegal adoption assistance¹⁷¹.

BV urged the NIA to act, take responsibility and react forcefully to ensure that this contact in Sweden was not given any opportunities to illegally broker adoptions from abroad in the future. The NIA decided to report the person in Sweden to the police for providing adoption assistance in violation of the Act on International Adoption Assistance¹⁷².

When the NIA contacted the woman by telephone, she stated that she did not broker adoptions, but that she knew the person in Sri Lanka.¹⁷³ The woman also claimed to the Swedish TT that she was innocent and that the illegal brokerage had been carried out by another person. The chairman of BV stated that he had no reason to believe that their contact person received money for his own benefit. BV saw no reason to stop cooperating with him and his organization.¹⁷⁴ The NIA argued that BV's contact person and the lawyer he cooperated with should have been fully aware that their actions violated Swedish rules.¹⁷⁵

¹⁷⁰ NIA dnr 72:66/91.

¹⁷¹ Letter from the NIA to the Swedish Embassy in Colombo 1991-02-01 NIA dnr 72:66/91.

¹⁷² NIA Dnr 49:106/91 (1991-02-14) (However, we only have a copy of the police report which can be found in Sydasien nr 2 1992 and Lindgren (2010), *Internationell adoption i Sverige. Politik och praktik från sextital till nittital*, p. 101, which refers to this and to NIA Protocol 1990/91 No. 8 § 5).

¹⁷³ Letter from the NIA to the Swedish Embassy in Colombo 1991-02-01 NIA dnr 72:66/91.

¹⁷⁴ TT 1991-11-18.

¹⁷⁵ NIA dnr 60:378/89.

The police investigator had difficulty getting people to testify because those who may have paid extra money in connection with their adoption had violated the rule that says you can't.¹⁷⁶In May 1992, the NIA had not yet learned the outcome of the police investigation, but BV's contact person had admitted to BV his actions.¹⁷⁷The investigation against the Swedish woman was then closed.

9.7.5 Adoptions from Sri Lanka have been brokered by actors suspected of being involved in irregularities

In Sri Lanka, lawyers and orphanage directors have generally played a central role in the adoption process. The lawyers have, among other things, presented the case in court, signed the adoption order, certified that the copy matches the original, certified the mother's consent and arranged for birth registration. The lawyers and orphanage directors who appear in the files we have reviewed are those whom we have noted from the archive review as problematic in some sense. Although we have examined a very limited selection of files and cannot draw any general conclusions, children who have been placed for adoption in Sweden have lived in such orphanages or been placed by such actors as Swedish authorities have highlighted as problematic in the archive material. There are some names that often recur.

A lawyer has been involved in almost every third private and individual file we have reviewed from Sri Lanka, where an intermediary or other actor appears. He has also helped ISIA and BFA.¹⁷⁸There is information that he ran a baby farm.¹⁷⁹One of the orphanage directors who has often been involved in the placement of children for private or individual adoption to Sweden is a nun who ran a convent that functioned as a maternity home. She cooperated with the lawyer mentioned above. Another orphanage manager who mediated children for private and individual adoption to Sweden is a woman who ran an orphanage. She was one of the intermediaries we found in the

¹⁷⁶ South Asia No 2 1992.

¹⁷⁷NIA's statement in response to BV's appeal against NIA's decision to restrict the association's authorization in relation to what the association had requested 1992-05-20 NIA dnr 60:81/92. ¹⁷⁸NIA's "Report from trip to Sri Lanka 1984-11-24-29", received from FFIA (no number, but says "9127-19860227"); BFA's trip report from Sri Lanka November 10-16, 2008 received MIA 2009-11-19 (it says possibly 2009 or 2008-11-19) dnr 64:577:6/08.

¹⁷⁹NIA 49:774/91; South Asia Magazine No 2 1992.

time seen that the NIA advised Swedes against adopting through.¹⁸⁰ She is said to have had her own baby farm.¹⁸¹

In our sample of eight BV files from Sri Lanka in the 1980s, the name of the intermediary is not usually given, but where it is, the BV's contact person and/or the lawyer he worked with were involved in the mediation. The children had usually lived in the maternity home run by BV's contact person. The file review also confirms what we have seen in the archive review, that BV's contact person and the lawyer with whom he cooperated have also mediated private adoptions to Sweden alongside the cooperation with BV. In addition, their adoptions include cases of child swaps, i.e. Swedes have received another child for whom they had a child certificate, and Swedes have brought several children to Sweden despite only having consent for one child.

We see that an orphanage manager with whom FFIA has cooperated has also arranged private and individual adoptions to Sweden. Following its investigation of private actors in Sri Lanka, the Swedish Embassy in Colombo had objections to this orphanage, among other things because the impression was that the activities had financial motives.¹⁸² An orphanage that also appears several times in the private and individual files we reviewed is an orphanage that cooperated with a lawyer who the NIA has rejected as a contact route and who was suspected of being involved in the fact that Swedes used their consent incorrectly.

9.7.6 False documents, baby farms and fake mothers have been involved in adoptions to Sweden

The trafficking of children for adoption in Sri Lanka appears to have involved several irregularities. This is not least about the methods used to make children available for adoption. The Swedish organizations

¹⁸⁰NIA Dnr 45:104/82; Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA dnr 72:147/83, found in the mission archive 1983-09-02 dnr 11/106 R 34; Letter from NIA to private person 1983-07-11 "Request for adoption of a child from Sri Lanka with the help of a private contact" NIA dnr 49:191/83; Letter from the Swedish Embassy in Colombo to NIA 1986-10-29 NIA dnr 49:402/86.

¹⁸¹ South Asia Magazine No 2 1992; NIA 49:774/91.

¹⁸² Swedish Embassy in Colombo dnr 12/130 R 34 1984-11-02.

¹⁸³ Letter from the NIA to the Swedish Embassy in Colombo 1986-11-07 NIA dnr 46:202/86 and 49:402/86.

organizations and the NIA received several reports of forged documents, fake mothers and baby farms.¹⁸⁴

During the 1980s, there were reports of forged documents

In its activity reports in the 1980s, the NIA wrote that there were reports of incomplete and false documents in adoptions from Sri Lanka. The Swedish and Dutch embassies in Sri Lanka also described in 1984 that there were falsifications of documents, including false birth certificates and false medical certificates issued by unregistered, rogue doctors.¹⁸⁵ We do not see from the archive material that the NIA has investigated the extent to which this applied to adoptions to Sweden. In our file review, we have seen several examples of incorrect information about the date of birth in the private adoptions from the mid-1970s, where the child turned out to be older than stated in the adoption documents. Around 1980, we have seen several examples of different dates of birth being given in different documents in the file.

In the file review, we have seen conflicting information and some patterns in why children were given up for adoption

In our review of private and individual files from Sri Lanka, we have noted conflicting information in 10-20% of the files. As this is a limited sample, we cannot conclude that this applies to adoptions from Sri Lanka in general, but it shows that contradictory information does occur. Based on our samples of files from BV and ISIA, it also occurs in the organized adoptions from these countries. The contradictions usually concern contradictory descriptions of the biological parents, usually the father. He is sometimes listed as unknown in the Sri Lankan adoption order, although other documents contain information about the father. We also saw several examples of this in our sample of eight BV files from the 1980s. In some cases, there was relatively detailed information about the father in one document, while he is unknown according to the adoption order. In both the private and individual adoption files and the BV files

¹⁸⁴ See e.g. FFIA "Report" 1987-03-23 within NIA 1987-03-25 dnr 61:128/87.

¹⁸⁵ Letter from the Swedish Embassy in Colombo to the NIA 1984-10-24 "International adoptions Sri Lanka - Sweden" in the mission archive 1984-11-02 dnr 12/130 R 34; Commissie onderzoek interlandelijke adoptie (2021).

also seen examples of contradictory information regarding the mother's living situation, such as whether she is married or not and who she has children with.

In our sample of private and individual files from Sri Lanka, there are also some recurring descriptions and patterns regarding why children were given up for adoption. Where the reasons for adoption are given in the files reviewed, they almost always relate to the mother not living with the child's father and not having the social and economic means to care for the child. There is often an overarching statement that the mother lacks the means to care for the child, provide for the child or give the child a satisfactory upbringing. In some cases she has several children already.

In almost 90 percent of the private and individual files we have examined from Sri Lanka, the father is either unknown or there is no information about him at all. In the few cases where there is more information about the father, it is almost always very brief and general. In our sample of BV files from the 1980s, however, information about the child's father is somewhat more common. In our sample of BV files, there is also always something about why the child was given up for adoption. In all these cases, the child was given up for social and economic reasons by a single mother unable to care for the child on her own.

Our sample of files is too small to draw any general conclusions and these patterns in descriptions of why the child is placed for adoption do not necessarily imply inaccuracies, but may reflect real circumstances.

Unclear whether Swedish families have had children via baby farms

In previous sections we have described the existence of baby farms in Sri Lanka, where mothers sold their children for adoption even before birth. Media reports suggest that this was also happening in adoptions to Sweden. The New Internationalist reported that children were adopted to Sweden from the "baby farm" uncovered by the Sri Lankan police in 1982.¹⁸⁶ The NIA also reports in its 1982-1983 annual report that, in connection with the raid on a baby farm in Sri

¹⁸⁶New Internationalist No 109 1982-03-01 (not sure of the date).

Lanka, had taken children into care who were intended for Swedish adoptive families.¹⁸⁷

However, there is no reliable information on whether baby farms have been used in adoptions to Sweden and, if so, how common they have been. Swedish actors have denied the existence of baby farms in adoptions to Sweden. When a baby farm was discovered in 1987, the BV's chairman told TT that "we can guarantee that the adopted children we have placed do not come from any baby farms".

The head of the NIA stated in the same article that during their trip to Sri Lanka in 1985 they did not find any signs of illegality in the orphanages that the Swedish organizations run or have contact with.¹⁸⁸ The NIA's activity reports and minutes from the late 1980s state that irregularities in connection with adoptions in Sri Lanka had been discovered, but that no Swedes were involved in these.¹⁸⁹

In our file review, we have not seen any cases where it appears that the children come from these particular baby farms. However, in our review of the archives, we have seen information that the Sri Lankan brokers or intermediaries who most often appear in the files have their own maternity homes or are suspected of having their own baby farms, or of cooperating with someone who does. Based on this, we cannot conclude that children adopted to Sweden have come from baby farms, but there is a certain risk of this.

Information on "false mothers" in adoptions to Sweden

The NIA received information about the revelation of false mothers on several occasions during the 1980s, including several reports from the Ministry of Social Affairs in Sri Lanka.¹⁹⁰ In 1981, NIA and the adoption organizations were informed that the head of DPCCS was involved in arranging adoptions to Sweden where false mothers were mentioned and where the biological mother received a small amount of money.⁽¹⁹¹⁾

During NIA's visit to Sri Lanka in 1986, the Secretary of State in the Ministry of Social Affairs gave new examples of revelations of adoptions with false mothers

¹⁸⁷ NIA Annual Report 1982/1983.

¹⁸⁸ TT telegram with working number 0122-0354 (no. not shown but possibly in NIA 49:39/87).

¹⁸⁹ NIA activity reports 1979/1980 and several years onwards; NIA minutes 1987-01-28.

¹⁹⁰ NIA's opinion on the method of mediation in adoption 1986-05-21 NIA dnr 46:66/86 (also NIA dnr 46:100/86); NIA's letter 1986-08-22, from FFIA archives.

⁽¹⁹¹⁾ "Minutes of the meeting at NIA with the organizations authorized for Sri Lanka. 1981-01-28" NIA dnr 6:24/81.

¹⁹² NIA letter 1986-08-22, from the FFIA archives.

There is also correspondence between the NIA, the Swedish Embassy in Colombo and BV indicating that there may have been false mothers in adoptions by a Swedish woman who ran an orphanage in Sri Lanka. In one case, the NIA wrote that they were unsure whether the person who had consented to the adoption in the Sri Lankan court was actually the mother of the child.¹⁹³ BV has also informed the NIA that the Swedish woman had engaged a Sri Lankan woman as a "false mother" to get a child out of an orphanage. The woman who acted as a false mother was also said to have previously given up two children for adoption via the Swedish woman. According to BV, the Swedish woman had told her that it was a so-called false mother, but that "you have to expect that when it comes to adoptions from Sri Lanka", and she knew others from Sweden who had adopted a child from Sri Lanka with the help of a "false mother".¹⁹⁴ The head of the immigration authority also suggested that there was information about false mothers in the Swedish woman's adoptions.¹⁹⁵

Two of our interviewees adopted from Sri Lanka to Sweden state that fake mothers may have been involved in their adoptions. One of them, who was adopted privately from Sri Lanka in the early 1980s, says that it was not her biological mother who signed the adoption documents but a "stand-in mother", i.e. an example of the fake mother scheme. Both the adoptive parents and the couple who arranged the adoption in Sri Lanka have subsequently told our interviewee that this is how it happened. The second interviewee describes that it was a young woman who could neither read nor write who attended the court hearing and left her thumbprint in the adoption documents. According to the adoptive parents, she did not seem to be very interested in the child and our interviewee suspects that this was not the real mother. Our interviewee met the agent who arranged the adoption in Sri Lanka. He told us that he had gone around to hospitals and bribed the staff to look in the birth register and get information about mothers of children with unknown fathers. The purpose of this was to quickly find a new child for the Swedish adoptive parents, as the parents of the child they were supposed to adopt had withdrawn their consent to the adoption.

¹⁹³Letter from the NIA to the Swedish Embassy in Colombo "Adoption decisions in Sweden and in the child's home country" 1988-06-14 NIA dnr 69:511/87.

¹⁹⁴NIA's memo "Information in the case of possible "false mother"". "false mother"" 1987-12-03 NIA dnr 69:511/87.

¹⁹⁵Letter from the Embassy in Colombo to the Ministry of Foreign Affairs Stockholm 1987-02-27 NIA dnr 72:31/87.

9.7.7 Specific problems with private and individual adoptions

High risks of irregularities in privately mediated adoptions were identified early on

The risk of irregularities in adoptions from Sri Lanka has been considered to be greatest in privately brokered adoptions, i.e. adoptions brokered by private agencies in Sri Lanka. Already during the NIA's trip to Sri Lanka in March 1976, it became clear that the social authorities in the country were concerned about private mediation.¹⁹⁶ The NIA writes in its travel reports from both 1982 and 1984 that the adoptions from Sri Lanka are those that over the years have created the most problems and additional work for the Swedish authorities, mainly because of the privately mediated adoptions. Sri Lankan officials saw obvious risks of child trafficking and other irregularities associated with these adoptions. The NIA estimated in 1983 that one-third of the children coming through private contacts could be "inappropriate adoptions".¹⁹⁷ The head of the DPCCS stated at a meeting with the FFIA in 1987 that 98% of all adoptions outside the DPCCS orphanage had some kind of problem, such as false birth certificates, false mothers or false addresses. The FFIA sent this information to the NIA¹⁹⁸.

Children brought to Sweden by private means during the adoption ban

Children have been brought to Sweden during Sri Lanka's adoption ban, both in 1979 and 1987, through private contacts. During the adoption ban in 1979, a Sri Lankan businessman acted as an intermediary to bring three children to three Swedish families. The NIA received information about this and also informed the Swedish Foreign Ministry. The intermediary was already known to both AC and NIA, and NIA had been asked to warn Swedish families about him. The NIA also received information that he had been

¹⁹⁶This is stated in a letter from the NIA to the Ministry of Social Affairs "Adoption of children from Sri Lanka" 1977-02-16 NIA dnr 49:1711/76.

¹⁹⁷Follow-up memorandum of 1983-02-15 "Concerning inappropriate adoptions"; NIA's annual reports 1982 to 1986.

¹⁹⁸FFIA "Report" 1987-03-23 within NIA 1987-03-25 dnr 61:128/87.

falsified documents and that a child he placed with a Swedish family was in such poor condition that it died in the hotel room.¹⁹⁹

During the adoption freeze in 1987, another Sri Lankan operator tried to circumvent the freeze on adoption applications by sending letters to Swedish families who had previously adopted children from Sri Lanka and therefore had a home study there. The actor offered to complete the adoption for USD 1 500. The NIA suspected that she was using information on the families held by the Sri Lankan authorities²⁰⁰.

Problems with consent for intercountry adoption being used to adopt privately

In 1986 and 1987, problems arose with Swedish families who had received consent to adopt through a Swedish authorized association, using their consent to adopt through a private contact in Sri Lanka. They then traveled without valid consents and without approved visas to Sri Lanka to adopt.²⁰¹ This has emerged in our review of archival material. We have also seen examples of this from 1986 in our file review of private and individual adoptions from Sri Lanka, i.e. that a child has been adopted privately despite the fact that the approval of the intermediary route only applied to adoption via a Swedish authorized adoption organization. We have also seen several examples in private adoptions from the mid-1970s to the mid-1980s of the orphanage director approaching Swedish families directly with an offer to adopt another child from the orphanage from which they had previously adopted a child.

The fact that Swedes traveled to Sri Lanka without valid consents created an awkward situation and additional work for both the Swedish Embassy

¹⁹⁹NIA Minutes 1979-03-21; Letter from NIA to the Ministry of Foreign Affairs 1979-06-06, received by the Ministry 1979-06-08 with no. 220/1865 R 34; NIA's report from a trip to Colombo, Sri Lanka 1979-10-21 to 1979-10-27, diplomatic archives no. I:10 R 34; Letter from a private individual to NIA 1984-08-22, NIA no. 49:217/84.

²⁰⁰NIA letter to the Swedish Embassy in Colombo "Private intermediary in Sri Lanka" 1987-11-20 NIA dnr 79:492/87; Letter from two Sri Lankan intermediaries to a private individual 1987-10-30 "Adoption" NIA dnr 79:492/87.

²⁰¹Three examples of incorrect handling of cases concerning consent under section 25 of the Social Services Act NIA no. 49:380/86; Five examples where consent was used incorrectly, see NIA's letter to the Swedish Embassy in Colombo 1986-11-07 NIA no. 46:202/86 and 49:402/86; Letter from the Swedish Embassy in Colombo to the NIA 1986-10-29 NIA dnr 49:402/86; Letter from the FFIA to the NIA 1986-10-08 and memo to the NIA from a social secretary 1986-10-16, both NIA dnr 69:360/86.

and the NIA. The Swedish families risked not being able to take the child with them from Sri Lanka, or having to apply for a revocation of the adoption and return the child to the original parents. NIA suggested that the Swedish authorized associations should issue a separate placement certificate to be attached to the consent under Section 25 of the Social Services Act and that the DPCCS should verify that the placement method stated in the consent corresponded to where the child came from. (Such a certificate had been used in the past but was removed because the legalization of the certificate increased costs.) However, the Sri Lankan authorities argued that it was not possible for them to check this.

Another problem during this period was that some municipalities did not seek the opinion of the NIA on the method of mediation in the case of a separate adoption. This led to some municipalities giving consent for the same contact persons that the NIA, in other cases, had endorsed as the contact route⁽²⁰³⁾.

9.7.8 Lack of documentation in private and individual adoption files from Sri Lanka

Data on the child and parents are available to varying degrees

In the private and individual files we have examined from Sri Lanka during the 1970s-1990s, the child's date of birth is always included in the files, and the place of birth is stated in just over 60 percent of the files. A birth certificate with the child's original name is included in about 30 percent of the private and individual files we reviewed, but it is usually a birth certificate drawn up in connection with the adoption and not an original birth certificate. In some cases, the birth certificate was signed by a lawyer, in others by the birth hospital. In the eight BV files from the 1980s we examined, there is no birth certificate, while it is included in every fourth ISIA file from the mid-1980s.

In our sample of private and individual adoption files from Sri Lanka, more than 90% of the files lack a health description of the children.

²⁰²Telex from NIA to the Swedish Embassy in Colombo (via the Ministry of Foreign Affairs) 1986-10-29 NIA dnr 72:384/86; NIA's note from a meeting with the Swedish adoption organizations and proposal for a decision 1986-12-17, Letter from the Swedish Embassy in Colombo to NIA 1986-11-28, NIA dnr 49:402/86; Letter from FFIA to NIA 1987-03-25, NIA dnr 72:384/86; Letter from DPCCS to Swedish Embassy in Colombo, received 1986-11-27 dnr 13/97 R 34.

²⁰³See e.g. NIA's notes from a telephone conversation with a private individual on November 5, 1986 (no number is given, but possibly NIA 72:384/86).

Our sample of files from the adoption organizations BV and ISIA shows similar patterns in terms of health description.

Although in Sri Lanka it is usually the mother herself who has left the child in a children's home, our file review shows that information on the parents' names, ages, addresses and living situation is often missing from the files. In the private and individual files we reviewed, the mother's name is found in around 80 percent of the files, but her age and some information about her living situation are included in less than half of the files. Information on the father's name, living situation and age is only included in around 10 percent of the private and individual files from Sri Lanka. In our sample of BV files, information on the parents' names, age and living situation is more common.

However, we have examined a very limited sample of files and cannot therefore assume that this applies generally to adoptions from Sri Lanka.

The files reviewed often lack information on how and why the child was given up for adoption

In our sample of private and individual adoptions from Sri Lanka, it is almost never clear from the file who investigated the child's background. There have been no written decisions about the child becoming available for adoption. In almost half of the adoption files, there is no information at all about why the child was given up for adoption. This is roughly the same proportion throughout the period studied - from the mid-1970s to the mid-1990s. As we described earlier, our sample is too small to draw general conclusions, but because the results here are so clear, it indicates that this has been a widespread problem in adoptions from Sri Lanka.

In about a third of the private and individual files from Sri Lanka that we have reviewed, there is no information at all about who has given the child up for adoption. When it is stated, it is often the mother herself who has been involved in giving the child up for adoption. However, it is very rarely clear from the file that the mother knew that the child would then be placed for adoption. It often only states which orphanage or other actor gave the child up for adoption, but without any information about how the child ended up there.

In just over half of the files in our sample, it is not clear who in Sri Lanka arranged the adoption. It is above all in the adoptions

up to 1980, there is no information on intermediaries. Where it is possible to identify the Sri Lankan actors involved in arranging the adoption, there are a few names that recur in most files (see section 9.7.5).

When it comes to adoptions from Sri Lanka that have gone through a Swedish authorized organization, our samples at BV and ISIA show that the amount of documentation on how and why the child was given up for adoption differs. There is thus no clear difference between private and organized adoptions. In the ISIA adoption files, there has been no more documentation compared to the private and individual adoptions from Sri Lanka during the same time period. For example, in the approximately 40 ISIA files we reviewed, there is no information at all about the children's background or why they became available for adoption. However, our very limited sample of files from BV in the 1980s indicates that there may be more information in their files. BV's adoption files more often state the reason for adoption compared to the private and individual adoptions from Sri Lanka during the same period. They also show that it was BV's contact person or the family counselor at his orphanage who investigated the child's background.

Former employees of BV describe in our interview that, with today's glasses, they would not think that the child's background was sufficiently investigated and that it would be difficult to ensure that it was the mother's will to give the child up for adoption. Former employees of Swedish adoption organizations describe being affected by seeing so many children in orphanages, their great need for help, and the fact that a large proportion of the children taken into orphanages did not survive the first year. Pregnant women were often ostracized and not helped by relatives. The Swedish organizations wanted to make a good contribution²⁰⁴

No indication in the files reviewed that a national solution was sought before international adoption

In the files we examined from Sri Lanka, there is no information showing that a national solution was sought before the child was adopted in Sweden. This applies to both private and individual as well as organized adoptions.

²⁰⁴Interview with former BV employee 2023-10-16; Interview with former FFIA employee 2023-09-21.

Specific consent documents are often missing from the files we reviewed

Although in Sri Lanka it is almost always the child's mother who has given the child up for adoption, the files we examined often lacked documented consent. If we only consider the private and individual files where the child's mother is named, a separate consent document from the mother is found in just under 30 percent of the files. The consent documents we have seen have been found in files from the 1980s onwards, none from the 1970s. In a further 15 percent of the files we reviewed, the file shows that the mother gave consent, but without there being any document to prove it. There are no documented consents from the child's father in the files examined. In cases where there is consent, it is always clear that the consent relates to adoption, and usually also that it relates to adoption abroad. However, it is a very limited sample of files that we have examined, which means that we cannot conclude that this applies generally to adoptions from Sri Lanka. There may also be consent from a parent, even if it has not been documented and preserved in the file.

Our file review indicates that there are no more consent documents in the adoptions mediated via the BV and ISIA organizations. As regards ISIA's files, as far as we have been able to see, there are no consents from the original parents in the files, despite the fact that the mother's name is often included in the adoption decision. In our sample of BV files, however, there are in several cases statements that the mother has consented to the adoption, in cases where there is no consent document.

Where there is a consent from the child's mother in the private and individual files, she has also usually signed it with a signature or in some cases a thumbprint. In several cases, however, there is a stamp over the mother's signature, covering that signature. In the few cases in our sample of BV files where there is documented consent from the mother, there is no signature by her.

The file review shows that in cases where there was consent from the mother in the files from Sri Lanka, in several cases an actor who has been accused of using false mothers has been involved in the adoption. In one adoption from 1974, where the mother was present at the court hearing, the file shows that the adoptive parents themselves suspected that the adoption was against the mother's will. The Swedish foster child inspector's notes after the return in 1974 show that the adoptive parents "were unpleasantly affected by the mother crying all the time, it

seemed almost as if she had been forced into the adoption". However, in Sri Lanka, we have seen several examples of the adoptive parents having contact with the birth mother before and after the adoption, which increases the likelihood that she consented to the adoption and understood its implications. About a quarter of the Sri Lankan private and individual files reviewed indicate that the birth mother was present in court.

In the files from the 1970s, it is rarely clear whether the adoption was arranged privately or through an organization

In some adoption files from Sri Lanka, it is not entirely clear whether it is a private or an organized adoption, especially in the 1970s. In about half of the files concerning adoptions from Sri Lanka in the 1970s, it is not clear from the file whether it is a private or an organized adoption. In some cases, the adoption appears to be private, but then, for example, AC is mentioned in a follow-up report or notes from a home visit. In some cases, it is clear that there is a mix-up in that the adoption is not purely private or organized. In one file, for example, the child welfare committee's note from a home visit shows that it is AC who made the offer of the child to the adoptive parents, even though it is a private adoption. The adoptive parent describes during the visit that their first child from Sri Lanka "is partly of a somewhat private model but AC also has some part there".

There are cases where adoption documents are completely missing or empty

In the file review, we have seen examples where the social services file is difficult to find, does not appear to exist at all or is completely empty. In one file from 1978, provided by NIA, the file only contains a follow-up report for another child and other adoptive parents. In some cases, there is some information in the child's file and other information in the adoptive parent's file. In another case from 1986, where BV brokered the adoption, the child's adoption documents are in the big brother's file at the social services.

9.7.9 These are very young children adopted from Sri Lanka and the process in Sri Lanka has been fast

Our file review of private and individual adoptions indicates that the children adopted from Sri Lanka have been very young when they arrived in Sweden compared to the children from the other countries we reviewed. In our limited sample of files, the children were on average seven months old when they arrived in Sweden. Approximately 70 percent of them were under six months of age when they arrived in Sweden, and one third were under three months of age. Our sample of BV files from Sri Lanka in the 1980s indicates that the children placed via BV were about the same age.

After the child arrives in Sweden, it can take a few months, up to a year, for the decision to be approved or for an adoption decision to be made in Sweden.

9.7.10 NIA's handling of problems in private adoptions

Attempts to regulate private adoptions by contract failed

Information about irregularities in connection with private adoptions led Sweden and Sri Lanka to begin discussions on a cooperation agreement on adoptions as early as the mid-1970s.²⁰⁵ The NIA traveled to Sri Lanka in March 1976 to discuss the form of the agreement and to achieve a comprehensive solution to adoption contacts between Sweden and Sri Lanka. A working group within the NIA prepared a draft text of the agreement and the NIA sent a draft agreement to Sri Lanka in June 1976, as agreed.²⁰⁶ A working group was formed in Sri Lanka to review the draft agreement with Sweden.²⁰⁷

However, adoptions from Sri Lanka were then temporarily stopped. In October 1976, NIA was informed that Sri Lanka had suspended all adoptions pending a review of the law. In early 1977, NIA was informed that the Ministry of Social Welfare in Sri Lanka no longer

(205) "Report from the NIA's visit to Sri Lanka on November 23-30, 1991", NIA dnr 60:607/91 received from FFIA; NIA Minutes 1975:5 1975-06-11; Letter from the Swedish Ministry of Foreign Affairs to the Swedish Embassy in New Delhi 1975-03-18, Ministry of Foreign Affairs archive dnr 51 R 34; Letter from the Swedish Parliament's international secretariat to the Swedish Embassy in New Delhi "Pos. adoption agreement with Sri Lanka" 1975-04-14, Ministry of Foreign Affairs archive R 34 Bce (dnr missing); Letter from the Swedish Embassy in Colombo p.t. New Delhi "Adoptions in Sri Lanka" 1975-04-29, UD archive dnr 108 R 34 Bce.

²⁰⁶ NIA Minutes 1976-05-21; NIA Minutes 1976-06-14.

²⁰⁷ NIA Minutes 1976-10-25.

felt that a formal agreement was necessary and the new law was passed.²⁰⁸ Sri Lanka then made a further legislative change in 1979 to try to tackle private mediation.

During NIA's trip to Sri Lanka in the fall of 1979, discussions on agreements were resumed. The Ministry of Social Welfare in Sri Lanka asked NIA to send a proposal for an agreement to regulate private adoptions, which NIA did.²⁰⁹ The Secretary of State at the Ministry of Social Welfare in Sri Lanka expressed his dissatisfaction that private adoptions continued and that some people were making money from it, and that it was not certain that an agreement would be sufficient to remedy this.²¹⁰ When the Sri Lankan Minister of Social Affairs and the State Secretary visited Sweden in April 1980, the issue of an agreement was discussed in detail.²¹¹ But during the NIA's trip to Sri Lanka in November 1980, it was noted that nothing had happened with the Swedish proposal for an agreement. The Minister of Social Affairs was in favor of an agreement and wanted all adoptions to take place via the DPCCS, but he noted that the other route was also legal.²¹² The NIA's trip report from 1982 shows that the Swedish proposal was then still dormant at the Ministry of Social Affairs in Sri Lanka, waiting for Sri Lanka to conclude an agreement with Australia, which would serve as a model for other agreements.

Sri Lanka failed to stop private mediation and asked Sweden for help

On three occasions in the 1970s and 1980s, the Sri Lankan authorities stopped adoptions to other countries to prevent private actors in Sri Lanka from brokering adoptions abroad. Sri Lanka

²⁰⁸NIA Minutes 1976-10-25; Letter from NIA to the Ministry of Social Affairs "Adoption of children from Sri Lanka" 1977-02-16 NIA dnr 49:1711/76; Departmental letter from the Ministry of Social Affairs to private persons 1977-12-14 dnr 3051/76 and dnr 3052/76. See also Letter from the Ministry of Social Affairs in Sri Lanka to the Swedish Embassy in New Delhi 1976-12-29 UD archive (unclear no., but R34).

²⁰⁹Letter from the National Board of Health and Welfare's NIA to the Swedish Embassy in Colombo with a proposal for an agreement, 1980-02-14 NIA dnr 9:26/80, Beskickningsarkivet XI:25 R 34.

²¹⁰Letter from the Swedish Embassy in Colombo to the NIA of the National Board of Health and Welfare, 1980-03-19 Message from the Colombo Archives, No. IX:51 R 34 Adoptions.

²¹¹NIA's notes from the visit of Sri Lanka's Minister of Social Affairs and State Secretary to Sweden 1981-04-20-25, NIA dnr 9:26/80 received by the Swedish Embassy in Colombo 1981-05-25 dnr XI:74 R 34.

²¹²NIA's report from a trip to Sri Lanka 1980-11-07-14, available as an appendix to NIA's notes from Sri Lanka's Minister of Social Affairs and State Secretary's visit to Sweden 1981-04-20-25, NIA dnr 9:26/80, received by the Swedish Embassy in Colombo 1981-05-25 dnr XI:74 R 34.

²¹³NIA's travel report Sri Lanka 1982, see the diplomatic mission's archive dnr 11/154 R 34 1983-12-05.

also made changes to the law in connection with these stops. However, Sri Lanka was not able to tackle private mediation until after the amendment of the law in 1992. In the early 1980s, the Sri Lankan Minister of Social Welfare and Secretary of State expressed concern about the prevalence of adoptions from private contacts to Sweden, that Swedish parents were having children outside the approved scheme.²¹⁴ In the first half of the 1980s, the majority of children were adopted through private contacts.²¹⁵ In Sri Lanka at that time, there were 20-30 private intermediaries, both private individuals and private orphanages. Some were under DPCCS supervision while others were completely unregistered and illegal under Sri Lankan law.²¹⁶ In 1981, BV's Sri Lankan contacts described many small private contacts springing up like "mushrooms" all over Sri Lanka, as a result of the positive comments made by the Sri Lankan Minister of Social Welfare during his visit to Sweden.²¹⁷ By 1985, 1530 children had been adopted by foreign parents but only 30 of them came from one of the DPCCS state orphanages.²¹⁸

Representatives of Sri Lanka repeatedly asked the NIA and the Swedish Ministry of Health and Social Affairs for help in preventing private brokerage because they saw it as posing a major risk of child trafficking and other irregularities. During the NIA's visit to Sri Lanka in October 1979, the Sri Lankan authorities emphasized that they were making efforts to deal with private mediation and that they wanted Sweden to take action as well, otherwise the adoption business risked being stopped again.²¹⁹ The NIA also felt that something should be done about Sri Lanka and privately mediated adoptions carried out in questionable ways. A letter from the Ministry of Foreign Affairs to the Swedish Embassy in April 1980 states that Sweden had previously maintained that it was primarily the Sri Lankans who were responsible for preventing abuses, but that they now realized that Sweden should also act.

²¹⁴ NIA Minutes 1980-08-28.

²¹⁵ NIA's annual reports 1979/1980 and several years onwards; Memo from the Swedish Embassy to the Swedish Ministry of Foreign Affairs Stockholm 1980-01-11 R 34 nr 9 "Adoptions"; NIA Minutes 1980-04-17; Letter "International adoptions Sri Lanka - Sweden" from the Swedish Embassy in Colombo 1983-05-11 to the Swedish Ministry of Foreign Affairs, diplomatic archives dnr 2/19 R 34.

²¹⁶ NIA Minutes 1980-10-30; Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA dnr 72:147/83, available in the diplomatic archives 1983-09-02 dnr 11/106 R 34.

²¹⁷ Letter from BV to NIA, received NIA 1981-07-30 dnr 49:181/81.

²¹⁸ Letter from the Swedish Embassy in Colombo to the NIA 1986-04-16 "Sri Lanka; adoptions" NIA dnr 72:185/86.

²¹⁹ NIA's report from a trip to Colombo, Sri Lanka 1979-10-21 to 1979-10-27, submitted to Swedish Embassy in Colombo 1979-12-26 beskickningsarkivet dnr I:10 R 34.

²²⁰ Letter from UD Stockholm to the Swedish Embassy in Colombo 1980-05-14, Colombo mission archive no. IV:88 R 34.

When the Sri Lankan Minister of Social Welfare and his Secretary of State visited Sweden in 1981, they appealed to the Ministry of Social Welfare and the NIA to help them with all the means available in Sweden to deal with the involvement of private individuals in adoptions to Sweden.

The Minister of Social Affairs wanted Sweden, like some other countries, to ban families from using private adoption agencies.²²¹ Later that year, the Sri Lankan Minister of Social Affairs expressed concern that the system of intermediaries earning exorbitant incomes was not being addressed.²²² During a visit to the Swedish Ministry of Social Affairs and the NIA in 1983, officials in Sri Lanka called for help from Swedish authorities to address the trafficking of children by private intermediaries.²²³

In early 1983, the NIA wrote to the Government that the measures taken so far by Sweden were not sufficient to deal with illegal and inappropriate adoptions. NIA also wrote that representatives of responsible authorities in Sri Lanka had requested assistance from Swedish authorities to address the trafficking of children by private agencies and that they wanted Sweden to prohibit families from using private adoption contacts. The NIA described in the same memorandum that Sri Lankan representatives had publicly criticized Sweden's lack of action at several international conferences on intercountry adoptions. In addition, representatives of neighboring Nordic countries have reiterated their earlier criticism at a Nordic conference²²⁴.

NIA asked government to tighten rules on private adoptions

In the fall of 1981, the NIA approached the Minister of Social Affairs with proposals to further regulate private adoptions and seek a solution similar to that of the other Nordic countries. The NIA proposed that adoption could only be carried out through private contact in exceptional cases, but

²²¹NIA's travel report Sri Lanka 1982, see the mission archive no. 11/154 R 34 1983-12-05; Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA no. 72:147/83, available in mission archive 1983-09-02 no. 11/106 R 34; NIA no. 40:123/83.

²²²Letter from the Swedish Embassy in Colombo to the Swedish Ministry of Foreign Affairs, 1981-11-30, Beskicknings- arkivet Colombo dnr II:74 R 34.

²²³NIA annual report 1982/1983 and NIA Dnr 49:48/83.

²²⁴NIA, memorandum "Concerning inappropriately conducted adoptions", February 15, 1983, no. 49:48/83; NIA no. 40:123/83.

²²⁵The NIA requested a review of the Swedish organization in order to gain better insight into and regulation of privately mediated adoptions. The Ministry of Social Affairs then carried out the investigation proposed by the NIA.²²⁶ Several commentators suggested that private adoptions should be banned, but the government did not want to stop them altogether, since many private adoptions were carried out in a safe manner. The result was instead stricter requirements in the form of the social welfare board obtaining the NIA's opinion on the agency route for individual adoptions.²²⁷

In 1984, DN wrote that Sweden was the only country in the Nordic region that still allowed private adoptions from abroad without official control, while the other Nordic countries only allowed private adoptions in exceptional cases, after special examination.

Different actors exchanged information on private intermediaries

In its annual report for 1981-1982, the NIA writes that, with the help of reports from municipalities, it had a relatively good overview of how children come to Sweden for adoption and which private persons in Sweden act as intermediaries. NIA tried to prevent problems by informing social services and the public about the risks of private adoption and warning about the rogue agencies known to NIA. The NIA recommended that individuals turn to the authorized organizations instead of adopting privately.²²⁹ The NIA also wrote letters on several occasions to persons who privately placed children from Sri Lanka to inform them of the requirements for providing adoption assistance.²³⁰

²²⁵NIA's "Memorandum on adoptions arranged outside authorized organizations" 1981-11-05, was submitted to the Minister of Social Affairs at a meeting on 1981-11-16, NIA dnr 49:300/81.

²²⁶NIA dnr 40:123/83; Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA dnr 72:147/83, available in the diplomatic mission archives 1983-09-02 dnr 11/106 R 34; NIA travel report Sri Lanka 1982, see diplomatic mission archives dnr 11/154 R 34 1983-12-05.

²²⁷NIA, memorandum "Concerning inappropriately conducted adoptions", 1983-02-15, dnr 49:48/83; Ministry of Social Affairs memorandum (Ds S 1983:14) *International adoptions, review and proposals for measures*; Prop. 1984/85:16 *on certain questions concerning international adoptions*.

²²⁸DN 1983-04-13 " 'Illegitimate' children are sold via 'baby farms' to Scandinavia".

²²⁹Swedish Embassy in Colombo letter to Swedish couple wishing to adopt privately 1980-03-20 in Colombo mission archives dnr XII:38 R 34; NIA correspondence with a Swedish couple wishing to adopt privately 1983-11-08; NIA dnr 49:63/80; NIA dnr 49:327/83.

²³⁰See e.g. NIA Minutes 1982-05-27; NIA Minutes 1983-08-25.

Correspondence between NIA, the Swedish Embassy in Colombo and DPCCS in the mid-1980s shows that they exchange information about the adoption contacts of Swedish adoption organizations in Sri Lanka.²³¹ NIA asked many questions to the Swedish Embassy about different adoption intermediaries and also had continuous contact with the Sri Lankan authorities.

NIA and the Swedish organizations were aware of problems with some private intermediaries who had contacts in Sweden. For example, NIA described one private intermediary as the "culprit" in the recent adoption freeze. NIA received information about some intermediaries who considered each other as "shady". The NIA also received many questions about a particular private intermediary who, according to the NIA, provided insufficient information about the children's background. Adoptions through this intermediary were cheaper because the families had the adoption documents sent home in advance and could therefore stay in Sri Lanka for a shorter time. This was the private orphanage that placed the most children in Sweden in the early 1980s.²³² Another private adoption contact had, according to the Swedish Embassy, become a controversial person with whom the Sri Lankan authorities were not very happy. According to DPCCS, reports had been received about her activities indicating that adoptive parents were being economically exploited and that they could therefore not recommend her as an adoption contact.²³³ The Swedish Embassy in Colombo informed her of this in a letter

In our file review, we have seen examples of the NIA communicating with the Swedish adoption organizations and the Swedish embassy in Colombo to solve problems that have arisen in a private adoption. This concerns an adoption from 1986 that was carried out privately even though the consent was only valid through an authorized Swedish organization. The child is reported to have come from FFIA's orphanage in Sri Lanka, which was licensed in Sri Lanka, but was never actually

²³¹See e.g. telex from the NIA to the Swedish Embassy in Colombo 1986-10-29 NIA dnr 72:384/86; Letter from the Swedish Embassy in Colombo to DPCCS 1986-09-12 (dnr not shown but possibly NIA dnr 72:384/86); NIA's travel report Sri Lanka 1982, see the mission archive dnr 11/154 R 34 1983-12-05; Letter from the National Board of Health and Welfare's NIA to the Swedish Embassy in Colombo 1980-03-20, mission archive Colombo dnr XI:46.

²³²Minutes from NIA's meeting with Swedish organizations in Sri Lanka 1982-03-23 NIA dnr 45:104/82; Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA dnr 72:147/83, available in the diplomatic archives 1983-09-02 dnr 11/106 R 34.

²³³Letter "Adoption contact in Sri Lanka" from the Swedish Embassy in Colombo to the NIA 1982-10-26, Beskickningsarkivet dnr 9/226 R34 (or NIA Dnr 43:417/82).

²³⁴Letter from the Swedish Embassy in Colombo to the intermediary 1986-10-31, dnr 13/216 R 34.

The child was not placed there but with another private intermediary who was not established in Sri Lanka and with whom the NIA had also advised against cooperating. NIA took this very seriously and asked FFIA to explain to its contact that what had happened was unacceptable and should not be repeated.

NIA also intended to contact the Embassy in Colombo to seek cooperation in adoption cases. The NIA has also warned other adoption organizations about similar incidents.

In our file review, we have also seen several examples of the NIA writing letters to the adoptive parents stating that it has come to the NIA's attention that they have received a child without the mediation of an authorized organization. NIA then asks them to provide more detailed information about how the family came into contact with the child. However, we have also seen examples of the NIA in 1981 recommending that the applicant carry out a private adoption, despite the fact that at that time they would strive for the adoptions to be mediated by the authorized organizations. The adoptive parent writes in a letter to the social services department that the NIA had checked out a private contact that they intended to use and that the NIA then said that the contact was "100% OK" and that the NIA had only positive experiences with that adoption contact.

The adoptive parent offered to contact BV, but the NIA thought it was unnecessary.

The Swedish Embassy conducted its own survey of intermediaries

The Swedish Embassy in Colombo has played an active role in gathering information on various private actors in Sri Lanka and passing it on to Sweden. They sent letters to Swedish adoptive parents asking them to indicate which contact in Sri Lanka they adopted through. The Embassy listed the contacts of the Swedish adoption organizations, but also eight private contacts.²³⁵ FFIA also points out that the Swedish Embassy was extremely knowledgeable, insightful and helpful in the crisis situations that arose with regard to adoption activities in Sri Lanka.²³⁶

The Swedish Embassy offered NIA in 1983 to make an in-depth survey of adoption activities in Sri Lanka with regard to

²³⁵Swedish Embassy list of adoption contacts sent to adoptive parents sometime in the 1980s, received from FFIA, date and no. unclear.

²³⁶Written information from FFIA received by email on 2024-04-15.

The Swedish Embassy presented the results of the survey in the fall of 1984.⁽²³⁸⁾ The NIA was very positive about this. Several of the homes included in the survey were judged to function well. There were two homes in particular that the ambassador had some objections to, namely the orphanage with which BV cooperated and the orphanage with which FFIA later cooperated. In the case of the orphanage with which FFIA cooperated, the ambassador got the impression that the couple who ran the business had financial motives. Moreover, the director was related to the Minister of Security and knew the Minister of Fisheries, who was also the mayor, who wanted to let this couple use one of their houses to accommodate Swedish adoptees. The business they intended to set up seemed to focus almost entirely on the adoption of babies to Sweden²³⁹.

As regards the BV contact person organization, the Embassy was critical that the costs charged to prospective Swedish adoptive parents were still high and that there was no satisfactory control over how the funds they received from Sweden were actually used. The activities were financed entirely by BV's members, through adoption fees and donations to the organization's welfare and relief programs. The ambassador also said that the organization exploited loopholes in the then legislation for its adoption activities. At the same time, the ambassador described the orphanage as very nice and well-functioning, and that there were background reports on the children and follow-up reports from the parents in Sweden.

The Ambassador was also critical of the fact that neither of these two homes was registered with the DPCCS. The Ambassador also highlighted two private actors who were engaged in adoption activities based on clear economic motives and without being registered.

²³⁷ NIA Annual Report 1983/1984.

²³⁸ Letter from NIA to the Swedish Embassy in Colombo 1983-08-25 NIA dnr 72:147/83, found in the diplomatic archives 1983-09-02 dnr 11/106 R 34; Letter "International adoptions Sri Lanka - Sweden" from NIA to the Swedish Embassy in Colombo 1984-09-26, received by the Swedish Embassy in Colombo 1984-10-04 with dnr 11/118 R 34.

²³⁹ The Swedish Embassy in Colombo's survey "International adoptions Sri Lanka - Sweden" to the NIA 1984-10-24, received by the Embassy in Colombo 1984-11-02 under No 12/130 R 34.

The NIA prepared for its new task to give an opinion on the reliability of the intermediation in individual adoptions

In January 1985, the NIA was asked to give an opinion to the Social Welfare Board on the reliability of the intermediation method that applicants wished to use for individual adoptions. In view of this new task, the NIA paid particular attention to investigating the conditions for making such assessments in Sri Lanka. During the NIA's visit to Sri Lanka in 1984, an agreement was reached with the Ministry of Social Affairs on a number of common guidelines. One basic requirement was that the organizations in Sri Lanka used by Swedish adoptive parents should be registered with DPCCS or DSS.

However, registration with the DPCCS did not imply approval or authorization of the activities. The DPCCS had supervisory responsibility for the 142 children's homes registered with it, and operated seven state-run children's reception centers on its own. However, DPCCS itself described that it did not have the capacity to monitor all private institutions.²⁴⁰ The NIA also later found that registration alone was not sufficient for a contact to be considered reliable, as the Sri Lankan authorities did not have the resources to regularly monitor even the registered activities.⁽²⁴¹⁾ The NIA described that there was also no possibility for the Swedish side to continuously monitor and gain insight into the activities, for example regarding the reasons for leaving children for adoption or the size and reasonableness of the costs

Many of the opinions on the reliability of the intermediaries given to the NIA concerned adoptions from Sri Lanka. And, according to the NIA's compilation of its opinions on intermediaries in 1985, 11 of the 13 negative decisions concerned Sri Lanka²⁴³.

²⁴⁰The Swedish Embassy in Colombo's survey "International adoptions Sri Lanka - Sweden" to the NIA 1984-10-24, received by the Embassy in Colombo 1984-11-02 under No 12/130 R 34.

²⁴¹NIA's opinion on the method of mediation in adoption 1986-05-21 NIA dnr 46:66/86; NIA's letter 1986-08-22, in FFIA's archives.

²⁴²NIA letter 1986-08-22, in FFIA archives.

²⁴³NIA protocol 86-01-29.

9.7.11 NIA inspections and missions to Sri Lanka provided a clear picture of problems but were not very critical

The NIA made seven trips to Sri Lanka between 1976 and 1991.²⁴⁴ The purpose of the trips was to seek an agreement on private adoptions, to visit the cooperation offices of the Swedish organizations and to exchange information on new regulations on adoptions.

Several of the trips were made together with Swedish adoption organizations. This was the case, for example, with the 1982 trip when NIA traveled together with BV, which was to sign a new agreement with its contact person in Sri Lanka²⁴⁵.

During the missions, Sri Lankan government officials and other stakeholders have openly described problems in the adoption business. The 1976 mission revealed that the Sri Lankan Minister of Social Welfare was very positive about intercountry adoptions, but that there had been some problems with the free flow of the business for a number of years.²⁴⁶ The May 1982 mission revealed that the problems of child trafficking persisted. The Ministry of Social Affairs and the DPCCS said that they had almost completely lost control of the adoptions, and that the activity was characterized by resignation and indifference. According to the Swedish Embassy in Colombo, the problems were built into the system where those involved made a lot of money. During the trip, it was described that trafficking in children for adoption has quickly become organized in the same way as, for example, prostitution and drug trafficking²⁴⁷.

NIA's visits to orphanages and adoption agencies in Sri Lanka revealed shortcomings in some cases. NIA's visit to one agency revealed that the records of the children to be adopted contained little information about the background of the children and the mothers. NIA pointed out that the broker had suggested children to parents who had not yet completed their investigation and consent and asked why, but received no answer.²⁴⁸ During its visit in November 1991, NIA was informed that BV's criticized contact person probably still had influence over the brokerage, that "child swaps" were very common, and that more children were brokered in BV's name with the contact person's assistance than BV

²⁴⁴ The trips took place in 1976, 1979, 1980, 1982, 1984, 1986 and 1991.

²⁴⁵ BV's report from a visit to Sri Lanka in May 1982 was submitted to the NIA on June 14, 1982, no. 69:245/82.

²⁴⁶ NIA trip report Sri Lanka 1976.

²⁴⁷ NIA's travel report Sri Lanka 1982, see the mission's archive no. 11/154 R 34 1983-12-05.

²⁴⁸ Travel report 1986 NIA dnr 72:60/86.

had participated in.²⁴⁹ During the trip, it also became apparent that there was a dependency between assistance and adoption in the organization.²⁵⁰

Otherwise, few problems emerged during NIA's visits to the cooperation contacts. The NIA's notes from the trips suggest that the NIA did not have a particularly critical or scrutinizing approach during these visits. They were shown around and found that most things looked fine. Based on the trip reports, it does not appear that any critical review was carried out.

In 1992, South Asia magazine published a letter from a person who had adopted through BV and who said that before the NIA's visit, the house was cleaned, painted and repaired. The letter writer also criticizes that NIA only met a few of the families who lived there, which were the families whose adoption had gone well and correctly. Other families were not allowed to be there during the NIA's visit²⁵¹.

FFIA representatives have subsequently described the NIA's supervision as a "disaster". Given all the information about BV's contact person in Sri Lanka and all the "warning bells" about how the children became available for adoption, they believe that the NIA should have stopped BV altogether around 1990-1991.²⁵²

9.7.12 In some cases, organizations have acted with caution, for example around new contacts

In our review of the archives, we see several examples of how the Swedish organization FFIA acted cautiously in relation to new cooperation contacts in Sri Lanka. In 1980, FFIA was contacted by an intermediary in Sri

Lanka who offered an adoption partnership where she would place 100 children a month with FFIA. In a letter to one of the FFIA board members, she writes that she had local agents working for her to find unmarried mothers who were pregnant and willing to give up their children for adoption. According to FFIA representatives, she got the idea from the BV contact person who worked with such agents. They describe that the women were offered a sewing course and a sewing machine in exchange for their child. FFIA chose not to enter into any cooperation

(249) "Report of the NIA visit to Sri Lanka, November 23-30, 1991", NIA dnr 60:607/91, received from FFIA.

²⁵⁰ NIA's statement in response to BV's appeal against the NIA's decision to restrict the association's authorization in relation to what the association had requested 1992-05-20 NIA dnr 60:81/92.

²⁵¹ South Asia Magazine No 2 1992.

²⁵² Interview with former FFIA employee on September 21, 2023.

with this intermediary, who was the owner of the boarding house of the baby farm that was later revealed in 1987.²⁵³

In 1984, FFIA was about to start a new partnership with the St. Lewis Children's Home, but FFIA was unsure whether it was a suitable partner. They wrote to the directors of the home explaining why they wanted to hold off on a partnership. FFIA also informed NIA of this.²⁵⁴ Representatives of FFIA describe in our interview that they later started working with this children's home after a request from NIA. They point out that the directors of St. Lewis Children's home had been influenced by BV's contact person in Sri Lanka, which was reflected in their approach. FFIA tried to change this, including allowing families to make their own choices on the ground in Sri Lanka and not be tied to their particular services. In retrospect, the FFIA representatives now describe Sri Lanka as the most complicated country they have worked in. They describe the proposals that FFIA received at the outset as "grandiose". Today they would not have gone into this at all, but you have to start from the situation of that time and the great needs of the children. At that time and in that part of the world, many children did not survive the first year in an institution.²⁵⁵

There are also examples of adoption agencies breaking off partnerships with orphanages that turned out to be disreputable. For example, the BFA ended its partnership with the Sri Lanka Society of Friends for Needy in 1985 when it learned that it was not government registered²⁵⁶

As described earlier, the AC has also acted with caution in Sri Lanka. They have been critical of adoption activities in Sri Lanka because of the amount of money involved in the adoptions. They have pointed out problems in BV's adoption activities and chose to end the activities in 1983, while both BV, BFA and FFIA continued to have authorization for the activities for about 30 more years.

²⁵³Letter from the intermediary to a board member of FFIA 1980-06-11, received from FFIA (no. missing); Interview with former FFIA employee 2023-09-21.

²⁵⁴FFIA letter to Sri Lankan intermediary 1984-06-07, received NIA 1984-06-08 dnr 69:291/83; FFIA letter to NIA 1984-06-07 received NIA 1984-06-08 dnr 69:291/83.

²⁵⁵Interview with former FFIA staff member 2023-09-21.

²⁵⁶Interview with representative of BFA 2023-09-29.

10 Irregularities in adoption activities in South Korea

10.1 The mission

According to the terms of reference, the Adoption Commission is to clarify the existence of any irregularities in Sweden's international adoption activities and how the government, relevant state authorities, municipalities, authorized associations, non-profit organizations and other private actors have acted and responded to any irregularities based on the responsibilities and roles of each actor.

South Korea is one of the countries in the world that has given up the most children for international adoption and is the country from which Sweden has adopted the most children. In South Korea, a national truth and reconciliation commission is conducting an official review of the activities. Sweden has had a cooperation agreement on adoptions with South Korea since 1966. The first agreement was between the National Board of Health and Welfare and the Child Placement Service (CPS) of the Ministry of Social Affairs in Seoul.

The agreement between the Swedish adoption authority and the responsible adoption organization in South Korea has been renewed regularly. In connection with the reorganization of the NIA in 1980, the Adoption Center (AC) took over the mediation cooperation. In 2024, South Korea decided that the state would take over responsibility for adoption mediation. AC's partner in South Korea thus began work on winding up its adoption activities, and AC adjusted its application for continued authorization to only include authorization to close its ongoing cases.

Our review of adoptions from South Korea included documentation from authorities and from AC, which is the only adoption organization that mediated adoptions from South Korea. We have

interviewed representatives of the supervisory authority as well as AC staff during different periods. We also interviewed adoptees from South Korea and adoptive parents. During a visit to South Korea in the spring of 2023, we also interviewed representatives of authorities and organizations, as well as researchers and lawyers. We also met with South Korea's Truth and Reconciliation Commission. We interviewed one original parent and have interviewed another original parent online. In addition, 100 adoption files of children placed through the NIA and AC were reviewed from the 1960s to the present day. Adoptions from South Korea have been reviewed by actors in South Korea as well as by other countries that have received children from the country and we have taken note of the observations made by others.

10.2 Assessment

The investigator's assessment: Our review shows that there have been irregularities in adoptions from South Korea to Sweden, mainly during the 1960s, 1970s and 1980s. These include children being adopted to Sweden without the voluntary and informed consent of the child's parents and incorrect information about the child's family status, name and date of birth in the adoption documents. In addition, it is clear that Swedish authorities and organizations have accepted procedures and acted in ways that have made it difficult and in some cases impossible to assess whether an adoption is in the best interests of the child. In particular, we have noted the following in our review:

- Sweden has cooperated with South Korea on adoptions despite the fact that South Korea has not ratified the 1993 Hague Convention and has also entered a reservation against Article 21(a) of the Convention on the Rights of the Child. Sweden has thus had a great responsibility to ensure that the adoption process in South Korea is legally secure and ensures the best interests of the child.
- The private adoption agencies in South Korea have basically managed the entire adoption process from counseling the mothers, the decision that the child is available for adoption to the consent to adoption. This process has posed obvious risks of irregularities being allowed to pass through, as there has been no body with an independent reviewing role.

We note that the Agency only started to raise critical questions about the lack of transparency and control in the adoption process by South Korean authorities at a late stage.

- Until the 2012 adoption reform, it was possible for someone other than the mother to give a child up for adoption to an adoption agency in South Korea. The director of the adoption organization has been appointed as the guardian of the child and has been the person who consented to the adoption. In combination with the fact that the director of the adoption organization registered the child as an orphan in a separate family register, a so-called orphan register, there have been obvious risks of children being adopted to Sweden without parental consent. We have been made aware of such cases and also identified two cases in the 1970s where four children adopted to Sweden were requested back by their parents in South Korea.
- Swedish stakeholders have not questioned the adoption procedure in South Korea, but have assumed that the South Korean authorities and organizations have verified the identity and consent of the child. On the contrary, the organization of adoptions from South Korea has been held up as a model.
- Swedish actors have known and accepted that children with known parents have also been registered as orphans. This procedure has entailed a risk that Swedish courts have assumed that the child was an orphan. It has also entailed a risk that adopted persons with known parents have believed that they were orphans.
- Adoption of children from South Korea was decided between 1973 and 2012 by a Swedish court applying the rules of the Parental Code. This means that the same legal requirement for consent has applied to the adoption of children from South Korea as from Sweden. Despite this, the courts have only exceptionally questioned the purpose of orphan *hojuk* and thus not sought consent from the parents, even in cases where the mother's name appeared in the attached social report on the child. Even if the representative of the adoption organization was the child's guardian and the parents' consent was therefore not required, they should have been consulted on the matter.

- Sweden has accepted South Korea's high adoption fees despite the fact that South Korea's economy since the 1980s has been such that it should have been possible to find national solutions for the children. However, through Sweden's demand for children for adoption, we have contributed to this not being the case.

10.3 Sweden's adoption activities in South Korea

10.3.1 South Korea is the country from which Sweden has adopted the most children

The first adoptions from South Korea to Sweden were carried out by Swedish aid workers and staff at Swedish military hospitals in connection with the Korean War in the 1950s. However, organized adoption activities started in the latter part of the 1960s when Sweden entered into an agreement with South Korea on adoptions. During the 1960s and 1970s, South Korea was the largest country of origin for internationally adopted children to Sweden. Approximately 70 percent of all adoptions from South Korea to Sweden took place in the 1970s and 1980s.¹ South Korea is the country from which the most adoptees have come from the 1950s to the present day. Approximately 9,800 children have been adopted from South Korea, making Sweden the third largest receiving country after the United States (over 112,000) and France (11,200). After Sweden

Denmark (over 8,800) and Norway (over 6,500). According to South Korea's official statistics, 9,798 children have been adopted to Sweden.² As far as is known, individual adoptions have not occurred in any

greater extent.³

Table 10.1 shows the number of children adopted by year from 1969 to 2024. There were about 570 adoptions in the 1960s and a few in the 1950s⁴.

¹ Information from researcher Philsik Shin.

² Statistical data from researcher Tobias Hübinette. Submitted to the Adoption Commission on 2025-03-29.

³ Private adoption has not been allowed in South Korea since 1966.

⁴ Estimated by the Adoption Commission based on reports from the Advisory Board of the National Board of Health and Welfare and from the NIA's annual reports.

Table 10.1 Number of adoptions from South Korea per year, 1969-2024

Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of	Year	Number of
1969	182	1980	191	1990	80	2000	130	2010	73	2020	13
1970	350	1981	274	1991	75	2001	117	2011	60	2021	19
1971	497	1982	240	1992	99	2002	109	2012	47	2022	9
1972	538	1983	327	1993	64	2003	111	2013	17	2023	6
1973	624	1984	258	1994	88	2004	121	2014	30	2024	5
1974	660	1985	299	1995	106	2005	104	2015	43		
1975	351	1986	388	1996	131	2006	91	2016	28		
1976	266	1987	285	1997	79	2007	66	2017	25		
1977	367	1988	202	1998	96	2008	79	2018	26		
1978	290	1989	105	1999	138	2009	95	2019	15		
1979	141										

Source: MFOF.

In total, between 170 000 and 200 000 South Korean children have been adopted internationally from the 1950s to the present. The share of national adoptions has been low in South Korea, accounting for only 25 percent of all adoptions in the 1970s.⁵ However, in 2022, 182 children were adopted nationally (56 percent) and 142 children were adopted internationally (44 percent) in South Korea.⁶

10.4 Background on international adoptions from South Korea

10.4.1 Intercountry adoptions started in the aftermath of the Korean War

Adoptions from South Korea started after World War II, but it was because of the Korean War that the business really took off. The earliest adoptive parents were the soldiers, missionaries and aid workers who were already there during and immediately after the war.⁷ The first legally recognized intercountry adoptions

⁽⁵⁾ T. Hübinette (2003), *The history of adoption from Korea. "A look at history"* from Sofia Lindström & Astrid Trotzig, eds, *Hitta hem. Adult adoptees from Korea tell their stories*.
⁽⁶⁾ E-mail to the Adoption Commission from lawyer Pillkyu Hwang 2024-03-18.
⁽⁷⁾ T. Hübinette (2003).

was carried out by the American Seventh-day Adventists in 1953.⁸In the second half of the 1950s, adoptions to Europe began.

Foreign organizations laid the foundation for international adoptions

The Korean War put enormous strain on the population and by the end of the war in 1953, 54 000 children were living in institutions. In the same year, aid organizations estimated that a total of 100,000 children had been orphaned by the war and half a million children were living with a single parent.⁹During and after the Korean War, South Korea received foreign aid from both the US government and foreign humanitarian agencies. During the 1960s, assistance was expanded from organizations in Germany, Australia, France, Belgium, Sweden, Austria and the Netherlands. These organizations provided emergency aid in the form of food, clothing, medicine, orphanages and hospitals. The South Korean government continued to rely on foreign aid to meet the country's social service needs until the mid-1970s, which meant that foreign organizations came to play a major role in the development of the South Korean social welfare system, including child welfare. The total number of orphanages and children in institutional care increased from 7 338 children in 101 orphanages in 1949 to 30 000 children in 280 orphanages in 1952. By 1961, there were 50,000 to 60,000 children in 615 orphanages¹⁰and in 1966, ¹¹72,000 children were placed in institutions

10.4.2 South Korea has failed to complete its international adoption program despite the country's economic growth

South Korea's adoption program started with the aim that children of Korean women and foreign soldiers would be adopted internationally. During the 1960s, however, adoptions shifted to include over

⁽⁸⁾ T. Hübinette (2005), *Comforting an Orphaned Nation. Representations of International adoption and Adopted Koreans in Korean Popular Culture*, p. 58.

⁹ T. Hübinette (2003).

⁽¹⁰⁾ H. Kim (2016), *Birth Mothers and Transnational Adoption Practice in South Korea. Virtual Mothering*, p. 41.

⁽¹¹⁾ T. Hübinette (2003).

children with two Korean parents. In 1965, 70% of children adopted internationally had two Korean parents¹².

The abandoned children of the 1960s and 1970s were successively replaced in the 1980s by children of single unmarried mothers with an increasingly declining average age.¹³ The proportion of children adopted from poor families fell to 17% and abandoned children to 10%, while the proportion of children from single mothers increased to 72%. In the 1980s, 70 000 children left South Korea for adoption.¹⁴ This coincides with South Korea's rapid post-war economic growth. Few countries have developed so rapidly from widespread poverty to a fully developed industrial nation. Critics argue that South Korea's impressive economic development can be partly explained by the adoption program, which in practice has meant that South Korea has not needed to build a domestic child welfare system.¹⁵ The government has not taken sufficient measures to support single mothers, either socially or economically. In the 1970s and 1980s, single women received virtually no financial or social support from the state.¹⁶ Instead, maternity homes emerged in cooperation with adoption organizations.

Cultural explanations for international adoptions

South Korea's long-standing adoption program can also be understood from a cultural perspective. There is still a strong social stigma surrounding children born out of wedlock and single mothers in South Korea, which is linked to the influence of Confucianism on Korean society and the legal system.¹⁷ Unmarried single mothers are discriminated against in the workplace and parents and friends are distanced, which also affects the children.¹⁸ There has also been resistance to national adoption programs.

⁽¹²⁾ E. Kim (2023), *The Origins of Korean Adoption: Cold War Geopolitics and Intimate Diplomacy*, s. 18.

¹³ T. Hübinette (2003).

¹⁴ T. Hübinette (2003).

¹⁵ H. Kim (2016), p. 36.

⁽¹⁶⁾ K. D. McKee (2016), *Monetary Flows and the Movements of Children: The Transnational Adoption Industrial Complex*. *The Journal of Korean Studies* 21, no 1 Spring 2016, p. 147.

¹⁷ Confucianism is characterized by duty, loyalty and honour, as well as education and obedience to authority. The father is the head of the family and the woman is subordinate to the man. Confucianism ceased to be the formal ideology of South Korea after the fall of the Choson dynasty in 1910, but still influences society today.

¹⁸ Yle. *Newly single mothers in South Korea forced to give up baby for overseas adoption: 'It's human trafficking'*, says activist Published 2020-11-28.

national adoptions as it is associated with shame to adopt children as it may indicate that the woman cannot have biological children.¹⁹ Confucianism's emphasis on the male bloodline is also an explanation for the low proportion of national adoptions in South Korea,²⁰ there has been an effort to adopt a child with the same blood group.²¹

10.5 Actors, regulation and the Swedish adoption process in South Korea

10.5.1 Role of Swedish authorities in adoptions from South Korea

In 1965, the National Board of Health and Welfare concluded an agreement on adoptions with the Korean Embassy

The first agreement on adoptions to Sweden from South Korea was concluded in 1965 between the South Korean Embassy in Stockholm and the National Board of Health and Welfare. It began with a visit to Sweden by a secretary of the Scandinavian Mission, Pusan, whose mission was to place as many orphans as possible in Sweden. In connection with the visit, the media reported that a woman in Sövedalen was receiving applications for adoption. After the woman was informed that private foster care was not allowed,²² the secretary of the Scandinavian Mission and the Korean Embassy requested that the Social Welfare Board be involved in adoptions of Korean children. The Social Welfare Board agreed and reached an agreement with the Korean Embassy on how the cases should be handled²³.

¹⁹MFoF. *Minutes of a meeting with a representative from the Ministry of Health and Welfare and the Social Welfare Society (SWS) in Rep. Korea and a representative from the Korean Embassy in Stockholm, etc.* on August 18, 2010, dnr 79:433/10.

(20) S. K. Kim (2015), *Abandoned Babies: The Backlash of South Korea's Special Adoption Act*. Washington International Law Journal, Volume 24, Number 3 2015, pp. 711 et seq.

²¹Social Welfare Society, *An Update of Policies, Procedures and Practices Relating to Adoption of Children in Korea*, May 30, 1979, R 34. See also MFoF, *Minutes of a meeting with a representative of the Ministry of Health and Welfare and the Social Welfare Society (SWS) in Rep. Korea and a representative from the Korean Embassy in Stockholm, etc. on August 18, 2010*, dnr 79:433/10.

²²According to Chapter 7. 54 § of the Child Care Act (1960:97), an individual or association was not allowed to conduct brokerage activities concerning foster children without permission from the National Board of Health and Welfare.

²³National Board of Health and Welfare. *Memorandum concerning the adoption of Korean children by agreement with the Korean Embassy and the National Board of Health and Welfare*, April 9, 1965, R 34 Xko.

In 1966, the National Board of Health and Welfare entered into an agreement with the Child Placement Service in South Korea on adoptions

In 1964, the Swedish government appointed a government inquiry to clarify the difficulties and obstacles to foreign adoption.²⁴ The work of the inquiry resulted, among other things, in the

On 15 December 1966, an agreement on adoptions was signed with the Child Placement Service (CPS) of the Ministry of Social Affairs in Seoul.²⁵ The agreement between the National Board of Health and Welfare and the CPS stipulated that all adoptions had to be mediated through authorized organizations in Sweden. Later in the 1960s, CPS moved out of the Ministry of Social Affairs and was transformed into the private organization Social Welfare Society (SWS). The agreement was renewed on April 7, 1975, but then between SWS and the National Board for International Adoption (NIA) within the National Board of Health and Welfare.²⁶ The agreement was terminated by the MIA on September 22, 2006,²⁷ and on the same day SWS entered into a cooperation agreement with AC.²⁸

The National Board of Health and Welfare and the NIA were responsible for the placement of children until 1979

From 1966 through 1972, the National Board of Health and Welfare received applications for the adoption of children from South Korea and forwarded the documents to South Korea. From 1973 onwards, the responsibility lay with the NIA. In 1980, the AC took over responsibility for the practical work of mediation, while the NIA was responsible for the supervision of the activities.

Up to and including 1972, the adoption decision was made in South Korea and the Ministry of Justice examined whether the decision could be approved in Sweden. Between 1973 and 2012, the adoption was decided in Swedish courts. Since 2012, adoption decisions are once again made in South Korea and the MIA and then the MFoF have examined whether the adoption decision from South Korea can be approved in Sweden. After 2018, the South Korean adoption decision is automatically recognized in Sweden in accordance with Section 4 of the Act (2018:1289) on adoption in international situations.

²⁴ SOU 1967:57 *Adoption of foreign children*.

²⁵ See Annex 3 of SOU 1967:57 *Adoption of foreign children*.

²⁶ MINISTRY OF FOREIGN AFFAIRS. Telegram from Cabinet Stockholm to Swedish New York 1983-05-27. The agreement was renewed again on March 18, 1980.

²⁷ MIA. *Report on assignments concerning bilateral agreements on international adoptions*, dnr 1.1.1:485:96/14, p. 14.

²⁸ The contract between SWS/KWS and AC has been renewed every year since 2013.

The Ministry of Foreign Affairs and the Swedish Embassies in Tokyo and Seoul have assisted the Ministry of Justice, the NIA, the MIA and subsequently the MFoF and Swedish courts with information on Korean adoption legislation. Since 2005, the MIA and subsequently the MFoF have consulted with the Embassy in Seoul prior to authorization decisions²⁹.

The Swedish Embassy in Seoul granted the child an entry visa to Sweden. When the visa expired, the Swedish Migration Board³⁰ granted the child a temporary residence permit in Sweden pending approval of the Korean adoption decision in Sweden or a Swedish court decision on adoption.

10.5.2 The Adoption Center is the only authorized association that mediated adoptions from South Korea

In connection with the reorganization of the NIA in 1980, AC took over the mediation cooperation with SWS. AC is the only authorized association that has mediated adoptions from South Korea. Throughout this period, AC has only cooperated with SWS and then KWS.⁽³¹⁾ In the fall of 2023, South Korea decided that the state would take over responsibility for the mediation of adoptions, and KWS thus began work on phasing out its adoption activities. The AC then adjusted its application for continued authorization to only refer to authorization to close the ongoing cases.

10.5.3 Operators in South Korea

The Ministry of Health and Welfare³² has been responsible for adoption activities in South Korea. They have authorized and supervised the four private organizations that have been licensed for intercountry adoptions. The Ministry has also decided on the exit permit for the child. Until 1972, a court had to decide on an adoption before a child left the country. From 1973 to 2012, an exit permit decision from the Ministry was sufficient.

²⁹ The obligation was introduced in Section 6 a of the Act (1997:192) on international adoption mediation.

³⁰ Until July 1, 2000, the agency was called the Swedish Immigration Service.

³¹ In 2020, SWS changed its name to Korea Welfare Services (KWS).

³² Former Ministry of Health and Social Affairs.

³³The requirement for the court to decide on the adoption before the child left South Korea was reintroduced in 2012.

Four organizations have been licensed for international adoptions

In 1954, following criticism from South Korean social workers and others about the large number of children in orphanages, the South Korean Ministry of Social Affairs established the Child Placement Service (CPS).³⁴The stated purpose of the CPS was to give children born to Korean women and foreign soldiers for adoption, particularly to the United States, as the children were at risk of social discrimination in ethnically homogeneous South Korea.³⁵In 1956, the adoption agency Holt Childrens Services was established, which has since been a leader in the field of adoption and has mediated more than half of all adoptions from South Korea. In 1957, the International Social Services (ISS) was authorized by the Korean government to mediate adoptions to other countries. In 1966, the government decided that only authorized organizations could conduct intercountry adoptions, and in 1967 ISS handed over responsibility for intercountry adoptions to CPS.³⁶ISS felt that its role in intercountry adoptions compromised South Korea's commitment to developing domestic solutions for children. In addition, the ISS considered that the diversion of funds from social welfare to adoption agencies to earn foreign exchange was a serious concern³⁷.

Holt Childrens Services continued to dominate intercountry adoption but in 1964 Korea Social Services (KSS) was established and in 1972 Eastern Social Welfare Society (ESWS) was added. CPS was privatized in 1965 and renamed Social Welfare Society (SWS) in 1971 and Korea Welfare Services (KWS) in 2020. These four adoption organizations are the ones that have been licensed for intercountry adoption. KSS ceased to mediate international adoptions in 2012. In 2024, the government decided that the adoption process will be taken over by local and

³³ The law was amended in 1976, but in practice it already worked that way from 1973.

³⁴ By decision of South Korean President Rhee Syngman.

⁽³⁵⁾ K. Lee (2021), *The Global Orphan Adoption System: South Korea's Impact on Its Origin and Development*, p. 69.

³⁶ Social Welfare Society (2004), *The 5 Decades of SWS (since 1954-2003)*, p. 17.

⁽³⁷⁾ E. Kim (2009), *The Origins of Korean Adoption: Cold War Geopolitics and Intimate Diplomacy*, s. 19.

regional authorities and the activities of adoption organizations will thus be phased out.

Sweden has only cooperated with KWS

Sweden has cooperated only with CPS, SWS and then KWS. Initially, the focus was on international adoptions, but since 1980 the organization has expanded into other areas of social welfare, including support for unmarried women, care for the elderly and the disabled.³⁸ KWS has also had a health care program for abandoned children, unmarried mothers and families unable to pay for their own care. KWS has also operated its own hospital, Han Suh Hospital, with medical, surgical and orthopedic wards for children, as well as gynecological and obstetrical clinics.³⁹ In 1986, KWS opened its first maternity home in Daegu.⁴⁰

10.5.4 Before 1961, there were no rules on international adoption in South Korea

When intercountry adoptions began in the 1950s, there was no specific regulation for international adoptions⁴¹ but the adoption process was adapted from US laws such as the Refugee Relief Act which allowed orphans under the age of ten to obtain immigrant visas to the US.⁴² The Refugee Relief Act allowed proxy adoptions, whereby Americans could adopt a child in a foreign court through a proxy acting on their behalf.⁴³ In 1955, work began on a law to regulate intercountry adoptions, but it was not put in place until 1961.⁴⁴

³⁸ MFoF. *Travel report South Korea 2023*. Dnr 2023-368, p. 13.

³⁹ NIA. *Report from trip to Tokyo, Seoul and Calcutta, August 29-September 14, 1986*, 1987-01-29, dnr 72:28/86.

⁴⁰ MIA. *Report of the MIA mission to South Korea, September 9-15, 2001*, No. 40.

⁴¹ International adoption was dealt with separately from the so-called yangja (fosterson) system regulated by the Civil Code.

⁴² E. Kim (2009), p. 9.

⁴³ K. D. McKee (2016), p. 156.

⁽⁴⁴⁾ T. Hübinette (2005), p. 58 ff.

10.5.5 In 1961, rules were introduced to facilitate international adoptions

When South Korea passed its first intercountry adoption law, the Special Adoption Act for Orphans⁽⁴⁵⁾ in 1961, it was tailored to meet the U.S. requirement that the child be an orphan in order to obtain an entry visa.

A person under 18 years of age, whose legal supporter is not known, and a person under 18 years of age who has obtained a consent of his or her legal supporter for becoming an adopted child.

Thus, even a child who had known parents but was given up for adoption was defined as an orphan under the law.⁴⁷ For children who were declared orphans, the director of the adoption organization was appointed as the child's guardian and it was the director who then gave consent in the adoption process.⁴⁸ The children were examined in hospital and then placed with a foster mother. The adoption agency arranged for the adoption to be finalized in court.⁴⁹

In 1966, provisions were introduced requiring the court to make two 20-day searches for the person responsible for the child.⁵⁰ Provisions were also introduced requiring adoption organizations to keep information about the child both before and after the adoption.⁵¹ In 1967,⁽⁵²⁾ the requirement for the court to make two 15-day searches for the person responsible for the child was changed to two.⁵³

During the 1960s, the South Korean government adopted laws and policies that prioritized domestic adoption, with the result that by the mid-1960s, domestic adoptions exceeded international adoptions. By 1968, however, international adoptions began to increase again, and by the 1970s they accounted for about 75 percent of all adoptions.⁵⁴

⁴⁵The English translation of the name of the Act varies but the Act is No. 733, adopted on September 30, 1961.

⁴⁶The purpose of the Act was to "promote welfare of orphans by simple formalities in case where a foreigner adopts an orphan who is a citizen of the Republic of Korea".

⁴⁷The Hague Conference on Private International Law (HCCH) defines an orphan as a child under 18 years of age whose both legal parents are dead.

⁴⁸ Act on the Guardianship of Orphans in Protective facility, No. 703, Aug 31, 1961.

⁴⁹ Article 5 Special Adoption Act for Orphans.

⁵⁰Ankestyrelsen (2024), *Adoptionsformidlingen fra Sydkorea til Danmark i 19/0'erne og 1980'erne*, p. 26.

⁵¹ Law No 1745, Feb 23 1966. See also Ankestyrelsen (2024), p. 29.

⁵² Law No 3130 of June 29, 1967.

⁵³ Socialstyrelsen. Letter from the CPS to the National Board of Health and Welfare, December 19, 1967, R 34 Xko.

⁽⁵⁴⁾T. Hübinette (2003).

Despite legal requirements, the children left South Korea before the Korean court decided on the adoption

According to the 1966 agreement between the National Board of Health and Welfare and the CPS, the child was not allowed to travel to Sweden until the Korean court had made a final adoption decree.⁵⁵ When the child had arrived in Sweden, the adoptive parents were to apply to the Swedish Ministry of Justice for approval of the Korean adoption, citing the Korean adoption decree, among other things.⁵⁶ In practice, however, this was not followed.⁵⁷ In July 1968, the National Board of Health and Welfare wrote to the Ministry of Justice that in the vast majority of cases the children came to Sweden before the adoption decision had been made by the Korean court. Out of ten randomly selected cases, Korean adoption decisions were available in only two cases.⁵⁸ There were long waiting times in the Korean courts and it could take up to two years before the adoption decision was made in South Korea. During that time, the child was considered a foster child in Sweden and the child had no legal representative in Sweden as the CPS director was the guardian of the child until adoption. The local child welfare authority exercised foster care supervision as long as the child was a foster child.⁵⁹ In 1969, there were 140 Korean children in Sweden for whom adoption decisions had not been made in either South Korea or Sweden. The child could leave South Korea with an exit permit even if there was no final adoption decree by a Korean court⁶⁰.

The process was changed to allow the child to leave South Korea without an adoption decision

In 1970, legislative work began in South Korea to amend the Adoption Act so that a decision on adoption in South Korea would no longer be required before the child left the country. The reason for this was that it meant more work for adoption organizations to provide

⁵⁵ See 2 e Agreement between the Royal. Socialstyrelsen and Child Placement Service in Korea.

⁵⁶ Initially, it was the Ministry of Justice that examined whether an adoption decision issued abroad could be approved in Sweden. In 1977, this responsibility was transferred to the NIA.

⁵⁷ National Board of Health and Welfare. Letter from the National Board of Health and Welfare to the CPS, June 26, 1968, no. HB 2/B 173.

⁵⁸ National Board of Health and Welfare. Communication from the National Board of Health and Welfare to the Ministry of Justice, July 17, 1968, dnr HB 2/B 1133.

⁵⁹ National Institute of Health and Welfare. *Memorandum on the adoption of children from the Republic of Korea*, June 1976.

⁶⁰ The consulate in Seoul granted the child an entry visa to Sweden for a stay of three months. When the visa expired, the child was granted a temporary residence permit in Sweden pending the adoption decision in South Korea.

The new law did not come into force until 1976⁶¹ but the SWS changed the adoption procedure already at the end of 1972 so that the child would now be adopted in Sweden. The child now left the country following an exit permit from the Ministry of Health and Social Affairs.⁶³ One consequence of the new arrangements was that the newspaper and court notice board announcements required for children with unknown parents were not made before the child left the country. This created a risk that children who had disappeared from their parents for various reasons would be adopted internationally. To prevent lost children from being adopted internationally, a separate law was proposed requiring all foundlings to be announced by local authorities rather than by the court.

In December 1972, the National Board of Health and Welfare informed the prospective adoptive parents in Sweden that they should no longer wait for a Korean adoption decision to be approved by the Ministry of Justice. Instead, the adoptive parents should apply for adoption of the child in the Swedish District Court.⁶⁴ In the opinion of the National Board of Health and Welfare, the application should be able to be taken up by the District Court under the new Act on International Legal Relations concerning Adoption which came into force on January 1, 1972.⁶⁵ In order to apply for adoption in the Swedish court, the adoptive parents received three documents from the NIA: Statement of release for adoption, Certificate of legal guardianship and Extract of family register.⁶⁶ The application also had to contain a statement of the applicant's personal and financial circumstances, the reason for the adoption and a declaration that no consideration for the adoption had been given or promised by either party.⁶⁷ When the Swedish court had decided on the adoption, the adoptive parents applied for Swedish citizenship for the child. The National Board of Health and Welfare informed the Korean authorities, who deregistered the child from the family register in South Korea.

⁶¹ NIA. *Travel report from trip to Seoul, Korea January 26-30, 1976*.

⁶² Special Adoption Law, Law No. 2970, December 31, 1976.

⁶³ Meeting with the Gong Gam Human Rights Law Foundation law firm in Seoul on March 23, 2023.

⁶⁴ National Board of Health and Welfare. *Ang adoption procedure regarding children from Korea, 19/2-12-20*, dnr HB 2/14, R 34 Xko.

⁶⁵ See Prop. 1971:113 *Kungl. Maj:ts proposition med förslag till lag om internationella rättsförhållanden rörande adoption, m.m.*, p. 11.

⁶⁶ National Board of Health and Welfare. *Ang. adoption procedure regarding children from Korea, 19/2-12-20*, dnr HB 2/14, R 34 Xko.

⁶⁷ National Institute of Health and Welfare. *Memorandum on the adoption of children from the Republic of Korea*, June 1976.

After six months, a follow-up report was to be sent to SWS in which the local child welfare authority gave its opinion on the child's adaptation. The report, together with a photograph of the child, was sent by the adoptive parents to the NIA who forwarded it to SWS.⁶⁸

10.5.6 During the 1970s, two temporary freezes on international adoptions were introduced

In December 1970, South Korea decided to temporarily stop adoptions to six European countries,⁶⁹ including Sweden. The measure was taken because of criticism from North Korea of South Korean adoptions. The suspension was lifted in March 1971⁷⁰.

In December 1974, South Korea again decided to temporarily stop international adoptions, but now only to Sweden, Denmark and Norway.⁷¹ This time, too, the stop was due, as South Korea perceived it, to the publication of North Korean "envy propaganda" against South Korea in Scandinavian newspapers.⁷² The stop was lifted in October 1975.⁷³

In 1976, South Korea adopted a plan to reduce international adoptions

In 1976, the South Korean government established a 5-year plan for national adoption and foster care with the goal of stopping international adoptions altogether.⁷⁴ International adoptions were to be reduced by 20 percent in 1977 and stopped altogether in 1981 except for "handicapped and mixed-race children."⁷⁵ The decision drew criticism from social workers and adoption organizations. The director of SWS questioned why handicapped and mixed race children should be excluded

⁶⁸ National Institute of Health and Welfare. *Memorandum on the adoption of children from the Republic of Korea*, February 1977.

⁶⁹ The other countries were Norway, Denmark, the Netherlands, Belgium and Switzerland.

⁷⁰ National Board of Health and Welfare. Letter from CPS to the National Board of Health and Welfare, March 9, 1971, dnr HB 2 14:4040/70, R 34 Xko.

⁷¹ MINISTRY OF FOREIGN AFFAIRS. Letter from the Ministry of Foreign Affairs Republic of Korea to the Swedish Embassy in Seoul, received October 22, 1975, R 34 Xko.

⁷² MINISTRY OF FOREIGN AFFAIRS. Telegram from the Swedish Embassy in Tokyo to the Ministry of Foreign Affairs on March 19, 1971, R 34 Xko.

⁷³ MINISTRY OF FOREIGN AFFAIRS. Letter from the Ministry of foreign affairs Republic of Korea to the Swedish embassy in Seoul, received 1975-10-22, R 34 Xko.

⁷⁴ S. K. Kim (2015), p. 713.

⁷⁵ MINISTRY OF FOREIGN AFFAIRS. Telegram from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs on July 15, 1976, R 34 Xko. See also NIA protocol 1976:5 1976-08-19.

from the South Korean government's ambitions to care for children in need.⁷⁶In a later memorandum, he wrote that the Korean government did not want to stop international adoptions altogether but to gradually reduce them. This was because the government wanted to avoid orphans being cared for in institutions, thereby also relieving the financial pressure on orphanages⁷⁷.

In the late 1970s, the adoption process was further simplified

In 1977⁽⁷⁸⁾, legislative changes came into force which aimed to further simplify the adoption process. Not only orphans could be adopted internationally but also children placed in institutions. Provisions on consent were also introduced in the Adoption Act.⁷⁹Consent to adoption had to be given by the child's parents.

If they were dead or there were other reasons why their consent could not be obtained, consent would be obtained from relatives of the child. If both the child's parents and relatives were unknown, consent would be obtained from the child's guardian. If a child had been given to an adoption organization by the child's parents or relatives, consent did not have to be obtained again in connection with the adoption process itself. It was then the director of the adoption organization who gave the consent to adoption. There was also a provision that the consent of the child was required if he or she was 15 years old⁸⁰.

10.5.7 In the 1980s, international adoptions peaked but were temporarily halted ahead of the Seoul Olympics

In the 1980s, the South Korean government decided to abolish the quota system for international adoptions⁸¹and reopen intercountry adoptions to increase immigration and "activate people-to-people" links.

⁷⁶ UD. Memo from the Swedish Embassy in Seoul to the Ministry on July 19, 1976, R 34.

⁷⁷National Board of Social Welfare. Social Welfare Society: *An Update of Policies, Procedures and Practices Relating to Adoption of Children in Korea*, May 30, 1979, R 34.

⁷⁸ Special Act on Adoption, Law No. 2977, dec 31 1976.

⁽⁷⁹⁾ In the past, the rules on consent to national adoption in the Civil Code applied. If the child was under 15 years of age, consent had to be obtained from the child's parents. If the parents could not consent because they were dead or for other reasons, a close relative would consent.

⁸⁰ Ankestyrelsen (2024), pp. 10 and 25 ff.

⁸¹NIA. Minutes 1981-03-31.

people-to-people diplomacy'. As a result, international adoptions increased significantly. On the occasion of the 1988 Seoul Olympic Games, the government issued instructions to refrain from conducting inter-national adoptions in view of international attention. The government's plan was to eventually ban international adoptions altogether, with the exception of non-Korean children or children with various disabilities.⁸²

10.5.8 In the 1990s, South Korea ratified the CRC and a new adoption law came into force

In 1990, the government again adopted a plan to reduce intercountry adoptions by 10 to 20 percent each year, with a final end in 1996.⁸³ South Korea ratified the UN Convention on the Rights of the Child in 1991 with three reservations, including Article 21^(84a). In 2004, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified. According to the Committee on the Rights of the Child, the implementation of Article 3 of the Optional Protocol requires compliance with Article 21 of the Convention and with the 1993 Hague Convention.⁸⁵ In 2017, South Korea withdrew its reservation to Article 21(a) following repeated requests from the UN Committee on the Rights of the Child.

Since 1991, the main rule has been that only children with one or two known parents can be adopted internationally, in order to prevent children from being adopted internationally against their parents' will⁸⁶.

In 1995, a new Adoption Act came into force.⁸⁷ The new Act emphasized the child's right to grow up in the family into which the child is born. The law required training for those working in adoption agencies, supervision of adoption agencies, training for adoptive parents, and

⁸²Korea Adoption Services. *The History of Adoption in Korea*.

www.kadoption.or.kr/en/info/info_history.jsp . <https://Retrieved> 2025-04-28.

⁸³ AC. *New ties between Sweden and Korea*. 1993-03-18. AC South Korea Country binder 1980-1998 E 4 b.

⁸⁴The Article implies that both national and intercountry adoptions shall be carried out according to established rules and decided by competent authorities. International adoptions are to be considered after a placement in the country of origin has been examined. A State shall also ensure that the utmost importance is given to the best interests of the child in an adoption. The article aims to prevent child trafficking.

⁸⁵The Committee on the Rights of the Child. Guidelines regarding the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. CRC/C/156, Distr.: General September 10, 2019, V. 50 (b).

⁸⁶ AC. *New ties between Sweden and Korea*. 1993-03-18. AC South Korea Country Binder 1980-1998. E 4 b.

⁸⁷Special Act Relating to Promotion and Procedure of Adoption, law No. 4913, Jan 5, 1995.

parents and post-adoption support. Foreign adoptive parents could continue to adopt children without coming to the country and there was still no need for a court decision on the adoption. In 1997, South Korea announced that intercountry adoptions were expected to end in 2015 and that quotas would gradually decrease by three to five percent per year. When South Korea suffered a financial crisis in 1998, the number of children in need of social care increased, resulting in a temporary suspension of the quota system for international adoptions⁸⁸.

10.5.9 In 2012, a major adoption reform was implemented

In the 2000s, several measures were taken to increase domestic adoptions in South Korea again, including financial support for adoptive parents and campaigns to change attitudes towards national adoption.⁸⁹ In 2007, the principle of subsidiarity was introduced by requiring adoption agencies to search for adoptive parents in South Korea for five months prior to intercountry adoption. In that year, national adoptions outnumbered international adoptions by 52%⁹⁰.

In 2012, a major reform of adoption legislation took place when a new Adoption Act came into force.⁹¹ Adoption decisions must be made by the Family Court in Seoul before the child leaves South Korea. The adoptive parents must be present in court. After 15 days, the judgment becomes final and the adoptive parents are appointed as guardians of the child. A provision was introduced stating that the mother's consent to the adoption may be given no earlier than one week after the birth. During that time, she must have the child with her and receive counseling. The social worker must meet the mother at least twice before she can give her consent to adoption.⁹² Furthermore, a requirement was introduced that the child must be registered in the mother's family register - regardless of whether she can keep the child or not. Provisions were also introduced to the effect that information on the identity of the original family could no longer be disclosed without the family's consent. If the parents do not consent to the disclosure of information on their identity to the adoptee

⁸⁸Korea Adoption Services. *The History of Adoption in Korea*, https://www.kadoption.or.kr/en/info/info_history.jsp. Retrieved 2025-04-28.

⁸⁹Korea Adoption Services. *The History of Adoption in Korea*, https://www.kadoption.or.kr/en/info/info_history.jsp. Retrieved 2025-04-28.

⁹⁰S. K. Kim (2015), p. 713.

⁹¹Act on Special Cases Concerning Adoption, Act No. 11007, Aug 4, 2011.

⁹²However, according to the AC's 2015 authorization application, the mother may only give consent at meeting three or four.

only the age of the original parents at the time of the child's birth, the date and reason for the adoption, where the parents lived at the time of the adoption, the name of the adoptee before the adoption, the date and place of birth, the name of the institution where the adoptee resided before the adoption, and the name of the adoption agency that facilitated the adoption are disclosed.

The reform led to a dramatic decrease in adoptions

As a result of the law reform, adoptions decreased. Before 2011, adoptions were steady at 2 400 per year. In 2012, they decreased to 1,800 and in 2013 to 922. The decline was greatest for international adoptions.⁹⁴ One reason for the decline is believed to be the requirement for the mother to register the child in her family register and that an unregistered child cannot be given up for adoption.⁹⁵ In South Korea, it has been discussed whether this is the reason why more children are being left in so-called baby boxes.

Those critical of baby boxes argue that they lead to more abandonment of children. Those in favor argue that it makes it safer for the abandoned children.⁹⁶ In 2019, the UN Committee on the Rights of the Child called on South Korea to ban baby boxes because they allow for the anonymous abandonment of children, and to consider introducing, as a last resort, the possibility of confidential hospital births.⁹⁷

10.5.10 Several important legislative changes aimed at strengthening the adoption process have been made in the last decade

In 2013, South Korea signed the 1993 Hague Convention but has not yet ratified it. Ratification is expected in 2025.

In 2014, the Constitutional Court of South Korea found that there was a conflict of interest in the counseling of unwed mothers by adoption agencies, as the primary

⁹³ MFoF. Email from SWS to MFoF on May 15, 2020, dnr 3.1.2.1149/19.

⁽⁹⁴⁾ D. Lee (2017), *Adoption law reform, "Baby box" and the anonymous birth debate in South Korea*. The International Survey of Family Law, p. 210.

⁹⁵ MIA. Response from the Swedish Embassy in Seoul to the MIA's request for consultation on authorization, 23 September 2013.

⁹⁶ D. Lee (2017), p. 219.

⁹⁷ The Committee on the Rights of the Child. *Concluding observations on the combined fifth and sixth periodic reports of the Republic of Korea*. CRC/C/KOR/CO/5-6. October 24, 2019.

task is to place children for adoption.⁹⁸The court also prohibited adoption organizations from operating maternity homes for single mothers.⁹⁹

In 2015, the Family Register Act was amended in response to criticism of the 2012 reform, which included a legal requirement for the mother to register her newborn child. Critics argued that this made unmarried mothers vulnerable to social and labor market discrimination. The amendment introduced secrecy to protect the privacy of individuals. Sensitive information about adoption, children born out of wedlock and divorce would not be available to employers and others seeking background information on individuals. A further change in the law gave unmarried fathers the right to register their child and thus the right to health insurance and state child support. It also introduced the requirement that the registration of the child be supported by documents from the hospital, meaning that it is no longer possible to register a child with the support of relatives or neighbors as witnesses. The aim was to prevent adoptive parents from registering themselves as the biological parents of the child, which was common in national adoptions¹⁰⁰.

In 2021, advice to parents was moved from adoption agencies to local authorities¹⁰¹ and state representatives are to be included in the matching committees of adoption agencies.

Furthermore, local authorities must determine that the child is available for adoption¹⁰².

A new law allowing confidential hospital births came into force on July 1, 2024. The mother can give notice before the birth and up to one month after the birth that she wishes to remain anonymous¹⁰³.

As part of the ratification of the 1993 Hague Convention, two new laws have been adopted: The Act on Intercountry Adoption and The Special Act on Domestic Adoption, which will come into force in July 2025.¹⁰⁴The new laws will see the entire adoption process taken over by local and regional authorities, and South Korea will be able to

⁹⁸ Article 20 The Single parent Family Act.

⁹⁹ K. Lee (2021), p. 201 f.

¹⁰⁰ The Committee on the Rights of the Child. *Concluding observations on the consolidated third and fourth periodic reports of the Republic of Korea*. CRC/C/KOR/CO/3-4. 2 February 2012.

¹⁰¹ Article 15 (6) Child Welfare Act.

¹⁰² MFoF. *Travel report South Korea 2023*, dnr 2023-368, p. 12.

¹⁰³ MFoF. *Travel report South Korea 2023*, dnr 2023-368, p. 17.

¹⁰⁴ MFoF, *Travel report South Korea 2023*, dnr 2023-368, p. 4.

be both the sending and receiving country. The National Center for the Rights of the Child (NCRC) will take over the responsibility for the adoption files and the responsibility for tracing from the private adoption agencies. The transition should be completed by 2025¹⁰⁵.

10.5.11 Specifically on SAS escort operations from South Korea

SAS escorted children from South Korea from 1968 to 1988. Initially, it was a very long flight with many stopovers. In February 1957, SAS opened a regular route from Copenhagen over the North Pole to Tokyo and the flight time was reduced to 30 hours.

A letter from SWS to AC in 1980 states that the journey from Seoul to Stockholm had three stops: Tokyo, Anchorage and Copenhagen.¹⁰⁶ A letter from the Embassy in Tokyo in 1965 to the Governmental Committee on the Adoption of Foreign Children¹⁰⁷ states that the "transportation" of the children from South Korea via Tokyo was difficult to arrange in cases where the adoptive parents did not pick up the children themselves. Given the high cost of travel, arrangements with travelers from Korea to Japan generally had to be relied upon for the first leg of the journey. For the trip from Tokyo to Copenhagen, it was easier to arrange accompanying passengers. According to the Embassy, during the stopover in Tokyo, flight attendants sometimes used free tickets to go to Korea and bring back one or more adopted children. The Embassy therefore suggested that the investigation should pay attention to travel planning and possibly contact SAS in Stockholm to establish cooperation with one of the airlines that had flights between Tokyo and Seoul¹⁰⁸.

According to a former SAS escort hostess, Korean staff flew with the children to Tokyo in the beginning. According to her, they were dressed as nurses. In Tokyo, SAS escorts took over and flew the children to Copenhagen. From there, the children were flown, with escorts, to their final destination in Scandinavia. Later, SAS escorts traveled to Seoul and received the children there¹⁰⁹.

¹⁰⁵ MFoF. *Travel report South Korea 2023*, dnr 2023-368, p. 11.

¹⁰⁶ AC. Letter from SWS to AC dated February 19, 1980. AC South Korea country file 1980-1998 E 4 b.

¹⁰⁷ The committee was appointed in 1964 and submitted its report in 1967 (SOU 1967:57 *Adoption of foreign children*).

¹⁰⁸ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Tokyo to the Committee on the Adoption of Foreign Children, May 6, 1965, received by the Ministry on May 24, 1965, R 34 Xko.

¹⁰⁹ Interview with a former SAS escort hostess on August 29, 2023.

Correspondence from 1970 shows that there was competition between airlines for escort services from South Korea. Both Luft-hansa and KLM offered cheaper escort services, partly because KLM allowed five children per escort. Under SAS rules, each escort could only take care of two children¹¹⁰.

When South Korea temporarily stopped adoptions to Sweden in 1974, representatives of the Korean government demanded that the prospective adoptive parents themselves pick up the child in South Korea before the adoptions could be resumed.¹¹¹ The Swedish Embassy in Seoul, however, considered that South Korea's demand was purely political because South Korea was afraid of North Korean propaganda. According to the embassy, the parental pick-up proposal was "impractical and unnecessarily costly"¹¹².

Cases of illness were not uncommon and children have died during the journey

According to a former SAS flight attendant, children from South Korea were often ill.¹¹³ It has also been reported that a child died during a flight from South Korea to Scandinavia.¹¹⁴ The Danish report on adoptions from South Korea to Denmark states that a child died shortly after arrival in 1974 because the child had been given milk but was lactose intolerant.¹¹⁵ The report of the Committee on the Adoption of Foreign Children in 1969 states that in some cases the Korean children's state of health on arrival in Sweden was extremely poor and that there was reason to assume that medical checks in Korea had been less thorough.¹¹⁶ In 1966 the adoptive parents of a child adopted from South Korea submitted a complaint to the National Board of Health and Welfare stating that the child was dying on arrival at Arlanda. The child survived after intensive care. The adoptive parents wanted to know, among other things, what measures Korea and Sweden would take to prevent similar events from happening again.¹¹⁷ In our search of the archives, we have not found any communication between the

¹¹⁰ UD. Swedish Embassy in Tokyo, June 1, 1970, dnr 15/80 R 34.

¹¹¹ UD. *Memorandum on the South Korean adoption case*, September 15, 1975, R 34.

¹¹² MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, September 29, 1975, R 34.

¹¹³ Interview with a former flight attendant at SAS 2023-08-23.

¹¹⁴ Interview with former employee of NIA and MIA 2023-04-24.

¹¹⁵ Ankestyrelsen (2024), p. 43.

¹¹⁶ SOU 1967:57 *Adoption of foreign children*, p. 41.

¹¹⁷ National Board of Health and Welfare. Letter to the National Board of Health and Welfare in October 1966.

Board and the CPS, nor the reply to the adoptive parents. Nor have we been able to ascertain from the documentation whether any special measures were taken to prevent similar events. In 1976, the National Board of Health and Welfare urged the prospective adoptive parents to have the child undergo a thorough medical examination immediately after the child's arrival, as several children "were in poor condition on arrival, despite the fact that they were regularly examined by a doctor before departure for Sweden".¹¹⁸ The fact that children from South Korea were often ill is also shown by the figures for the death rate at SWS. During the two adoption peaks in 1970-1971¹¹⁹ and 1974-1975⁽¹²⁰⁾, the death rate at SWS rose considerably compared with other years.¹²¹ The National Social Appeals Board's report on adoptions from South Korea to Denmark shows that Denmark, after a child had died on arrival, had to take the child back to Sweden.

to Copenhagen, two doctors traveled as escorts for ten children each. The doctors reported to the Danish Ministry of the Interior that the form of travel was justifiable but that unforeseen events during the journey could lead to incidents and, in the worst case, death. According to one doctor, the escorts should have access to a better range of medication if the children became ill during the journey.¹²² In our review of the archives, we have not seen that Swedish authorities have made a similar medical assessment of the risks to the children during the journey from South Korea to Sweden.

NIA made recommendations on escort activities in 1983

The NIA's first handbook for adoption agencies in 1983 states that when choosing an escort, the best interests of the child should be a primary consideration and financial considerations secondary. In the case of escorting older children, if possible, the escort should be able to speak the child's language. The person who would escort the child must have practical experience in childcare and travel experience. Furthermore, it is stated that an escort should not escort more than two children at the same time.¹²³ The same recommendations were made in the revised 1997 Handbook.¹²⁴ In a letter from AC to prospective adopters

¹¹⁸ National Board of Health and Welfare NIA. *Regarding Korean adopted child (4 annexes)*, 1976-07-06 dnr NIA 42:82/74.

¹¹⁹ 7.1 percent compared to 4.6 in 1972.

¹²⁰ 8.3 percent compared to 2.7 in 1976.

¹²¹ AC. Memorandum from the Director of SWS, *Intercountry adoption: An international challenge*. The document is undated but should be from 1983 or 1984.

¹²² Ankestyrelsen (2024), p. 44.

¹²³ NIA. *International Adoptions. Handbook for Adoption Organizations*. 1983, p. 18.

¹²⁴ NIA. *International Adoption Intermediation. Handbook for Adoption Agencies*. Revised 1997, p. 22.

The 1984 report states that half of the children come with an escort and that for the older children AC tries to arrange Korean speaking escorts and uses Korean women living in Sweden. The fact that the escorts are bilingual facilitates contact with the child during the journey and contact with the adoptive parents in Sweden. In the letter, AC encouraged the prospective adoptive parents to travel to South Korea themselves to pick up the child ¹²⁵.

10.6 General information on irregularities in South Korea's adoption activities

10.6.1 Introduction

In this section, we review the general findings on irregularities in international adoptions from South Korea.

South Korea has been seen as a pioneer country but has also received a lot of criticism for its adoption program

In the NIA's reports on developments in the field of adoption, South Korea's organization of international adoptions is described as a model for other countries in the region. NIA writes:

Because of this careful approach, Korea was never troubled by the problems that could arise in uncontrolled adoptions, so-called private adoptions. ¹²⁶

However, the UN Committee on the Rights of the Child has repeatedly criticized South Korea's adoption activities and called on South Korea to take measures to strengthen the supervision and control of adoptions by the authorities, to comply with the principle of subsidiarity, to ensure that adoptions are based on informed consent and to ensure that all children are regulated at birth.

¹²⁵ NIA. Memo from AC. *On adoption from Korea October 1984*, RA 60 289.

¹²⁶ NIA, *Development of intercountry adoption activities in Sweden*, annex to annual report 1993/94, 1994/95, 1995/96, 1997 and 2001.

¹²⁷ The Committee on the Rights of the Child. Concluding observations 1996, 2003, 2012 and 2019.

10.6.2 Previous investigations into intercountry adoptions from South Korea

There have been previous reviews of intercountry adoptions from South Korea by the receiving countries Denmark and Switzerland. Norway's ongoing investigation is examining adoptions from South Korea and is due to report in December 2025. An investigation is also underway in South Korea, with a final report due in November 2025, see below.

South Korea's Truth and Reconciliation Commission has found serious human rights violations and called for a public apology

In August 2022, the Danish Korean Rights Group (DKRG)⁽¹²⁸⁾ submitted an application to the South Korean Truth and Reconciliation Commission¹²⁹ to investigate intercountry adoptions during the authoritarian regime in South Korea between 1960 and 1993. The adoption cases to which the application relates concern adoptions mediated by the South Korean adoption agencies Holt Childrens Services and KSS to Denmark, the United States, Norway, the Netherlands and Belgium. DKRG alleges bribery, falsification of documents, lack of administration, lack of documentation, false family registration and sexual abuse. In November 2022, the Swedish Korean Adoptees Network (SKAN) filed a complaint regarding 21 adoptees to Sweden through KWS. In December 2022, the South Korean Truth and Reconciliation Commission decided to review 34 adoptions to Denmark. In June 2023, the Truth and Reconciliation Commission decided to investigate further cases¹³⁰ and in total, the Commission is investigating 367 cases from 11 countries,¹³¹ including 22 Swedish cases.¹³²

¹²⁸Danish Korean Rights Group is a Danish organization for adoptees from South Korea to Denmark. They work for the right of adopted persons to their identity and their true background information.

¹²⁹The Truth and Reconciliation Commission (TRC) is a governmental body tasked with investigating events in Korean history that occurred from the Japanese rule of Korea in 1910 to the end of the authoritarian rule of South Korea in 1987.

¹³⁰Hankyoreh. *Korean truth commission to investigate hundreds of possibly fraudulent overseas adoptions*. Published 2023-05-18.

¹³¹Truth And Reconciliation Commission, Republic of Korea. *Status of Investigation and Plans to Address Human Rights Violations in Intercountry Adoptions*. May 2024 and Press Conference on the Decision to Investigate Human Rights Violations in the Intercountry Adoption Process. 2025-03-25.

¹³²MFoF, *Travel report South Korea 2023*, Dnr 2023-368, p. 10.

The investigation will last until May 2025¹³³, after which the findings and recommendations will be summarized in a report to be submitted to the President in November 2025. In September 2024, the Commission published a report showing that children born to women in detention camps in South Korea have been given to adoption organizations for international adoption⁽¹³⁴⁾ – see also section 10.6.9.

In March 2025, the Commission reported on the outcome of 56 closed cases, of which one concerns Sweden.¹³⁵ In April 2025, the Commission announced that the remaining 311 cases will not be investigated in time. These cases can be reopened if the government decides to establish a third Truth and Reconciliation Commission.¹³⁶ The Commission's main findings are

- Lack of consent to adoption. By law, the adoption procedure required the consent of parents or guardians. However, in many cases, a proper consent procedure has not been followed.
- False reports of abandoned children. If a child had no family registration (Ho-juk), a registration of the child as an orphan (orphan ho-juk) was established. The investigation shows that children have been systematically registered as abandoned and found outside the offices of adoption organizations.
- Inadequate search for parents of lost children. To prevent lost children from being wrongly classified as orphans and available for intercountry adoption, an official search for the child's parents was required. However, these notices were advertised in places unrelated to where the child disappeared and long after the disappearance, making the procedure a mere formality.
- Changing the identity of a child. If a child in the adoption process died or was reclaimed by his or her biological family, organizations could replace that child with another child but use the same identity for the child. The aim was to speed up the adoption process.

¹³³The mission was due to report on May 26, 2024, but was granted an additional one-year investigation period in January 2024.

¹³⁴Truth And Reconciliation Commission, Republic of Korea. Press release, September 9, 2024, p. 25.

¹³⁵Truth and Reconciliation Commission, Republic of Korea. *Investigation Status and Plans for Addressing Human Rights Violations in Overseas Adoptions*. March 2025, 6.

¹³⁶The Associated Press. *South Korean truth commission halts probe into adoption fraud, hundreds of cases in limbo*. Published 2025-04-25.

This has seriously affected the right of adoptees to know their identity and history.

- Inadequate screening of prospective adoptive parents. The law required the Ministry of Health and Welfare to screen prospective adoptive parents before issuing an exit permit for the child. However, records show that in 1984 some 8 000 permits were processed, 99% of which were approved the same day or the next day.
- Neglect of legal custody of the child. The South Korean adoption agencies had custody of the child until the adoption was completed in the receiving country. In practice, however, the responsibility was handed over even before the child left South Korea, which meant a neglect of the adoption organizations' responsibility for the child.
- Forced donations to secure children for adoption. The South Korean government did not regulate adoption fees but allowed adoption organizations to set their own fees. In addition, adoptive parents were forced to pay donations over and above the actual adoption costs. These funds were used to secure more children for adoption and commercialized the adoption process.
- Mass export of children to meet demand. South Korean adoption agencies satisfied foreign operators' demands to send a certain number of children each month. This meant large-scale inter-country adoptions with minimal oversight.

The Commission concludes that for almost 50 years the South Korean government prioritized international adoption instead of strengthening national child protection. The entire adoption process was delegated to private adoption organizations with minimal government oversight. The adoption laws gave great power to the directors of the adoption organizations by appointing them as guardians of the children and consenting to adoption. This was a systemic failure that resulted in a large number of children were given up for international adoption without adequate checks. Throughout the intercountry adoption process, children's identities and family histories have either been distorted or falsified. Moreover, post-adoption checks were

grant support of up to €50,000 to associations representing adoptees from these countries to develop a model for tracing in each country⁹⁵

Switzerland has had a three-year pilot project on origin tracking

From 2022 to 2024, the organization Back to the Roots has received public funding (from the cantons) to help people adopted to Switzerland from Sri Lanka in the 1970s to the 1990s to find their origins. Back to the Roots can assist in investigating what possibilities there are to search, which authorities have been responsible and find adoption documents both in Switzerland and in Sri Lanka.

The adopted person can also be helped to find people in Sri Lanka through various private tracing services, such as ISS or the Red Cross. All financed by the cantons at a maximum cost of CHF 250 000 per year (just over SEK 300 000)⁹⁶

12.7 Tracing origins through DNA

12.7.1 DNA is a key element in tracing origins

DNA testing has now become a common way for adoptees who do not have information about their parents of origin in their documentation to obtain more information about their origins. DNA is also used to prove parentage in reunions.

In the Joint Statement on Illegal Adoptions issued by several UN Special Rapporteurs in September 2022, they called on States to ensure that all victims of illegal adoptions receive the assistance they need to know their origins. States should play an active role in searching for and locating missing children. For example, States should create a DNA database for all cases of wrongful removal, forced removal, or falsification of identity that have been reported for the purpose of restoring the identity of victims of irregular intercountry adoptions.⁹⁷

⁹⁵ Meeting with INEA in Houten 2023-10-03.

⁽⁹⁶⁾ S. Bitter (2024), Switzerland take first steps to deal with illegal intercountry adoptions. E. Loibl and D. M. Smolin (editors), *Facing the Past. Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, p. 202.

⁹⁷ United Nations Human Rights Treaty Bodies. *Joint statement on illegal intercountry adoptions*, published on September 28, 2022, p. 15.

12.7.2 Adoptees want financial support for DNA testing and a national DNA database

In a joint statement, several organizations for adoptees have stated that Sweden should urgently create opportunities for adopted persons to take DNA tests free of charge and that these should be collected in a national database, or alternatively that they should be sent to the relevant consulates and embassies, which in turn send the tests on for matching in the adopted person's country of origin. They also want Sweden to encourage the countries with which Sweden has cooperated to meet the needs of adopted persons to be matched with family members, so that these countries also work to DNA test persons in their countries. They also want MFoF to provide information on its website about the DNA tests that are already available so that this information can be obtained outside the adoption organizations⁹⁸.

AC has stated that it supports the wish of adopted persons for free DNA testing and proposes that an adoption-specific DNA database be established where both adopted persons and the biological family can enter their DNA in order to increase the chance of finding each other.⁹⁹ AC points out that there are DNA databases in Chile and South Korea and that Sweden should support certain countries, such as Ethiopia, in building up DNA databases.¹⁰⁰

In our focus groups and individual interviews, access to DNA testing has also been highlighted as an important part of future support for adopted persons. Several have highlighted the need to create a system that ensures the privacy of data subjects. Both adoptees and adoptive parents have raised concerns about the fact that adoptees have to provide samples to private commercial companies. Following several data breaches, the security of these companies has been called into question and some adoptees may feel insecure about providing their DNA to a private company in another country. Although the costs have decreased dramatically in recent years, the cost can also be a barrier to taking a DNA test.

Adoptees also say that it can be difficult to know which DNA test is most relevant to their country

⁹⁸Joint statement from AEF, AFO, AKF, Chileadoption.se, SKAN and TAR at the national day seminar in May 2023.

⁹⁹ Statement adopted at the Federal Assembly of the Adoption Center in Malmö on 28 May 2023.

¹⁰⁰Meeting with AC 2023-10-26.

come from. Support can be provided by identifying which DNA tests are available and which ones target different continents and work best for each country. Adoptees have also highlighted that they need help in interpreting the results of DNA tests.

Request for free DNA tests for adopted people and their original families

Both staff at the National Board of Forensic Medicine (RMV) and MFoF have stated that the RMV could assist with DNA analysis to verify kinship in cases where an adopted person has been reunited with a parent but wants to ensure that it is correct.

Many adoptees ask for financial support to undergo DNA testing through private companies in order to find links to living relatives. However, efforts are also needed to get birth parents to provide DNA tests. In our interviews and focus groups, it has emerged that some embassies could have DNA kits to offer families who suspect that their children have been adopted to Sweden. Embassies could also inform orphanages and organizations in the country about the possibility of providing tests, either at the embassies or referring to places where DNA tests can be done (for example, at health centers).

A national DNA database is called for

Many people are calling for a national DNA database for adopted persons. However, adoptees, adoptive parents and the RMV all emphasize that the development of national DNA databases for adopted persons must be coordinated internationally so that it is possible to match results between countries. The RMV compares, for example, with the Interpol DNA database, where countries have agreed on the genetic markers to be used.¹⁰¹ One adoptee explained that she had taken a DNA test via the RMV, which cost several thousand Swedish kronor, but which could not be matched with DNA samples in Taiwan because they have different systems.

¹⁰¹Meeting with the National Board of Forensic Medicine 2024-04-08.

In our interviews, it has been stated that DNA samples can be analyzed by the RMV or by the regions, but that another state actor in Sweden may be responsible for the DNA database itself.

12.7.3 Current support in the field of DNA

In Sweden there is no national DNA database for adopted persons. Adoptees who want to trace their origins through DNA must therefore use the private companies that offer DNA tests to find links to living relatives. Today, four large private companies dominate the market. Three of these are based in the United States. According to the MFoF, it is advisable to compare different companies in terms of costs, types of DNA tests, the scope of the database and its geographical coverage. For example, companies may vary widely in terms of the number of people tested and in which continent or countries they have the greatest coverage. Furthermore, some companies allow results to be transferred to other companies' databases, while others do not¹⁰².

It is also possible to carry out a DNA test through the RMV. In practice, however, this should only be done in connection with confirmation of parenthood in the context of reunification.

There is no specific grant from the State or the municipality to compensate adopted persons for the cost of a DNA test. However, it is possible to apply for a grant for DNA testing from the FFIA Foundation for Internationally Adopted Persons. Grants can be applied for by anyone over the age of 18. Grants are primarily awarded to persons adopted through FFIA and secondarily to other international adoptees in Sweden. A maximum of SEK 5,000 can be granted per adoptee¹⁰³.

12.7.4 International outlook

We know of only two countries that have established some form of national DNA database for adopted persons: Chile and South Korea.¹⁰⁴ In 2014, the Brazilian government promised to establish a national

¹⁰² MFoF (2021), Origin search in international adoption - guidance for municipalities.

¹⁰³ <http://www.ffa.se/om-ffias-stiftelse/stipendier-och-bidrag.aspx>. Retrieved 24-10-18.

¹⁰⁴ It is possible that Argentina has some form of DNA registry aimed at reuniting families separated during the military dictatorship.

DNA database for adopted persons, but that promise has not yet been fulfilled¹⁰⁵.

Chile has a DNA register in criminal investigation and has started a national DNA database for adopted persons

In Chile, there is a national DNA register with a sub-register for illegal adoptions and child abuse. The criminal investigation in Chile can ask persons involved in the criminal investigation to provide DNA samples. DNA samples can be requested from Chileans living in Chile or abroad, both adopted persons and family members, to be compared with all the profiles entered in the register. The whole process of taking samples, processing and producing results is handled by the forensic authority, Servicio Médico Legal, which belongs to the Ministry of Justice and Human Rights. What the court wants to know is whether there are matches that allow it to be established that there are family ties.¹⁰⁶ The results of the test are sent 48 days after the test has been taken.¹⁰⁷ In some cases, the court communicates the results directly to the volunteer. Notice to take the sample is sent by the forensic authority. Sampling is done in cooperation with the embassy or consulate of the country of residence of the adoptee.¹⁰⁸ The DNA database under the responsibility of the criminal investigation service cannot be matched with other DNA databases and is not aimed at reuniting families but has a criminal investigation purpose.¹⁰⁹

In March 2024, Chile set up a governmental committee to try to reunite foreign adoptees with their original families using a combination of AI and DNA technology. The aim is to create a central DNA database for both adopted

(105) A. Cardarello (2024), *Obstacles in the search for origins and identities of Brazilian-Israelis adopted through child trafficking*. In E. Loibl and D. M. Smolin (editors), *Facing the Past. Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, p. 143.

(106) <https://mfof.se/internationella-adoptioner/mfofs-arbete-med-internationella-adoptioner/irregularities-in-international-adoption/investigations-about-irregularities/chile.html#h-DNAtest>.

¹⁰⁷ Chileadoption.se. *Minutes of the CHI criminal investigation meeting 21/11-2024*. Submitted to Adoption Commission on November 22, 2024.

(108) <https://mfof.se/internationella-adoptioner/mfofs-arbete-med-internationella-adoptioner/irregularities-in-international-adoption/investigations-about-irregularities/chile.html#h-DNAtest>.

¹⁰⁹ Chileadoption.se. *Minutes CHI criminal investigation meeting 21/11-2024*. Received by the Adoption Commission on November 22, 2024.

people and original families and, through AI technology, connect them using facial recognition.

South Korea has a DNA service for adopted people, birth parents and siblings

Since January 2020, South Korea has established a DNA service for adopted persons living abroad who lack sufficient information to search for their parents of origin. The free service is provided by the Ministry of Health and Welfare, the Ministry of Foreign Affairs and the Korean National Police Agency. DNA testing is done with the support of the embassy or consulate of the country where the adopted person lives. The application is made via a special form available on the Korea Adoption Services website.¹¹⁰ Since 2024, the DNA service includes not only the search for parents but also siblings. In order to get a match, parents or siblings must have registered their DNA in the database. Around 700 people have found a relative through the database, but only two to three cases involve adopted persons¹¹¹

In June 2020, the Seoul Family Court established the paternity of a man whose child was adopted to the United States in the 1980s. The woman had obtained a DNA match with a child who was half-sibling to her and had found the father through genealogical research.¹¹² However, the family did not want to have contact with the adopted woman and so she filed a paternity suit in court. According to South Korea's Ministry of Justice, the ruling could open the door to both inheritance from the biological parents and citizenship of the country¹¹³.

¹¹⁰ https://www.kadoption.or.kr/en/info/dna_test.jsp.

¹¹¹ E-mail to the Adoption Commission from SKAN 2025-03-11.

¹¹² The New York Times. *Tell Me Who My Mother Is': A Korean Adoptee Seeks Her Roots*. Published on June 2, 2020.

¹¹³ Aftonbladet. *Landmark verdict for adoptee in South Korea*. Published 2020-06-12.

The Netherlands does not have a DNA database for adoptees but for donors and donor children

The Joustra inquiry noted that adopted people need support in tracing origins, for example access to DNA testing, but did not suggest how this should be done.¹¹⁴ The INEA does not provide financial support for DNA testing, but they can guide individuals on what options are available for different continents.¹¹⁵

Since 2010, the Netherlands has a DNA database for donors and donor children (KID-DNA Databank). The DNA Databank was created by Fiom in collaboration with the Canisius-Wilhelmina Hospital (CWZ). Donors and donor children can register and have their DNA profile included in the database, which can result in a match.¹¹⁶

12.8 Right to keep your language and culture

12.8.1 Language is part of identity

Several adoptees highlight the importance of keeping their mother tongue. Some say that knowing their first language can be of practical importance in connection with tracing their origins. They may need help in contacting biological relatives, understanding files, contacting authorities. Not knowing the language then becomes an obstacle. Others emphasize that it is also important for identity to maintain, re-establish or learn the language. One adoptee describes the mother tongue as a key to reconnecting with their home country and culture, just as Sweden sees the Swedish language as the key to Swedish culture and society.

In his master's thesis in social anthropology, David Asplund also writes that language both facilitates travel back to one's country of origin and is a way of strengthening one's ethnic identity¹¹⁷.

Some argue that a language break that occurs with adoption can be a greater difficulty for the child than for a child who arrives as a refugee and can continue to use their mother tongue at home.

¹¹⁴Committee on the Investigation of Intercountry Adoption. *Report* (unofficial translation). Government of the Netherlands. 2021, p. 138.

¹¹⁵ Meeting with INEA 2023-10-03.

¹¹⁶ <https://fiom.nl/fiom-kid-dna-databank>. Retrieved 24-10-25.

(117) D. Asplund (2023).

One adoptee believes that it should be a requirement for the adoptive parents to learn the language of the child, so that they understand their children.

12.8.2 Shortcomings in mother tongue teaching for adopted children

In our focus groups, adoptive parents emphasize the importance of learning their first language:

Having a home language could be a huge strength. Just to meet a teacher from the country you come from. That at the age of 3, poof, the language is just gone, that's a trauma in itself.

Adopted children already have the right to mother tongue education, but with the proviso that "the pupil must have a basic knowledge of the language". The possibility for the child to have basic knowledge of a language not spoken in the home is almost non-existent, which makes it almost impossible to obtain the right to mother tongue education. In our focus groups and interviews, adoptees have emphasized that all adopted children should have the right to a home language without having to fight for it. This applies both to children who were a little older when they came to Sweden so that they can be helped to keep their original language, and to children who came when they were young and want to learn the language they would have had if they had not been adopted abroad. One adoptee describes being denied a home language because the municipality did not have the budget for it:

I have been deprived of my language and culture, even though that heritage is a human right under the UN Convention on the Rights of the Child.

Several adoptees testify that it is important to learn the language early on, that it is more difficult to learn as an adult. At the same time, it can be important to have the opportunity later in life. One adoptee we interviewed declined home language teaching because it was important for him to show that he was Swedish. An adoptive parent tells us that their child chose to stop learning the home language and lost Spanish, but now later really wants to learn Spanish.

Some also want adopted children to have the opportunity to learn the parent's original language.

12.8.3 The right to take pride in your culture

Several adoptees emphasize the importance of feeling proud of both origins. One adoptee believes that it is very important that the adoptive parents talk about the culture the child was born in, that it is important for the identity. And it's good if you can travel and visit the country you come from. It is easier to understand your culture if you have experienced it yourself than if you have only been told about it. They think it is good if adoptive parents take responsibility for this, as otherwise it can become a barrier if you have to explore the culture yourself. Having the opportunity to learn and know the language is also a way to build your identity.

12.9 Storage of and access to adoption documents

12.9.1 Adoption documents are stored with many different actors and it is difficult to know what is where

In our interviews with adopted persons, we have received many examples of how difficult it is to gain access to the documents relating to the adoption and the adopted person's background. The legal requirement for adoption agencies to keep records was only introduced in 2005, but the NIA recommended that agencies document and retain information about the child's origin and background as early as the early 1980s.¹¹⁸ This means that the information kept about the adoption and the adopted person's background varies greatly depending on when the adoption took place, which country the adopted person comes from and whether it was a mediated or private or individual adoption. The information available may also be influenced by other circumstances, such as whether the child was surrendered or abandoned and the administrative procedures of the orphanage and the authorities in the country of origin. Adoptees are often dependent on the information gathered by their adoptive parents, for example when they picked up the child, and whether they have kept these documents. Some adoptive parents have kept documents and shared them with the adoptee. Some adoptive parents do not have any documents and some have documents that they do not want to share with

¹¹⁸NIA (1983), *International Adoptions. Handbook for Adoption Agencies*, p. 18.

their child. There are also adopted persons who do not dare to ask their adoptive parents for fear of hurting, offending or destroying an otherwise good relationship or being disinherited¹¹⁹.

In addition to the fact that it is difficult to get an overview of what adoption documents exist and where they are stored, we have also received examples of a person's entire adoption file disappearing in connection with the documents being transferred from the adoption organization to the National Archives. This means that the person no longer has any possibility of accessing the information that was once held by the adoption organization.

Through our file review, we can conclude that extensive knowledge of which actors have been responsible for different parts of the adoption process and where the documents of these different actors may be stored today is required in order to obtain an overall picture of what information is available in a specific adoption case. The National Archives has prepared an internal lathund to assist adopted persons who want to access their adoption documents and has extensive knowledge in assisting individuals in their search. Below is an account of the various Swedish actors who can store documents relating to an international adoption.

The active adoption organizations keep documents concerning the adoptions they have mediated

The adoption organizations that are active are responsible for keeping documents relating to the adoptions they have mediated. These may include, for example, copies of the social services' consent investigation, social investigation from the child's country of origin, medical documentation from the child's country of origin, the child's birth certificate, the child's passport, adoption decisions from the child's country of origin or from a Swedish court, and follow-up reports. There may also be letters from the adoptive parents, photos of the child and correspondence from the country of origin in the adoption file.

Legal requirements for documentation were introduced in 2005, but the NIA recommended already in the early 1980s that adoption organizations work to obtain as much knowledge as possible about the child's origin and previous circumstances and pass it on

¹¹⁹Joint statement from AEF, AFO, AKF, Chileadoption.se, SKAN and TAR at the national seminar in May 2023.

the information to the adoptive parents and the social services. The organization would make copies of all documents containing information about the child before the adoptive parents received the originals and send copies to the social services department.¹²⁰

MFoF keeps certain documents relating to individual adoptions

MFoF handles various forms of decisions in connection with individual adoptions and has archived certain documents based on these. In addition, the authority keeps certain adoption documents following decisions made by the MIA (1 Jan 2005-31 Dec 2015)¹²¹

The National Archives holds documents for adoptions mediated by the state and disbanded organizations

The National Archives holds adoption documents decided and/or mediated by previously active adoption organizations, the Ministry of Justice (1972-76), the National Board of Health and Welfare (1977-30 June 1981) and the NIA (1 July 1981-31 December 2004). These may be, for example, copies of the social services' consent investigation, social investigation from the child's country of origin, medical documentation from the child's country of birth, birth certificate for the child, passport for the child, adoption decision from the child's country of origin or from a Swedish court and follow-up reports.

The National Archives also holds census data previously registered by the parishes of the Church of Sweden (up to June 30, 1991)¹²².

The municipal social services keep documents relating to both mediated and individual adoptions

The municipal social services keep consent reports, opinions/adoption reports to the courts and reports concerning consent to continue the adoption procedure (since 1997). Since 2005, there is a legal requirement for adoption agencies to send a copy of documents relating to a particular adoption to the responsible social welfare board. However, the NIA recommended already in the

¹²⁰ NIA (1983), p. 18.

¹²¹ MFoF (2021), *Origin search in adoption - guidance for municipalities*, p. 20.

¹²² MFoF (2021), *Origin search in adoption - guidance for municipalities*, p. 21.

In the 1980s, the adoption agency was required to make copies of all documents containing information about the child before the adoptive parents received the originals and send copies to the social services department.¹²³ If it was a private adoption, the social services investigator would request copies of the documents the parents had about the child to be placed in the relevant file.¹²⁴

Documents received or drawn up in connection with an adoption investigation may not be deleted by the social services.

District courts keep documents submitted in connection with adoption applications

In cases where a Swedish court has decided on the adoption of the child, the court in the place where the adoptive parents lived at the time of the adoption keeps certain documents. These may be, for example, the social services' consent report, the social services' adoption report and the court's decision on adoption. There may also be a copy of the social report from the child's country of origin, birth certificate and passport of the child.

The Swedish Tax Agency has information on civil registration

For example, the Swedish Tax Agency's population register contains information on the municipality in which the adoptee first resided. The population register may also contain information about the adoptee's original family, if known.¹²⁵ The personal file in the population register may also indicate whether the adoption was approved by the Ministry of Justice, the National Board of Health and Welfare or the NIA.¹²⁶

When the Swedish Tax Agency registers an immigrant child for the first time, it assigns the child a personal identity number. The information on the time of birth is registered on the basis of the documentation in the case, usually a passport, residence permit or other identity document. These documents are not deleted by the Tax Agency⁽¹²⁷⁾.

¹²³ NIA (1983), p. 18.

¹²⁴ *International Adoptions (1986), Handbook for Social Welfare Boards*, p. 62.

¹²⁵ MFoF (2021), *Origin search in adoption - guidance for municipalities*, p. 21.

¹²⁶ E-mail to the Adoption Commission from the National Archives 2024-11-27.

¹²⁷ E-mail to the Adoption Commission from the Swedish Tax Agency 2024-10-23.

The Swedish Tax Agency has been responsible for population registration since July 1, 1991. Before that, the parishes of the Church of Sweden were responsible for the task. All church registration documents that existed within the Church of Sweden before 1991 have been transferred to regional archive authorities, usually national archives, which are accessible via the National Archives ¹²⁸.

The Finnish Immigration Service stores documents related to residence permits and citizenship

Information on the adoption may be kept by the Finnish Immigration Service when they make a decision on the child's residence permit or citizenship in connection with the adoption.

Private individuals keep adoption documents in their homes

The Association of Adopted Ethiopians and Eritreans (AEF) and others have stated that people who have been active in the international adoption business have their own private archives with information about the adoptions they have mediated. This applies both to persons who mediated adoptions individually and via authorized adoption organizations. These persons keep documents containing sensitive personal data on both adopted persons and others, which is a problem in several ways. Adopted persons do not have access to their own adoption documents because these private individuals do not want to disclose them. There is also a risk that these documents could be accessed by unauthorized persons and even disappear. For example, it has happened that relatives have thrown away documents when the intermediary has died.

In 2011, MIA sent a letter to individuals involved in international adoptions inviting them to submit adoption records to the National Archives. The National Archives then sent a letter to eight intermediaries offering to accept records. Only one person submitted documents, and it remains the only private archive at the National Archives. The National Archives has subsequently drawn up a list of people who may have private archives of adoption documents. At a meeting with a person who arranged adoptions for AC, we went through a private book with information about the adoptions she arranged. At the

¹²⁸MFoF (2021), *Origin search in adoption - guidance for municipalities*, p. 21.

At that meeting we asked the person to hand the book over to the National Archives. However, she did not want to do so because of concerns that unauthorized persons could access the data but would consider handing over a copy of the book for safekeeping at AC.

12.9.2 Adoptees want adoption files to be kept in a state archive

Some adoptees state that they have felt thwarted by the CA when requesting access to their adoption file and that they are unsure whether the CA discloses all documents, but make their own assessment of what they disclose and what they do not. Several have experience of AC not releasing all documents immediately, but only when the adopted person has returned and asked if there is more. One of our informants was denied access to information about his mother's name from the AC but was given the information by the district court. A judge at a district court also states that the courts disclose more information to adopted persons than the AC does, i.e. different confidentiality assessments are made. In 2023, the MFoF had a supervisory case concerning the AC's handling of disclosure cases concerning Israel. The case was initiated on the basis that the MFoF had comments on the information disclosed by the AC, and that various information was masked in the original document in Hebrew compared with the English translation. The case was closed with a request to carry out a thorough confidentiality assessment and to translate documents if necessary ¹²⁹.

One adopted person says that AC has thinned out documents when they submitted material to the National Archives:

They removed medical information and medical records. This information is very important for adoptees. The question about hereditary diseases and family history is the first thing that health professionals ask.

AC has stated that they are always helpful and prioritize the adoptee's request for a copy of the adoption documents.¹³⁰

In a joint statement, several Swedish associations and networks for adoptees have expressed to Parliament that adoptees

¹²⁹MFoF. *Inspection report 2023 - Adoption center*. Dnr 2023-232 Skellefteå April 12, 2024, s. 15.

¹³⁰AC. *Comments on draft text Chile*. Received by the Adoption Commission on 2024-09-06.

people today are at the mercy of the arbitrary choices of adoption organizations and private agents as to what should be saved, discarded, shared or withheld. They believe that the adoption files of adopted persons should be stored in a single state archive - preferably the National Archives. This also applies to documents stored in private homes. Adopted persons must be able to access all the information concerning themselves. This right should also apply to the children of adopted persons¹³¹

AC also believes that adoption records should be kept at the National Archives. However, they believe that there should be a recommendation that adoption organizations should help to interpret the documents

which is requested. AC does not consider it appropriate for municipalities, for example, to help adopted persons with this, as special expertise is needed to interpret a file in its cultural context. One needs to know what the world was like at a certain point in time and how a file has changed over time¹³².

12.9.3 Adoptees' right to access their adoption documents

The right to access information about your origin

It follows from both Swedish legislation and international conventions that an adopted person has the right to know his or her origin and that information about a child's origin must be preserved.

According to Article 7 of the Convention on the Rights of the Child, the child has the right, as far as possible, to know who his or her parents are and to be cared for by them.

Article 22 of the 2008 Council of Europe Convention provides, *inter alia*, that the adopted child has the right to obtain information on his or her origin from the competent authorities and that appropriate guidance should be given to adopted children who have not reached the age of majority. Article 30 of the 1993 Hague Convention provides that the competent authorities of a Contracting State shall ensure that the information on the child's origin held by those authorities is preserved, in particular as regards information on the identity of the parents and medical history.

¹³¹Joint statement by AEF, AFO, AKF, Chileadoption.se, SKAN and TAR at parliamentary seminar in May 2023.

¹³²Meeting with AC 2023-10-26 and Adoption Center's Interest Policy Program (IPP), <https://www.adoptionscentrum.se/app/uploads/2023/01/ipp-februari-2022.pdf>. Retrieved 2024-10-28.

It further states that these authorities shall ensure that the child or his or her representative has access to such information, under appropriate guidance, to the extent permitted by the law of the State. The right of an adopted person to information about his or her origin is also reflected in the case-law of the European Court of Human Rights¹³³.

Parents are obliged to inform their child that they are adopted

Under Chapter 4, Section 23 of the Parental Code, a child who has been adopted has the right to be informed by his or her parents. The right to information applies regardless of whether the adoption was decided by a Swedish court or by a foreign authority. It is therefore the parents who are responsible for ensuring that the child's right to know is met. The duty of disclosure does not include an obligation to tell who the biological parents are, but only the fact that the child is adopted. However, the preparatory works show that it may be appropriate to provide additional information to enable the child to understand his or her origin. The child can then choose whether he or she wants to seek further information about his or her origin⁽¹³⁴⁾.

Adoption organizations are obliged to document the placement activities

An authorized association is obliged to document its mediation activities. The documentation must show decisions and actions taken in cases as well as significant facts and events. The documentation must be kept for as long as it can be assumed to be of importance to the person placed for adoption by the association or to persons close to him or her. Copies of documents relating to a particular adoption shall be sent to the relevant social welfare board. If the association ceases its mediation activities, documentation of the mediation activities shall be handed over to the MFoF for safekeeping (section 8 b LIA).

¹³³ See for example *Godelli v. Italy* no. 333783/09 of September 25, 2012.

¹³⁴ Prop. 2017/18:121 *Modernizing adoption rules*, p. 163 f.

The purpose of the documentation obligation is to ensure that, in the first instance, the person placed for adoption is able to as much information as possible in the search for its origin.¹³⁵

An adopted person has the right to access their adoption documents

A person adopted through an authorized adoption organization has the right to access his or her adoption documents unless it can be assumed that another individual will suffer harm. The documents must be made available as soon as possible for reading or copying on the spot or in transcript or copy. It is the person responsible for the documents who examines questions of disclosure. If he or she considers that a document or part of a document should not be disclosed, he or she must immediately submit the matter to the MFoF with his or her own opinion (section 8c of the LIA).

According to Chapter 26. 8 of the Freedom of Information and Secrecy Act (2009:400), abbreviated OSL, an adult adoptee has the right to obtain information about circumstances of significance for him or her to gain knowledge of who his or her biological parents are. The information that may be disclosed must be of importance for knowledge of the parents to be obtained.¹³⁶ An adoptee under the age of 18 can also obtain documents at the discretion of the social welfare board. According to MFoF, it is very important how the documents are shown. It is important that the social services have gone through the documents and thought about what the information means and how it may affect the adoptee, not least emotionally. If the social services officer is available, the person concerned can ask questions or get support to work through their reactions to the information. If an adopted person requests information about the personal circumstances of the adoptive parents during the consent investigation, the social welfare committee should assess whether it is clear that the adoptive parents or their relatives will not be prejudiced by the disclosure of the information.

¹³⁵ Prop. 2003/04:131 *International adoption issues*, p. 83.

¹³⁶ Prop. 1993/94:165 *Some questions on confidentiality*, p. 63.

¹³⁷ MFoF (2021), *Origin search in international adoption - guidance for municipalities*.

12.10 Skills enhancement actions towards the profession

12.10.1 A general increase in knowledge is needed

Both professionals and individuals we have interviewed have highlighted the need to increase skills and knowledge about adoption and racism in general in society. There is a need for easily accessible information on adoption-related issues so that general knowledge in society can increase. Some adoptees feel that they often have to educate others and explain how adoptions work and that adoptees can relate to their adoption in different ways. One person describes:

As an adoptee, you become an involuntary teacher of transnational adoption. There is a lack of skills, knowledge and research.

Many emphasize that it is particularly important for those who meet adopted persons in their profession to have increased knowledge about, among other things, adoption, trauma, attachment and racism.

In our interviews, researchers have emphasized that it is a challenge to disseminate knowledge and get it out into the operations, but that at the same time there is a tradition of implementing new knowledge in health care.¹³⁸ A psychotherapist emphasizes that training efforts can be made to other actors, such as Mind, Bris, the Red Cross and the Church of Sweden.

Social services need to strengthen their adoption-specific skills and follow up with families

Within the social services, more adoption-specific knowledge is needed among those who work with investigations in family law and among those who work with children and young people and investigate support for children and their families. MFoF has previously wanted a government assignment to develop a model for support, which could take place in all the country's municipalities and in collaboration with BUP. The authority has submitted a proposal on this to the Ministry of Social Affairs. MFoF has wanted to give professionals extra tools in their support for adoptees and develop a

¹³⁸Meeting with Anders Hjern and Bo Vinnerljung 2024-03-04.

knowledge bank for professionals based on the research available on what adoptees need for support¹³⁹

Better follow-up of adoptive families

Our investigation shows that there is a need to strengthen follow-up and contact with the adoptive family after the adoption. Parents are investigated before adoption, but after adoption there is often no follow-up contact. It is currently unclear how the follow-up of adoptive families should take place. The Social Services Act does not clearly state what the support entails and how long the social services' follow-up responsibility extends.

In our focus groups and interviews, adoptees, but also adoptive parents, emphasize the importance of regular follow-up of the family after the child has arrived in Sweden. Several make the comparison with placed children who are monitored and followed up more than adopted children are and say that a similar approach could be taken with adopted children, not least because of the extra vulnerability of adopted children. An adopted person in our focus group put it this way:

It's a big deal to move a child from one family to a completely different country, with a different language, different people, different home, different food. Everything is different. You really cut all the ties. I find it very strange that there is no kind of follow-up at different ages of the child.

Some consider that those who had contact with the family before the adoption should also follow the family over time and be a support for both adoptive parents and the adopted child and that this should be handled by the family home secretaries, just like for children placed in a family home. Several consider that social services should follow the adopted child throughout his/her upbringing and, for example, make home visits 1-2 times a year.

One adoptive parent describes that the interviews conducted by the social services in order to send follow-up reports to the country of origin have been somewhat supportive, and he would have liked to have them more often.

One adoptive parent wished that social services had contacted them regularly during the first year to ask how things were going. He said that he had some help from another adoptive parent who was a member of the

¹³⁹Meeting with MFoF on 2023-05-31.

in the AC. That person was tasked with calling adoptive parents and asking how they were doing when they came home with the child:

It was incredibly good, I am so grateful. She called maybe every two weeks and she had adopted some older children herself so there was a lot she could tell me.

Other adoptive parents have expressed that they have been stressed and felt evaluated by the interviews in connection with the follow-up reports, and that it has therefore not been supportive. One adoptive parent describes that adoptive parents are probably more "afraid" of social services than other parents are:

We have gone through all the investigations and shown how good we are, psychologically, financially and mentally. We are extremely good to have done this. And then you are even more afraid, especially if you have performance requirements, that you do not want to go to social services.

Another adoptive parent would prefer that someone other than social services did the follow-up, someone independent, so that you can actually talk openly: "You've been so evaluated for many years. We also thought about siblings and then you thought about what you could say and so on." Another adoptive parent gives a similar account:

I felt that I was only addressing things that were difficult enough. After all, it is the basis for Sweden to continue to have a good adoption contact with the country. So there's no point in going on about how difficult it actually is. So it is important that there is independent support.

One possibility is to have contact with BUP once a year to check how things are going, preferably a specialized psychiatry that knows adoption issues, but you can also use the contact points that exist in BVC and the school.

Some adoptees consider that the follow-up should be done without the parents being present. Some also highlight that visits may need to be unannounced, as some children end up in dysfunctional homes. One adoptee believes that the child should have his/her own contact person whom the child can call when problems arise. They describe it as a "stress release" for a child to have someone outside the family to contact and have as a sounding board. An adoptee who had been subjected to racism in their own home would have liked someone to take them aside and ask them how they were doing.

There is therefore a need for direct support for the child, the family as a whole and the adoptive parents. Some ask for follow-up to ensure that the children are doing well, while others ask for follow-up aimed at supporting the parents.

Preschools and schools need knowledge about mental health and racism

Pre-school and school are also important arenas for supporting adopted children. Staff in schools need to understand and, if necessary, intervene with adopted children, as adoptees are over-represented in terms of mental health problems. Many adoptees have PTSD and various diagnoses, which schools need to be aware of. An adoptee who works as a teacher feels that knowledge and competence about adoptees is low in the school world. There is a need for increased competence among counselors and special educators, but also among teachers, who are often the first to see if a child is feeling bad.

Schools also need to strengthen their competence about racism, what it can mean and how to talk about it. One person in our reference group believes that schools, and even social services, find it difficult to talk about racism:

We're at a loss for words when it comes to talking about racism. So when a child wants to talk about these issues, they are not met. Many professionals have not found the language.

In our focus group, an adoptive parent also emphasized that educators in schools have far too little knowledge about racism, especially those who work in white areas. She feels that in school it is taboo to talk about race:

If you talk about race, you are considered racist. There is a fear among educators to talk about race. /.../ We look different and we have to accept that and work with it. The educators who meet our children in school must be educated about this.

12.10.2 Several highlight the need for adoption-specific knowledge in basic training

One way of increasing the knowledge of professionals who work with adoptees is to include issues of racism, adoption and statistics on mental illness and suicide among adoptees in basic training. For example, adoptees' organizations have written to the Adoption Commission stating that knowledge of the living conditions and needs of adopted persons should be taught in all undergraduate courses in health, social care and education.¹⁴⁰ The AC also states in its interest policy program that there is a need for educational elements on international adoption in the training of professionals who meet adopted persons and their parents.¹⁴¹

12.11 Need for legal advice

In our focus groups and interviews, both adoptees and adoptive parents have raised the need for adoptees to have access to legal advice, for example in relation to name changes and inheritance disputes. The Dutch expert center INEA has noted that many of the questions they receive are of a legal nature. These include taking back their first name or canceling the adoption.

12.11.1 Disputes on inheritance

Several adoptees report that inheritance disputes can arise when the adoptive parents die. One adopted person describes being in an inheritance dispute because their siblings, who are biological children, received more money than them after the death of their adoptive parents. They find it difficult to know where to turn for help.

¹⁴⁰Chileadoption.se, TAR, AEF, AKF, SKAN network and AFO. *Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees*. Submitted to Adoption Commission 2024-09-16.

¹⁴¹Adoption Center's Interest Policy Program (IPP), <https://www.adoptionscentrum.se/app/uploads/2023/01/ipp-februari-2022.pdf>, downloaded 2024-10-28.

12.11.2 Withdrawal of name

Adoptees may also need guidance on how to go about reclaiming their original name. Both organizations for adoptees and individuals have described that it can be very difficult to show the link to their first name to the Swedish Tax Agency. Several state that there is a need for much simpler legal ways to reclaim one's first name. They also believe that adopted persons should not have to pay a fee for the name change.

12.11.3 Questions on citizenship

Both adoptees and adoptive parents raise the issue of dual citizenship in our interviews and focus groups. Several adoptees state that they do not dare to make a return journey because of the fear of being forced to do military service. One adoptive parent says that it can also be dangerous to be a citizen of certain countries and that it is a problem that it is not possible to lose citizenship until the child turns 18.

12.12 Research and development

12.12.1 There is a need for new knowledge on the needs and support of adopted persons and their families

Based on interviews, focus groups, evidence submitted to the Adoption Commission and previous studies, we have identified some areas where there is a need for new knowledge.

Several highlight the need for more knowledge about the causes and risk factors for mental health problems in adopted persons

Several people say that more knowledge is needed to understand the reasons for the poorer physical and mental health and social living conditions of adopted people. Many adoptees highlight that more knowledge is needed about trauma linked to adoption and that this has come further in the USA, for example, than here in Sweden. Another area where there seems to be a lack of knowledge is whether older

adoptees and their support needs, such as what happens when an adoptee gets Alzheimer's.

Lack of methods for psychosocial support and interventions for adopted persons

The AEF highlights that there is currently very little research on evidence-based and effective approaches to psychosocial support for adoptees. The psychotherapists and psychologists we interviewed also emphasize the need for more knowledge about what support adoptees need, so that it suits everyone. Some want adoption-specific support and others definitely do not. Adoptees will need different support, as it is complex and everyone has different circumstances. Some will need therapy throughout their lives, while others will need no support at all.

There is also a lack of knowledge about what specific interventions work for adoptive families where the child has neuropsychiatric problems. In our focus groups with adoptive parents with children under the age of 18, it emerged that adoptive parents of children with special needs ask for support but find it difficult to get something that works for them. Short-term accommodation or respite care at home does not work. What was meant to be a relief has instead become a major strain for both children and adoptive parents, for example if the contact person is changed every six months. One adoptive parent also pointed out that residential care or family homes are not a good solution for adopted children either.

In our focus group, adoptive parents reason that the LSS interventions that exist may be less suitable for children who are both adopted and have a neuropsychiatric disability. The question is asked whether it is the trauma that makes it not work, and that this would need to be investigated. Adopted children may not, for example, have the same interventions as other acting-out children.

12.13 Support should be coordinated by a competence or resource center

12.13.1 There is a consensus that the adoption-specific support needs to be gathered in a special competence center

In a joint statement, several adoptee organizations have highlighted the need for a national resource centre that stimulates research and disseminates knowledge through, among other things, training and counselling, coordinates tracing and DNA issues, and also offers adoptees specialist treatment and post-adoption support for adoptees and their families, where necessary. They propose a knowledge center for internationally adopted persons that also brings together domestically adopted, fostered, donor and surrogate children/families and unaccompanied refugees, or collaborates and creates synergies with counterpart centers for those issues¹⁴²

There is also a consensus in our interviews and focus groups that it would be good if adoption-specific support could be gathered in one place, in a national competence or resource center. It is considered important that different professional groups work at such a center and that there is a diversity and representation of adoptees.

Gathering and disseminating knowledge in the field of adoption

One task for a competence or resource center could be to identify the need for knowledge in the field of adoption, stimulate new research and disseminate the knowledge that exists. This was one of the points made in our interviews and focus groups.

Stimulating research

In order for new research to be carried out, research funding is needed, as emphasized by adoptees, adoptee associations and researchers we spoke to. It is possible to apply for funding from research funders

¹⁴² Adoptees' organizations' presentation in the Riksdag 2023-05-23; Letter to the Adoption Commission from Chileadoption.se, TAR, AEF, AKF, the network SKAN and AFO "Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees", received by the Adoption Commission 2024-09-16.

such as the Swedish Research Council and other bodies that allocate research funding for various purposes. However, some argue that 'earmarked' funds are needed to secure research funding for this particular area. One option is for a few researchers to work at or be directly linked to the centre of excellence. However, there is a risk that this would narrow down the research to a more limited area, and this could create conflicts in terms of which research is then chosen to be prioritized. Various researchers have pointed out that a center of excellence does not need to conduct research itself, but can engage in research in other ways. In order to achieve a breadth of research, it may, according to them, be better to apply for research funding via a general search and to have a network of researchers linked to the center, compared to having a few researchers linked to the center.

However, adoptee organizations request that a knowledge centre can conduct simple pilot studies as a basis and stimulus for further research, as well as participate in and initiate larger research projects in collaboration with academic institutions and other research bodies. In addition, by having its own treatment activities, they argue that the center can gain new knowledge and develop treatment methods ¹⁴³.

Knowledge enhancement support for professionals

One task of a competence or resource center could be to increase the knowledge about adoption, trauma, attachment and racism among professionals who meet adopted persons in their work. This can involve building a knowledge bank, training and answering questions from professionals in social services, schools and preschools, child health care (BVC), maternal health care (MVC), youth clinics, BUP, adult psychiatry and health care. Increased adoption-specific competence has been requested in our interviews and focus groups.

A competence or resource center could provide support to professionals who, in their various functions, meet adopted persons and their relatives. This could be done through lectures,

¹⁴³Letter to the Adoption Commission from Chileadoption.se, TAR, AEF, AKF, the SKAN network and AFO "Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees", received by the Adoption Commission on 2024-09-16.

education, training and supervision.¹⁴⁴ Such a centre could also train and certify professionals (similar to LGBTI certification) so that the centre can refer adopted people to them. For example, general practitioners could be offered a two-day course to enable them to respond appropriately to adoptees and to provide counseling to help deal with anxiety or to help parents deal with attachment.

A competence or resource center could also help in the basic and further training of relevant professions, such as social worker, psychologist, teacher, special education teacher, doctor, nurse. For example, training on racism, adoption and statistics on mental health and suicide among adopted persons could be included.

Awareness-raising support to the public and the target group

In our focus groups, it was suggested that a competence or resource center should disseminate knowledge about adoption widely and directly to adoptees, adoptive parents, adoptees' partners, children and other relatives, as well as to the general public.

Such a center could have a website with information and knowledge about adoption, attachment, trauma, identity, racism and abuse, as well as tips on relevant research. There could also be more targeted information for the target group with tips on knowledgeable therapists, meeting places, associations and Facebook groups, language courses, interpreters, people who can act as "cultural bridges" for different countries of origin, scholarships and tips on culture (books, films and art).

Awareness-raising support to the general public and the specific target group can also be provided through lectures, online or in person, and discussion groups.

¹⁴⁴Letter to the Adoption Commission from Chileadoption.se, TAR, AEF, AKF, the SKAN network and AFO "Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees", received by the Adoption Commission on 16 September 2024.

Parent training

Today, the MFoF is responsible for coordinating pre-adoption parent education and training parent educators. However, ensuring good parent education in all 290 municipalities is a challenge. One task for a competence or resource center could be to ensure that parent education includes key elements. Another option discussed in our focus groups is to centralize parent education and make it digital, to ensure that everyone receives an equal education. In this case, the Center would be responsible for and deliver the parental training.

Direct support to the target group

In our interviews and focus groups, it has been clear that adoptees want a competence or resource center to also provide direct support to the target group, including in the form of psychosocial counseling and support in searching for origins. Adoptees want to be able to turn there and know that they are met by people with expertise on adoption.

Conversational support

Based on the findings of our interviews and focus groups, a competence or resource center should be able to offer counseling support - especially individual counseling, but also group counseling. Counselling support should primarily be aimed at adopted persons, but parents, children and partners of adopted persons should also be able to receive counselling support. Counselling support needs to be offered in different forms: digitally, by telephone and physically in different locations. A resource center may therefore need to have counselors attached to it in different locations in the country.

One idea put forward by psychotherapists and researchers, among others, is that such a center could train and supervise counselors and therapists who are out in the country. They could be licensed or certified to guarantee a certain level of expertise.

These therapists can also form a network that continuously supports each other and exchanges lessons learned from their work, thus gradually increasing their competence.

Meeting places and exchanges of experience

One task of a competence or resource center may also be to initiate or otherwise facilitate meetings and exchanges of experience for adopted adults, adopted young people and adoptive parents and children.

Adoptees' own children and partners can also be a target group for this. Such a center could offer exchanges of experience in the form of group discussions based on different themes. Some examples of possible themes that have emerged as central are identity, racism, adolescence, having children, having young children, separations, when parents die, end of life, grief processing, irregularities, search for origins, return and reunification. Several adoptees also emphasize the importance of forums and meeting places to just meet, socialize and have fun. Exchanges of experiences can take place both digitally and physically. Adoptees believe that the Centre can organize its own, but also identify and advise on possible meeting places around the country and make use of volunteers. The center should be able to provide information on what forums exist in the country where you can meet and talk to other adopted people.

Support in origin search

Our investigation shows that a competence or resource center needs to provide support to adopted persons seeking their origin. This may involve practical support and guidance in searching archives and finding their adoption documents, as well as advice on suitable interpreters. In our focus groups and interviews, various tasks for such a center have been discussed and proposed. Among other things, it was stated that a center needs to have knowledge of the various countries of origin and know where documents are located. It was also highlighted that it needs to be able to offer support to adoptees before and after adoption.

after a return journey, which could be done in groups and be similar to how the Adoption Center (AC) works with this today. Several emphasize that a competence or resource centre should also enlist the help of other adoptees who can help guide the way and provide concrete tips. It may need to be in contact with the embassy in the country of origin (at least in the largest adoption countries), which in turn needs to have knowledge of where to find adoption documents and contact with local people who can guide adoptees in the right direction. Someone

considers that the center could be the first point of contact with the family of origin for reunification. Others highlight that it could also be a gateway for adoptees' original families who are seeking or have made contact with biological relatives adopted to Sweden. They may need translation and interpretation assistance, cultural interpreters and help with DNA testing and interpretation.

Support for DNA testing

Some adoptees consider that a competence or resource center could provide information on the available alternatives to DNA testing and their advantages and disadvantages, for example in terms of costs and the possibility of transferring DNA to other databases as well. It could identify which DNA tests work best for the different countries of origin.

Others suggest that such a center could provide information leaflets to Swedish embassies in countries of origin about the possibility for families of origin to provide DNA, develop a checklist for assessing whether people who contact them are eligible to provide free DNA tests, keep records of those who provide DNA, and inform the embassy when they have approved someone to provide DNA. The role of embassies would be to refer families wishing to provide DNA tests to the assessment center, offer DNA tests to those approved, and identify and refer to places where tests can be done.

Many people ask that such a center could have a role in administering a national DNA database.

Legal advice

A competence or resource center could offer legal help and advice, for example in matters of name change, dual citizenship, inheritance disputes, etc. This is something that several adoptees are asking for.

Language

In our interviews and focus groups, the need to keep their original language has been requested. On the other hand, no concrete suggestions or wishes were expressed as to what the role of a competence or resource center in this would be. But it could, for example, organize language cafés or meeting places for adopted people who want to learn a particular language. It could also disseminate information and tips on forums organized by others around the country, as well as tips on language training, translators and interpreters.

12.13.2 Previous proposals

The 2003 report proposed a national research and knowledge center

The 2003 Adoption Inquiry concluded that research and knowledge development on intercountry adoption was a neglected area that needed to be prioritized. One reason why the area was so under-researched was, according to the Inquiry, that the group of adopted persons and adoptive parents was relatively small. Another reason could be the attitude of adoptive families, adoption organizations and authorities that adoptive families were no different from other families, which could have led to problems being neglected rather than addressed. Another reason could be that society had abdicated its responsibility for support, which had instead been offered through the adoption organizations that drove the development of knowledge and made society aware of the group's needs. There was also no public actor with the task of identifying research needs, coordinating research and disseminating research results to the professionals who meet adopted persons and adoptive families.

The commission therefore proposed that the government should establish a national research and knowledge center for international adoption issues. The purpose of the center was to ensure that adopted persons would have the best possible conditions for growing up and living in their new home country by providing a better knowledge base for professionals working with adoption-related issues. The center would prioritize research that could be applied in the municipalities and county councils

concrete work with intercountry adoptees and their families. The tasks of the Center were proposed as follows:

- Liaise with the adoption field to identify research needs, keep abreast of international research, stimulate and coordinate research, and decide on and implement various research projects.
- Work on qualified evaluations of various treatment interventions, be responsible for recording and systematizing results.
- Collaborate with local and regional research and development units within the county and municipality and other scientific environments working on related issues.
- Ensure that new findings are made available to the adoption field through seminars, conferences, training packages and publication.
- Work in close cooperation with authorities and institutions in the field.
- Act as a knowledge bank for the municipalities' adoption-related activities and the forms of cooperation that are developed.

However, the center would not offer guidance and advice in individual cases; that would be done by the regional adoption counseling centers. It was important, not least for geographical reasons, that support was available and that there was knowledge about adoption in different parts of the country. But an even more important reason for not creating a central counseling service for the group of adopted persons and their parents was considered to be that they, like all other different groups with special problems, should be offered qualified help within the regular help apparatus. For reasons of both resources and fairness, it was not reasonable for a particular group to be offered special advice at the national level. The inquiry also saw a risk that the development of skills at the local and regional level would not benefit from centralized support. In addition, the inquiry considered that there was a risk that a center that would both stimulate and conduct research and act as an advisory body in individual cases would lose clarity and effectiveness.

The report argued that a national research and knowledge center could be advantageously integrated into an already existing activity. For the center to gain legitimacy, it needed to be linked to an interdisciplinary environment where there was an opportunity for dialogue with clinical activities. It was considered important that the voice of adoptees themselves be heard in the activities, so that the situation of adoptees was not only described by adoptive parents and professionals. A steering group including various actors in the field of adoption would, among other things, help to define the research needs. The report highlighted some examples of existing actors where a center could be established: the Institute of Psychosocial Medicine (IPM) at Karolinska Institutet, the Department of Psychology at the University of Gothenburg, the Department of Psychology or the Department of Child and Adolescent Psychiatry at Lund University, Tema Barn at Linköping University, the Children's Rights Center in Örebro or the Center for Immigration Research at Stockholm University.

12.13.3 International outlook

The Netherlands has set up a competence center

In 2023, as a result of the so-called Joustra inquiry which investigated irregularities in the intercountry adoption agency in the Netherlands, a centre of expertise for intercountry adoptions was set up; Expertisecentrum interlandelijke adoptie, INEA for short. INEA describes its mission as being the central place where all intercountry adoptees can turn to for support with questions about intercountry adoption, with a particular focus on those people who experience problems around their adoption. Adoptive parents and other family members as well as parents of origin can also turn to INEA with certain questions¹⁴⁶.

INEA has 25 staff members, all of whom have been touched by adoption in different ways. Some have been adopted themselves, others have family members who have been adopted and still others have a professional background in the field of adoption.¹⁴⁷ The budget for INEA is €30 million for 10 years. Of this, €10 million will go towards professionalization

¹⁴⁵ SOU 2003:49, p. 265 ff.

¹⁴⁶ <https://inea.nl/over-inea/>. Retrieved 2025-01-16.

¹⁴⁷ <https://inea.nl/over-inea/>. Retrieved 2025-01-16.

and 20 million for origin search.¹⁴⁸ INEA works with five focus areas (building blocks):

- Knowledge. INEA collects and makes available research in the field of adoption.
- Search for origins. INEA does not carry out origin searches on behalf of adoptees, but can provide advice and links to the relevant agencies (including information on which private agencies offer DNA testing for different continents).
- Adoption files: INEA does not keep adoption files but can provide guidance on where to find adoption files and how adopted persons can access their file.
- Psychosocial support: INEA is responsible for supporting adoptees and their families. Children and families are offered "Video home training" in the homes of families. INEA also offers up to five individual sessions and also group sessions on adoption. Caregivers, schools and other professionals can also contact INEA for consultation and skills development.
- Legal support: INEA provides some legal advice, such as how an adopted person can reclaim their first name. INEA can also recommend lawyers (pool of lawyers) who have knowledge of adoption. INEA compiles legal issues that may need to be resolved and reports back to the Ministry on a regular basis.

INEA works on building networks for adoptees and invites them to different types of events. They address both adopted persons and adoptive parents.¹⁴⁹

Proposal to set up a competence center in Norway

On behalf of Bufdir, the Norwegian Public Health Agency has mapped the needs of adoptive parents and children for help and follow-up after adoption. In the report they submitted in 2021, they recommended

¹⁴⁸ Meeting with INEA in Houten 2023-10-03.

¹⁴⁹ Meeting with INEA in Houten on 2023-10-03.

Among other things, they called for the establishment of an adoption competence center with staff attached to an already existing research and teaching environment. Among other things, the competence centre will be responsible for organizing a service to ensure that all adoptive families are offered the opportunity to meet with a psychologist (with knowledge of adoption) during the initial post-adoption period. Furthermore, the competence center will be responsible for running a telephone service staffed by health professionals with experience of adoptive families and adoption-related issues and challenges ¹⁵⁰.

12.14 Location, organization and financing of a competence or resource center

In our interviews and focus groups, we have received many ideas and suggestions about where a competence or resource centre should be located and how it should be organized.

12.14.1 Where a center can be located

One message we received in our interviews and focus groups is that a competence or resource centre should be located where it is perceived to provide legitimacy, for example in connection with an existing government agency, independent of the adoption organizations. The search for origin is a complicated activity that requires, among other things, established contacts with foreign authorities. Knowledge brokering needs to be linked to existing government structures for knowledge management.

MFoF

MFoF already has assignments for both interview support and tracing and has built up competence and structures for this. It may be a good idea to build on what has already been started and to place it with an actor who is committed to the issues. MFoF

¹⁵⁰Institute of Public Health. *Better precaution and aftercare. Selection and follow-up of adoptive families: Experiences and recommendations*. Report 2021, p. 12.

is also involved in knowledge management within the state.¹⁵¹MFoF itself considers that it has built up considerable expertise and learned at a rapid pace. They have provided knowledge and methodological support and general advice to professionals as well as support to individuals, and are keen to take forward the work of counselling, tracing and knowledge management.¹⁵²MFoF's location in Skellefteå may be a disadvantage. Another disadvantage is that some adoptees do not trust MFoF, as they perceive that the agency has been too closely linked to AC and has not made sufficient demands on the adoption agencies.¹⁵³Since our investigation also reveals irregularities and directs some criticism at MFoF, it may be perceived as strange that it is the agency that should still offer support to adoptees. It is too early to say whether MFoF would be able to establish such trust in the future. It will be greatly influenced by the treatment and assistance that adoptees receive. If MFoF is given the task, they should strengthen the competence¹⁵⁴and create some autonomy from the agency, for example by creating a sub-structure to MFoF organizationally and locating the centre in a place other than Skellefteå.

National Board of Health and Welfare or Public Health Agency of Sweden

In our interviews and focus groups, various ideas were discussed and expressed about where a competence or resource centre should be located. One option is the National Board of Health and Welfare. This is in line with other tasks that the government has assigned to the National Board of Health and Welfare, which suggests that it should be located there. At the same time, the National Board of Health and Welfare does not provide direct support to target groups, which argues against it. Another possible alternative highlighted is the Public Health Agency of Sweden.

A university

Another option is to link the center to a university. This could be perceived as more neutral and independent and would also promote research in the field. However, in terms of governance it may

¹⁵¹ Expert group meeting 2023-06-12.

¹⁵² Meeting with MFoF 2023-05-31 and Expert Group meeting 2023-06-12.

¹⁵³ Meeting with Natte Hillerberg and Mattias Strand 2023-08-25.

¹⁵⁴Reference group meeting January 2024.

be more complicated to have it in a university. In other contexts, the Ministry of Education has been opposed to establishing centers of excellence linked to a university. The Karolinska Institute has good expertise in nursing, psychiatry, psychotherapy and treatment of trauma and complex care.

County Administrative Board

Another possibility is for the center to be located at a county administrative board. There are already examples of this, including the National Center against Honor-Related Violence and Oppression at Östergötland County Administrative Board. As of January 1, however, the center's tasks will be transferred to the Swedish Gender Equality Agency.¹⁵⁵ However, there are disadvantages to such a solution. From a health care perspective, it is important that the center is located at an authority that has the trust of the health care system, which the county administrative board does not really have.

Nationally managed and coordinated but distributed and accessible throughout the country

Our interviews suggest that adoption-specific support should be nationally led and coordinated, but also available locally. Knowledge support for professionals and the general public, as well as parent training, can be located in one place, as it can be provided digitally. Support for tracing may need to be gathered in one place, but possibly with "branches" around the country where documents, interpreters and more tangible support for tracing are available. Call support can be offered centrally and digitally, but also needs to be available in the country.

12.14.2 Organization

Researchers have highlighted that it is important that a competence or resource center is given clear directives on what it should focus on and achieve, so that the efforts end up where they are most needed. It is important to

¹⁵⁵Press release from the Ministry of Employment. *The Swedish Gender Equality Agency will take over the overall national responsibility for the work against honor-related violence and oppression*. Published 24-12-16.

It is important that there are different competences gathered at the center and that there is a diversity and representation of adopted persons. Such a center should be networked and have close links to research, relevant professions and also exchanges with other countries.

How should a competence or resource center relate to existing structures and regular health care?

One question is how a competence or resource center should relate to regular existing structures. Psychiatrists have stated that counseling support should be part of the regular system in the regions and municipalities and, for example, be incorporated into primary care. We have also been told that there is a risk that mainstream care will not do enough for adoptees if they can be referred to such a center.

Others have argued that an advantage of a governmental competence or resource center is that it can offer equal support to all. If each municipality is instead given funds to use for support for adopted persons, there is a risk that the funds will be used for other purposes. One psychologist argues that as adoptions are decreasing, it is also unrealistic to expect all social services to have knowledge of adopted people.

In our interviews, it becomes clear that more specialized care for adoptees is needed. When counseling support is not enough, adoptees need to either access therapeutic support and treatment (e.g. trauma therapy) at the centre, or be referred to a therapist in mainstream care, who has adoption-specific training.

A psychiatrist points out that you can look at the regional agreements and possibly have regional centers. Sweden has not traditionally had centers, as the United States has, for example. However, centers can be a bit whimsical politically, they can easily be removed. But having a center and increasing knowledge in general do not have to contradict each other. One example of a center that has been highlighted is the LGBTQ health center at Södersjukhuset, which has existed for a long time and combined somatic care with psychological support. We have also had a Finnish clinic for Finnish speakers.

Psychologists and psychotherapists say that there must be procedures in place to deal with cases of emergency care, such as psychosis or suicidality. Researchers also point out that

the most severe mental health problems need to be addressed in mainstream care.

Based on the information we have received from practicing psychotherapists, a proposal for a structure for a counseling support with different levels can be:

1. Individual, first-line support, which does not have to be therapeutic treatment. It can be provided by some staff at the competence or resource center and by others scattered around the country. They should have received a short training of 1-2 days and then further skills development and group supervision. Any certification or labeling should be linked to the person, not the workplace. The adoptee should be able to choose whether they want to receive support digitally or in person and whether the support should be provided by someone who is internationally adopted or racialized themselves. They should be able to make referrals to psychotherapists or to psychiatry if needed. They should also be able to refer to experience-sharing groups and origin tracing.
2. Therapeutic treatment in regular structures for mental health problems (depression, anxiety, etc.). Those who provide this should primarily be psychotherapists who have received more adoption-specific training, for example, in-depth clinical work with adoptees that lasts for 1 year with 3-5 training sessions and supervision of the work. It is important that those providing the support know about adoption, separation, racism and trauma. These further trained psychotherapists could be certified.
3. Inpatient care.

One idea of such a structure is to work very preventively to save both money and suffering. A psychotherapist puts it this way:

It is important that adoptees are not diagnosed with a disease. Something has happened to adoptees that can affect their mental and somatic well-being, and they need preventive interventions to support them. /.../ The better the initial interventions are, the fewer people will need expensive long-term treatments, sick leave, hospitalizations both in psychiatry and mainstream care. Right now, many adoptees are wandering around the health care system with many different diagnoses and treatments in psychiatry and other interventions. This is costly for society.

A competence or resource center needs to make use of the competence of adopted persons

Something that both adopted persons and others have highlighted is that a competence or resource center should take advantage of and use adopted persons themselves, and in various ways involve them. This is important to create legitimacy and trust and to remove some of the polarization that exists today. One idea is to have adoptees on the board. Adoptee organizations advocate the establishment of a steering committee for the Centre, made up to a significant extent of adoptee associations and networks ¹⁵⁶.

A center could also more tangibly use the skills and experience of adopted people to support other adopted people. A psychotherapist who is adopted herself and who has had many conversations with adopted people emphasizes that there is a huge amount of expertise among adopted people that can be drawn upon, for example:

- Organize exchanges of experiences and group discussions on different themes, or arrange meeting places to socialize and have fun. For example, there are many adopted counselors.
- Act as a "buddy on call". Several adoptees have been positive about previous such attempts.
- Mentoring, where an older adopted person can mentor a younger one. Helping others can also be a way to heal yourself.
- Support in tracing origins. Many adoptees know the language and have contacts and channels. Adoptees can assist in the return journey by providing guidance, tips and cultural support (acting as a "cultural bridge"). One idea is to use paid cultural interpreters to reduce the cultural gap in tracing and reunification. These could be people from organizations for adoptees, for example, but they could also be people who immigrated from the countries in question. A comparison can be made with the cultural interpreters that the Transnational Center has and sometimes uses in the health sector to reduce the cultural gap.

¹⁵⁶Letter to the Adoption Commission from Chileadoption.se, TAR, AEF, AKF, the SKAN network and AFO "Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees", received by the Adoption Commission on 2024-09-16.

One question that has been discussed is how a competence center can attract this expertise, how to hire and pay them.

12.14.3 Funding and financing

One message we have received is that a long-term approach and a guarantee are needed for the competence or resource center to survive. One suggestion is that it should initially be funded for five years and then evaluated. Adopted organizations argue that in addition to government funding, a knowledge centre should also be able to apply for public and private grants. They also consider that continuous evaluation and quality assurance of the center's activities is essential to ensure that the interventions are effective and efficient (157).

¹⁵⁷Letter to the Adoption Commission from Chileadoption.se, TAR, AEF, AKF, the SKAN network and AFO "Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees", received by the Adoption Commission on 2024-09-16.

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Chronological list

1. Stricter requirements for Swedish citizenship. Ju.
2. Some questions on fundamental rights and freedoms. Ju.
3. Tax incentives for research and development. A review of the R&D tax credit and the expert tax rules. Fi.
4. Modern and simpler tax rules for working life. Fi.
5. Fee for territorial cooperation – and other measures for safety in the built environment. LI.
6. Duty calls! A modern staffing of civil defense. For.
7. New nuclear power in Sweden - more efficient licensing and appropriate fees KN.
8. Improving the conditions for safety and learning in schools. U.
9. On a linguistic basis. U.
10. A revised abortion law - for good, safe and accessible abortion care. S.
11. The age of criminal responsibility. Ju.
12. AI Commission Roadmap for Sweden. Fi.
13. A more efficient organization of smaller authorities - analysis and proposals. Fi.
14. Tighter environmental criminal law and an effective system of sanctions. KN.
15. Strengthening incentives and opportunities for aid recipients. Volumes 1 and 2. p.
16. A new regulatory framework for supervision and detention. Re.
17. Adaptation of Swedish law to the EU Deforestation Regulation. LI.
18. An equivalent grading system. Volumes 1 and 2. U.
19. Knowledge for all - new curricula with a focus on teaching and learning. U.
20. Municipal affiliation to the activities of the Disbursement Authority. Fi.
21. The Environmental Objectives Committee's proposal for a strategy for how Sweden will meet the EU's commitments on biodiversity and net greenhouse gas emissions from the land use sector (LULUCF). KN.
22. Enhancing competition in public and private activities. KN.
23. Compensation rules with the victim in focus Re.
24. Focus on the audience – reforms for a stronger film country. Ku.
25. Workplace crime - approach, tools and measures, further work A.
26. Time for teaching - measures for good teaching and the attractiveness of the teaching profession U.
27. A social work education in time. U.
28. Freedom from violence, oppression and exploitation. A gender equality strategy against violence and strengthening the governance of central authorities. A.
29. Increased quality at Samhall and more pathways to sheltered work. A.
30. Simplified VAT rules for the sale of second-hand goods and donation of foodstuffs Fi.
31. Phasing out of permanent residence permits and some adjustments to the minimum level under the EU Migration and Asylum Pact Re.
32. Some changes to hunting legislation. LI.
33. Stricter and clearer character requirements for residence permits. Re.
34. Modernizing consumer protection in distance contracts Re.
35. Establishment Housing Act – a new settlement scheme for certain new arrivals. A.

36. Protecting biodiversity in marine areas beyond national jurisdiction. MINISTRY OF FOREIGN AFFAIRS.
37. Tighter conditions for the independent school sector. U.
38. Caring for children and young people. S.
39. Digital technology on a level playing field. A regulation for social services and activities under LSS. S.
40. Safer fairgrounds. Ju.
41. Pension levels and pension contributions - analysis over a hundred years. S.
42. Security Protection Act - further additions. Re.
43. Ensuring access to medicines - prescription and dispensing in shortage situations. S.
44. Improving support in schools. U.
45. Enhancing information exchange between authorities - some related issues Re.
46. Safer sports events. Re.
47. Tension in life - how do we secure our future electricity supply? KN.
48. Strengthening pandemic preparedness. S.
49. Processing of personal data by the Security Police. Re.
50. A new national authority for wildlife management. LI.
51. Improving the conditions for climate adaptation. KN.
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inadequate, violating the rights of adoptees under both the Korean Constitution and the Convention on the Rights of the Child. The South Korean government "outsourced" the adoption process to private adoption organizations in order to save national welfare costs.

This was done without adequate framework and oversight, and the government has therefore failed in its responsibility to protect the fundamental human rights of adoptees under both national and international law. The Commission recommends the following actions:

- A public apology from the government.
- An investigation into the citizenship status of adoptees and subsequent policy measures.
- Remedies to those whose identity has been falsified.
- Rapid ratification of the 1993 Hague Convention.
- Adoption organizations take responsibility for restoring the rights of adoptees¹³⁷

National Human Rights Commission of Korea has identified human rights violations

In 2022, a report was published by the Soongsil University Industry-Academia Cooperation Foundation highlighting the human rights situation of internationally adopted persons from South Korea.¹³⁸ The study, commissioned by the National Human Rights Commission of Korea (NHRCK),⁽¹³⁹⁾ is based on a literature review, in-depth interviews with 39 adopted persons and five original parents, and a survey completed by 658 people. The study shows, among other things, that there has been falsification of documents, that parents have not received

¹³⁷The Truth and Reconciliation Commission, Republic of Korea. *Investigation Status and Plans for Addressing Human Rights Violations in Overseas Adoptions*. March 2025, p. 6 ff. and *Truth Investigation into Human Rights Violations in the Intercountry Adoption Process Due to the Governments Systematic Failure in Overview and Management*. Press release 2025-03-26.

¹³⁸Soongsil University Industry-Academia Cooperation Foundation (2022), *A study on human rights protection measures through fact-finding surveys on the human rights situation of international adoptees*.

¹³⁹The National Human Rights Commission of Korea is an independent governmental body for the protection and promotion of human rights in South Korea.

information that their child was to be adopted internationally and that consent to adoption was given by someone other than the parents. A third of adoptees reported being abused by their adoptive family.¹⁴⁰The NHRCK's report on the human rights situation in South Korea in 2022 states that the system of registering children as orphans in a separate family registry and proxy adoptions are the main reasons for the irregularities in adoptions. The Commission concludes that South Korea's system, which entrusts the entire adoption process to private adoption agencies except for the court's adoption decision, is not compatible with the provisions of the 1993 Hague Convention. The NHRCK believes that this raises the question of whether the State has protected the human rights of the child in the adoption process and considers it necessary to identify and remedy the human rights violations that have occurred in the past ¹⁴¹.

The National Board of Appeal has investigated adoptions from South Korea to Denmark

Following the decision by the South Korean Truth and Reconciliation Commission to investigate the more than 300 adoption cases submitted to the Commission by DKRG, the National Social Appeals Board decided in January 2023 to launch an investigation into the Danish adoption agencies' cooperation with South Korea during the period from January 1, 1970 to December 31, 1989. The National Social Appeals Board's overall assessment is that adoption mediation in the 1970s and 1980s was characterized by an unregulated mediation system and an incentive structure where large sums of money were transferred between the Danish and South Korean organizations in connection with the adoption. The poor regulation of the adoption agency and the South Korean rules on family registration created room for the South Korean organizations to change the identity and background history of the adoptee in the official South Korean documents and in the information available in the file sent to Denmark. Thus, within the framework of the rules in force in South Korea, it was possible to change the

¹⁴⁰Of the Swedish respondents, 25% stated that they had been abused in their adoptive family.

¹⁴¹National Human Rights Commission of Korea (2022), *The Report on Human Rights Situation in the Republic of Korea*, p. 139 ff.

about the child's background and adopt a child without the parents' knowledge. The Danish adoption organizations were aware of this practice. This has deprived adoptees of the opportunity to know their identity and history, but does not necessarily mean that the adoption was against the parents' will. Over the years, Danish adoption agencies have provided significant support to their South Korean partners. At the same time, the Danish organizations continuously expressed a desire to maintain a high number of adoptions of children from South Korea. According to the Danish National Board of Appeals, this contributed to the creation of an economic incentive structure which, from today's perspective, is risky and contrary to the international rules in this area¹⁴².

10.6.3 Children have been registered as orphans in a separate family register

Until 2008⁽¹⁴³⁾, South Korea operated a system of family registration (hojuk¹⁴⁴) whereby a woman's legal parental relationship to her child was through the child's father.¹⁴⁵ It was the male head of the family who decided whether the child could be entered in the family register. Thus, an unmarried woman could not register her child in a family register herself. If the child was not registered in a family register, the child did not become a South Korean citizen¹⁴⁶ and thus had no legal status in South Korea. For example, without family registration, the child could not access the education system¹⁴⁷ and could not be adopted internationally¹⁴⁸.

Under Korean law, a child whose parents were unknown could have his or her own family register with the child as the head, often referred to as an orphan hojuk.¹⁴⁹ The system of registering children in a separate family register stems from legal rules on family registers introduced

¹⁴² Ankestyrelsen (2024).

¹⁴³ In 2005, the Constitutional Court of South Korea ruled that the system was discriminatory and in 2008 the Civil Code was amended to give the mother the right to register the child herself in her family register.

¹⁴⁴ Sometimes also translated as hojujedo, hoju or ho-juk.

¹⁴⁵ The Civil Code of the Republic of Korea of 1958. See also Hosu Kim. *Birth Mothers and Transnational Adoption Practice in South Korea. Virtual Mothering*, p. 57 f.

⁽¹⁴⁶⁾ Y. Koo (2024), *The Paradoxical Development of Liberal Governance: International Adoption Policy and Professional Social Work in Authoritarian South Korea, 1953-19/6*. Journal of Social History, p. 13.

¹⁴⁷ Ankestyrelsen (2024), p. 64.

¹⁴⁸ Information provided at a meeting at Korea Welfare Services in Seoul on March 21, 2023.

¹⁴⁹ Article 57(3) of the Family Register Act and Article 781(3) of the Civil Code.

during Japan's colonization of South Korea. Thus, it is not a system that was created to facilitate international adoptions.¹⁵⁰ Once the director of the adoption agency was appointed as the guardian of the child, he or she could register the child in a separate family register.¹⁵¹ This document was called *Ho Juk Deung Bon* (Family Registration) and contained only the child's name, date of birth, gender and the address of the Korean adoption agency. If the child did not have a known name, the adoption agency gave the child a name.¹⁵² In addition to the family name, a so-called Family origin was also registered, based on the city the child came from. However, this changed in 1976 when adoption agencies were instructed by the government that all children to be adopted internationally should be registered with the same family origin: Han Yang (or Hanyang)¹⁵³ in a separate family register.¹⁵⁴

Over time, all children adopted internationally came to be registered in a separate family register, whether or not they were already registered in their family's register.¹⁵⁵ This means that an adopted person may have two documents with different information: a document indicating the name of the parents and a family register indicating the child as an orphan.¹⁵⁶ When the parents gave up their parental authority and the guardianship was transferred to the manager of the adoption organization, the child was removed from the family register of the parents (if the child was registered there). The child was then registered in a separate family register without any information on the family relationship. However, it has happened that adopted persons have double family registration, both in the family register and in a separate family register of their own.¹⁵⁷ The DKRG notification to the South Korean Truth Commission describes a case from Norway where an adopted person was called up for Korean military service for two years. The reason was that he

¹⁵⁰Email to the Adoption Commission from Investigation Division 7, Truth and Reconciliation Commission, Republic of Korea, February 21, 2024.

¹⁵¹Article 23 Special Act on Adoption stated: If the head of an adoption agency takes custody of a child to be adopted without registration of family relationship, he/she shall undergo the procedures to establish a legitimate family relationship of the child.

¹⁵²Information provided at a meeting at Korea Welfare Services in Seoul on March 21, 2023. See Article 57(3) the Family Register Act.

¹⁵³Han Yang/Hanyang is an old name for Seoul.

¹⁵⁴Ankestyrelsen (2024), p. 61 f.

¹⁵⁵Y. Koo (2024), p. 4.

¹⁵⁶Information provided at a meeting at Korea Welfare Services in Seoul on March 21, 2023.

¹⁵⁷Information provided at a meeting with the KoRoot organization in Seoul on 22 March 2023.

not been deregistered from his family's hospital, but only in the separately established orphan hospital.¹⁵⁸

Many children adopted from South Korea from the 1960s until 2012¹⁵⁹ have received an orphan *hojuk* and many have therefore thought they were orphans but later in life discovered that they have parents and relatives in South Korea.¹⁶⁰ According to researcher Philsik Shin, records show that during the period 1980 to 1987, more than 90 percent of Korean children adopted to another country had known relatives.¹⁶¹

The National Human Rights Commission of Korea, has described how the orphaning system was intended to facilitate the adoption process by eliminating the need for parental consent in the adoption process itself. Even when parental consent could be obtained, no effort was made to account for their existence.¹⁶² The Truth and Reconciliation Commission of Korea has found that children were systematically and wrongly registered as abandoned and found outside the offices of adoption agencies and that this was a criminal act.¹⁶³

10.6.4 Shortcomings in birth registration have put the adoption process at risk

South Korea has had major shortcomings in its birth registration system, which has led to risks in the adoption process. For example, we have been informed that adoption organizations, with the mother's consent, have taken the child directly to the hospital, without a birth document being drawn up for the child¹⁶⁴.

¹⁵⁸ DKRG. *Addition to Danish Korean Rights Group's main document of August 23rd, 2022.*

¹⁵⁹ In 2012, the mother was required to register the child in her family register regardless of whether she would keep the child or give the child up for adoption.

¹⁶⁰ E. Kim (2009), p. 20. See also L. Wool-Rim Sjöblom (2016), *Palimpsest*.

¹⁶¹ The Associated Press. *Rampant adoption fraud separated generations of South Korean children from their families, AP finds*. Published 2024-09-19.

¹⁶² National Human Rights Commission of Korea (2022), p. 141.

¹⁶³ The Truth and Reconciliation Commission of the Republic of Korea. *Truth Investigation into Human Rights Violations in the Intercountry Adoption Process Due to the Governments Systematic Failure in Oversight and Management*. Press release 2025-03-26.

¹⁶⁴ Information provided at a meeting with the law firm Gong Gam Human Rights Law Foundation in Seoul on March 23, 2023.

A 1993 AC memorandum on adoptions from South Korea states:

The number of domestic adoptions is low compared to international adoptions, but the statistics do not tell the whole story. Many families take in a child and simply register it in their family registry as their own child. And, who knows, Korean society is not yet ready for the open adoptions we advocate and perhaps this is the best way for both the child and the family to gain an accepted status in society.¹⁶⁵

A report from MIA's 2007 monitoring mission states that domestic adoptions are carried out without the transparency of competent authorities and that many adoptive parents wish to register themselves as the biological parents of the adopted child. The MIA states that domestic adoptions are carried out through a written agreement between the adoptive parents and the child's guardian under the Family Register Act. No authorities are involved, which is contrary to Article 21(a) of the Convention on the Rights of the Child.¹⁶⁶ In 2011, the UN Committee on the Rights of the Child expressed particular concern that adoptive parents could register the birth of a child, enabling them to be registered as the biological parents of the child, especially in the case of children of single teenage mothers.¹⁶⁷

It was not until the major adoption reform in 2012 that the mother was required to register the child in her family register, regardless of whether she would keep the child or give it up for adoption. In 2015, the requirements were further tightened by requiring birth registration to be supported by documents from the maternity hospital. Before that, it was possible to register a child with the support of relatives or neighbors as witnesses. A government study has shown that between 2015 and 2022, an estimated 6 000 children had never been registered with the authorities. Of these, 249 children had died, 600 children had been left in baby boxes and 89 children had been adopted before being registered. In light of this, a requirement was introduced in 2023 for newborns to be registered at the hospital at the time of birth.¹⁶⁸ Previously, only a document was drawn up at the hospital with details of the child's parents and where it was born. It was then up to the parents to register the child with the authorities themselves within a month¹⁶⁹.

¹⁶⁵ AC. *New ties between Sweden and Korea*. 1993-03-18. AC South Korea Country binder 1980-1998 E 4 b.

¹⁶⁶ MIA. *Report of the MIA mission to South Korea, September 9-15, 200/*. No 40.

¹⁶⁷ The Committee on the Rights of the Child. *Concluding observations on the consolidated third and fourth periodic reports of the Republic of Korea*. CRC/C/KOR/CO/3-4. 2 February 2012.

¹⁶⁸ MFoF. *Travel report South Korea 2023*. Dnr 2023-368, p. 16.

¹⁶⁹ Information from a meeting at Korea Welfare Services in Seoul on March 21, 2023 and MFoF. *Travel report South Korea 2023*. Dnr 2023-368, p. 21.

10.6.5 Other people than the mother have been able to give the child up for adoption

Until the major adoption reform of 2012, consent to adoption could be given by persons other than the mother, such as the child's father, relatives or any other guardian of the child. This loophole in the law has allowed children to be adopted without the mother's consent.¹⁷⁰ In 2009, the South Korean Anti-Corruption and Civil Rights Commission published a report reviewing 193 adoption cases. In 20 to 30% of these cases, mothers reported that they did not consent to the adoption.¹⁷¹ There are many reports of children being handed over to police stations or adoption agencies by grandparents or other relatives or even neighbors. Either against the parents' will or without their knowledge¹⁷²

The UN Committee on the Rights of the Child has criticized South Korea for allowing adoptions to take place without the required consent

In 1996, the UN Committee on the Rights of the Child expressed concern that South Korea had not taken sufficient measures to ensure that adoptions are approved by competent authorities and that they are based on reliable information and informed consent of all persons concerned.¹⁷³ The criticism was reiterated in the 2012 report, in which the Committee on the Rights of the Child called on South Korea to make consent to adoption by single teenage mothers mandatory and to ensure that their consent was not given under duress.¹⁷⁴

In the context of the 2012 adoption reform, the requirement for the mother's consent has been tightened, including the need for mother and child to live together for one week before the mother can give consent to adoption.

¹⁷⁰ H. Kim (2016), p. 6 f.

¹⁷¹ Adoption Network. *The Adoption Agency's mission to South Korea November 20-28, 2010* p. 19, received by the MIA on May 5, 2010, dnr 72:348:1/11.

¹⁷² Soongsil University Industry-Academia Cooperation Foundation (2022).

¹⁷³ The Committee on the Rights of the Child. *Concluding observations on the initial report of the Republic of Korea*. CRC/C/15/Add.51. February 13, 1996.

¹⁷⁴ The Committee on the Rights of the Child. *Concluding observations on the consolidated third and fourth periodic reports of the Republic of Korea*. CRC/C/KOR/CO/3-4. 2 February 2012.

10.6.6 Fabricated backstories, misinformation and child confusion

Many adoptees testify that their background stories are fabricated and that there are inaccuracies in the documentation, such as year and place of birth.¹⁷⁵ According to researcher Kimberly

D. McKee suggests that there has been a practice within the adoption organizations of making up birth dates, names and background stories about the children. Studies of the documents describing the child's background have shown that the descriptions of the child's background recur in slightly different versions.¹⁷⁶ They have either been found on a church staircase, at a police station or outside a hospital.¹⁷⁷ In addition to similar background stories, the same type of descriptions of the children's character traits also recur

There have also been cases where adoption organizations have switched identities or even adoptees have shared identities with other adoptees.¹⁷⁹ There are also cases where the adoption organization has replaced a deceased child with a new child but kept the identity details of the deceased child for the adopted child.¹⁸⁰ This is also confirmed by the South Korean Truth and Reconciliation Commission.¹⁸¹

The National Social Appeals Board's report on adoptions from South Korea reveals correspondence between the adoption organization in Denmark and South Korea in the 1970s, which shows that children were far younger or older than what was stated in their papers and that children were exchanged.

¹⁷⁵See, for example, Danish Korean Rights Group, *Application to The Truth And Reconciliation Commission of South Korea 2022*, p. 9.

¹⁷⁶K. D. McKee (2016), p. 148.

¹⁷⁷See, for example, Danish Korean Rights Group, *Application to The Truth And Reconciliation Commission of South Korea 2022*, p. 9.

¹⁷⁸K. D. McKee (2016), p. 149.

¹⁷⁹Information from a meeting with the Danish Korean Rights Group in Seoul on March 22, 2023 and e-mail from the Swedish Embassy in Seoul to MFoF on April 15, 2020. See also The Associated Press. *Rampant adoption fraud separated generations of South Korean children from their families, AP finds*. Published 2024-09-19.

¹⁸⁰Information from a meeting with the Danish Korean Rights Group in Seoul on 22 March 2023. See also Hankyoreh. *When she was reunited with her birth family, she realized her entire adoption file had been false*. Published 2023-05-17.

¹⁸¹Truth And Reconciliation Commission, Republic of Korea. *Status of Investigation and Plans to Address Human Rights Violations in Inter-country Adoptions*. May 2024 and Press Conference on the Decision to Investigate Human Rights Violations in the Inter-country Adoption Process. 2025-03-25.

¹⁸²Ankestyrelsen (2024), p. 87.

10.6.7 Children have been given up for adoption through financial and moral pressure and in some cases through theft

During our trip to South Korea, we received information about irregularities in the way children have become available for adoption. For example, parents who were unable to pay for hospital care for their child were paid hospital fees by the adoption agency in exchange for giving the child up for adoption.¹⁸³ Researcher Philsik Shin estimates that hospitals received the equivalent of \$1,600 in today's dollars for each child "referred" to adoption agencies. The hospital staff involved are said to have doubled their annual salaries through these referrals.¹⁸⁴ The fact that mothers who could not pay the hospital fee were referred to the South Korean adoption agencies is also evident from the Appeals Board report on adoptions from South Korea to Denmark. This led to a ban in 1988 on adoption organizations receiving children directly from hospitals.¹⁸⁵

Another example is where the mother wanted to withdraw her consent to adoption but the adoption agency then demanded payment from her for the time the child spent with the adoption agency.¹⁸⁶ Today, a parent who regrets his or her decision does not have to tell the KWS anything. Instead, the KWS can apply for reimbursement of costs from local authorities.¹⁸⁷

Lack of objectivity in counseling mothers and moral pressure on maternity homes

Until 2021, adoption agencies were responsible for providing counseling to parents considering placing their child for adoption.¹⁸⁸ During the Commission's visit to South Korea, we received evidence that there have been shortcomings in the information provided by the South Korean adoption agencies.

¹⁸³ Soongsil University Industry-Academia Cooperation Foundation (2022). See also The Associated Press. *Rampant adoption fraud separated generations of South Korean children from their families, AP finds*. Published 2024-09-19.

¹⁸⁴ The Guardian. *Korea is hiding our past': the adoptees searching for their families - and the truth*. Published 2023-09-28.

¹⁸⁵ Ankestyrelsen (2024), p. 92.

¹⁸⁶ Information from a meeting with the organization KUMFA in Seoul on 22 March 2023 and a meeting with the law firm Gong Gam Human Rights Law Foundation on 23 March 2023. See also memo from TRACK in the MFoF's file on authorization for South Korea 2018, no. 3.1.2:650/17 no. 28.

¹⁸⁷ MFoF. *Travel report South Korea 2023*. Dnr 2023-368, p. 16.

¹⁸⁸ In 2021, the responsibility for counseling mothers was transferred from adoption agencies to local authorities.

adoption organizations to the parents, which meant that they did not understand the consequences of their consent. They may have believed that the child would return to the family after finishing school. Or they may not have realized that the child would be adopted internationally and thus lose their language and culture.¹⁸⁹ According to a 2012 ISS report, unmarried mothers have opted for international adoption because they believed that such an adoption was open, meaning that they would be able to write letters and receive photos from the adoptive parents and speak to the child on the phone.¹⁹⁰

When adoption agencies operated maternity homes, they were able to obtain the mother's consent to adoption during her stay. The Ankestyrelsen report states that in 1988, 35 percent of women living in a maternity home sponsored by Holt Childrens Services gave consent to adoption.¹⁹¹ In 2005, it was estimated that up to 40 percent of children adopted internationally came through maternity homes.¹⁹² Women who have lived in maternity homes state that they have felt pressure to give their child up for adoption.¹⁹³ Since 2015, adoption organizations are no longer allowed to operate maternity homes, citing the conflict of interest that may arise.

Children have been declared dead in hospital and then adopted internationally

During the Commission's visit to South Korea, it was reported that in the 1980s there was cooperation between adoption agencies and hospitals and that there are cases of hospital staff being bribed to tell the mother that the child had died and then handing the child over to the adoption agency.¹⁹⁴ Such information was also provided in a report by the National Human Rights Commission of Korea¹⁹⁵ and through the testimony of adopted persons and

¹⁸⁹Meeting with researcher Philsik Shin in Seoul 2023-03-22 and Soongsil University Industry-Academia Cooperation Foundation (2022).

¹⁹⁰MFoF. International Social Service, *Monthly Review No 10/2012 p. /*, received by MFoF on February 22, 2018, ref. no. 3.1.2:650/17 no. 28.

¹⁹¹ Ankestyrelsen (2024), p. 93.

¹⁹² H. Kim (2016), p. 84.

¹⁹³MFoF. Email from the Swedish Embassy in Seoul to MFoF, April 15, 2020. See also P.k Lundberg, J. Sköld and A. Mahmoud (2022), *Adoptions. An investigative reportage*, p. 221 ff.

¹⁹⁴Information from a meeting with Professor Rami So in Seoul on March 24, 2023. See also Soongsil University Industry-Academia Cooperation Foundation (2022).

¹⁹⁵Soongsil University Industry-Academia Cooperation Foundation (2022).

¹⁹⁶A woman born in 1987 and adopted to Denmark, believed from her adoption documents that her parents had given her up for adoption because they could not afford hospital care. When she was reunited with her family in South Korea, they told her that the mother had lost consciousness during childbirth and when she woke up, the hospital staff told her that the baby had died.

10.6.8 Abducted and lost children have been adopted internationally

There are testimonies from parents that their children have been abducted when the child was playing in the yard outside the house or when parents and children were shopping at a market. ¹⁹⁸In the fall of 2024, a woman sued the Korean government, the Holt adoption agency and an orphanage for wrongfully adopting her daughter to the United States in 1976. The then 4-year-old daughter was abducted by a woman while playing near her home and nine months later she was adopted to the US. The girl asked that they look for her mother but she was told that she was abandoned. The mother reported her child missing and searched for her for over 40 years before they were reunited through DNA searches. The woman's legal representative argues that her daughter could have been found if information on missing children had been shared between police forces or if police officers had tried to search children's homes (¹⁹⁹).

There have also been cases of lost children being taken into the care of the police, who then handed them over to an adoption organization. In an interview in the Korea Times, the director of SWS stated that in 1974 alone, some 50 adoptions of Korean children had been stopped at the very last moment after it was discovered that the child was not abandoned but rather missing.²⁰⁰The Swiss report on illegal adoptions of 2023 states that in 1975 the embassy reported an increase in

¹⁹⁶ The Japan Times. *World's largest 'baby exporter' confronts its painful past*. Published 2023-09-23.

¹⁹⁷ Globe World News Echo, South Korea. *The Largest Source Of Adopted Children, Faces Its Painful Past*. Published 2023-10-05.

¹⁹⁸ Danish Korean Rights Group. *Han Tae Soon's address to The United Nations September 20 2023*, <https://danishkorean.dk/koreanmother>. See also The Associated Press. *Rampant adoption fraud separated generations of South Korean children from their families, AP finds*. Published 2024-09-19 and CBC News. *Paper orphans. A lot of South Koreans adopted by Western families in the postwar years grew up believing they were orphans. In many cases, it was a lie*. Published 2023-09-27.

¹⁹⁹ The Associated Press. *South Korean woman sues government and adoption agency after her kidnapped daughter was sent abroad*. Published 2024-10-07.

²⁰⁰ Dagens Nyheter, *Kommers with Korean children. Got lost - was adopted*. Published 1975-10-09.

children who were demanded back from Switzerland by their original parents in South Korea²⁰¹

10.6.9 Children adopted internationally from detention camps in South Korea

The Truth and Reconciliation Commission of South Korea has found that children born to women in detention camps in South Korea have been given to adoption organizations for international adoption. These are Brothers Home in Pusan, Daegu Metropolitan City Hope Center (Huimangwon) in Daegu and Cheonseongwon in South Chuncheon.

The Brothers Home operated from 1960 to 1992 and housed around 3 000 people. Officially, Brothers Home was described as a type of welfare institution for the socially disadvantaged, but in practice it functioned as a labor camp where thousands of children and adults were forced to work in factories located in the area. The detainees were people the authorities considered 'vagrants', but children and students protesting against the government were also placed there. South Korea's Truth and Reconciliation Commission has found that there have been widespread human rights violations at Brothers Home in the form of forced labor, physical abuse, sexual violence, deaths and disappearances. A large number of children detained at Brothers Home lost contact with their families because their names and dates of birth were changed on their identity cards.²⁰³ At least 31 children from Brothers Home were adopted internationally between 1976 and 1989.⁽²⁰⁴⁾ According to media reports, Holt Childrens Services and the Eastern Social Welfare Society cooperated with Brothers Home

²⁰¹SHAW (Zurich University of Applied Sciences) (2023), *Evidence of illegal adoptions of children from ten countries of origin in Switzerland, 19/0s to 1990s. Inventory of documents in the Swiss Federal Archives*, p. 95.

²⁰²Truth And Reconciliation Commission, Republic of Korea. Press release of September 9, 2024, p. 25 and Press release of January 21, 2025. See also The Associated Press. *South Korean truth commission says it found more evidence of forced adoptions in the 1980s*. Published 2024-09-09.

²⁰³Truth and Reconciliation Commission of the Republic of Korea. *Truth established by the government on Brothers Home case for the 1st time in 35 Years*. Published 2022-09-07.

²⁰⁴Truth and Reconciliation Commission of the Republic of Korea. *Human Rights Violations of Brothers and Sisters' Welfare Support (4) Finding out the truth*. Press release January 21, 2025 ²⁰⁵The Associated Press. *Abusive S. Korean facility exported children*. Published 2019-11-09.

As regards the other two detention camps, 20 children were reportedly given up for adoption between 1985 and 1986: 14 children from Huimangwon and six children from Cheonseongwon. According to the South Korean Truth and Reconciliation Commission, it is difficult to determine exactly how many more children may have been given up for adoption in other years. The children were reportedly taken as newborns and given to Holt Childrens Services and Eastern Social Welfare Society. Most of the children were transferred to the adoption organizations on the day of their birth. According to the Commission, the consent process has not been in line with Article 4 of the 1993 Hague Convention for the children born in these institutions. Although the institutions' records show that some mothers gave their consent to adoption, other records show that the consent process was imposed before birth. Some mothers who refused to give consent were categorized as having mental health problems and as incompetent to care for their children²⁰⁶.

10.6.10 Adoptions have been a profitable business, putting the principle of subsidiarity at risk

During our visit to South Korea, we were informed that there are documents in South Korea's national archives showing that the adoption organizations have made a lot of money from international adoptions and that they have invested the money in real estate, among other things.²⁰⁷In 1988, the South Korean government reportedly held a meeting with the four adoption organizations in which the government criticized the organizations for purchasing real estate with profits from adoption activities, wasting money on overhead, and demanding high adoption fees from adoptive parents.²⁰⁸DKRG has submitted a 1988 document to South Korea's Truth and Reconciliation Commission in which a South Korean parliamentary investigation determined that maternity hospitals,

²⁰⁶The Associated Press. *South Korean truth commission says it found more evidence of forced adoptions in the 1980s*. Published 2024-09-09 and Jurist News. *South Korea Truth Commission releases further findings on 1980s shelter abuses and forces adoptions*. Published 2024-09-10. ²⁰⁷Meeting with the law firm Gong Gam Human Rights Law Foundation in Seoul on 23 March 2023, meeting with the organization KoRoot in Seoul on 2023-03-22 and meeting with Kyung-eun Lee on 2023-03-22.

²⁰⁸The Hankyoreh. *More than \$1,000 per child': Park Chung-hee's Korea ignored Belgium's calls for action on adoption profiteering*. Published 2024-02-13.

hospitals and local authorities have sold children to adoption organizations in South Korea, which has degenerated into pure human trafficking.²⁰⁹

The average monthly salary at the Holt Children's Services adoption agency during the 1980s (when international adoptions from South Korea were at their peak) was around 250,000 won, while the adoption fee for each intercountry adoption was 3 million won.²¹⁰ Switzerland's report on illegal adoptions also notes that there are examples of South Korean officials benefiting financially from international adoptions.²¹¹

According to the National Human Rights Commission of Korea, the system of orphan hojuk and adoption by proxy has led to a commoditization of adoptions. The adoption fee per adoption rose from USD 5 000 in 1988²¹² to USD 17 215²¹³ in 2009.²¹⁴ According to the NHRCK Some adoption agencies also lobbied welfare facilities and medical institutions to secure children for intercountry adoption.²¹⁵ A former employee who worked at two Korean adoption agencies from the 1970s to the early 1990s said that any parents who had difficulty raising their children would be encouraged to give them up. Many of the children taken in by the adoption agencies could have stayed with their parents with a little help, but the management always said, "If we don't take that child, another adoption agency will."²¹⁶

The National Board of Appeal's report shows that adoption fees rose by approximately 697% from 1972 to 1987, which was not considered problematic in view of the general price increase of 784% during the same period²¹⁷.

The South Korean Truth and Reconciliation Commission has found that the South Korean government failed to regulate adoption fees and allowed adoption organizations to set their own fees. In addition, adoptive parents were asked to pay

²⁰⁹Danish Korean Rights Group. *"In fact, it was made up just for adoption procedure."* Press release 2023-01-05.

²¹⁰The Korea Herald. *Government neglect of single moms sends babies abroad despite S. Korea's low birth rate.* Published 2024-01-21.

²¹¹ SHAW (2023), p. 100 f.

²¹² Korea's per capita income was USD 4 571 in the same year.

²¹³ Korea's per capita income was USD 17 074 in the same year.

²¹⁴It is not clear which organization's fee is referred to, but the organizations have had approximately similar fees.

²¹⁵ National Human Rights Commission of Korea (2022), p. 141.

²¹⁶The Associated Press. *Rampant adoption fraud separated generations of South Korean children from their families, AP finds.* Published 2024-09-19.

²¹⁷Ankestyrelsen (2024), p. 113.

extra donations that were used to secure more children for adoption. This led to the intercountry adoption business becoming a profit-making industry.²¹⁸

Economic incentives may have influenced South Korea's drive to comply with the subsidiarity principle

When the ISS handed over responsibility for international adoptions to the CPS in 1967, one of the reasons was that the ISS felt that its role in international adoptions jeopardized South Korea's commitment to developing domestic solutions for children. In addition, the ISS considered the shifting of funds from social welfare to adoption agencies that could earn foreign exchange to be a serious concern.²¹⁹ A 1965 protocol states that the South Korean government considered the decision to allow private adoption agencies to charge fees to foreign adoptive parents to be "killing two birds with one stone". Each orphan adopted abroad generated about USD 130 per child and at the same time South Korea saved the costs of caring for these children.²²⁰

In 2003, the UN Committee on the Rights of the Child noted with concern the high number of intercountry adoptions in South Korea, which, according to the Committee, indicated that this form of adoption was not necessarily a last resort²²¹

²¹⁸The Truth and Reconciliation Commission of the Republic of Korea. *Truth Investigation into Human Rights Violations in the Intercountry Adoption Process Due to the Governments Systematic Failure in Oversight and Management*. Press release 2025-03-26.

²¹⁹E. Kim (2009), p. 19.

²²⁰Human Rights Beyond Borders (2024), *Right to Origins is a Human Right: Dialogues with Adoptees on Their Search for Truth*, p. 43.

²²¹The Committee on the Rights of the Child. *Concluding observations on the second periodic report of the Republic of Korea*. CRC/C/15/Add.197. March 18, 2003.

10.7 Irregularities in Swedish adoption activities and how Swedish actors have acted and behaved

10.7.1 Introduction

In this section, we review what irregularities have emerged in the Swedish adoption activities in South Korea, what Swedish actors knew about irregularities and how they acted to prevent or deal with irregularities.

Our review of the archives and our interviews with adoptees, associations for adoptees, researchers and officials in Sweden and South Korea show that there have been irregularities in a d o p t i o n s from South Korea to Sweden. This mainly concerns the 1960s, 1970s and 1980s. These include children being adopted to Sweden without the voluntary and informed consent of the child's parents and incorrect information about the child's family status, name and date of birth in the adoption d o c u m e n t s .

However, our review of Swedish newspaper articles on irregularities in international adoptions yields a relatively small number of hits. During the 1970s, there are reports of "commerce" in adoptions from

South Korea and that the demand for adoptable children results in corruption in the form of money to intermediaries, for example, police officers who hand over children to orphanages receive a penny and the orphanage in turn receives a penny from the adoption organization. In the mid-1970s, there were also reports of a man in South Korea asking for his child back from Sweden. It is only in the early 2000s, when those who were adopted in the 1970s and 1980s began to search for their origins, that irregularities in adoptions from South Korea were more frequently reported in the Swedish media²²².

Most adoptions to Sweden took place during the military dictatorship in South Korea (1961 to 1988)²²³

²²²Among other things, through the program *Spärlöst*, which was broadcast on TV3 from 2000 and an episode of *Korrespondenterna* on SVT in 2015.

²²³Following student demonstrations in 1987, a new constitution was approved and direct presidential elections elected Roh Tae-Woo as president in 1988, reducing the military's influence.

The Adoption Authority's supervision of adoptions from South Korea

In total, the Swedish Adoption Authority has made six trips to South Korea during the period 1976 to 2023. In 1976, the NIA made two trips to South Korea. The purpose was to discuss current adoption cases and increase the "quota" of children to Sweden²²⁴.

In 1986, the NIA traveled to Tokyo, Seoul and Calcutta.²²⁵ The NIA planned to travel to South Korea in 1996, but for economic reasons the trip could not be carried out.²²⁶ The next trip was delayed until 2007, when the MIA made its first monitoring trip to the country. Among other things, the MIA wanted to look at how South Korea applied the principle of subsidiarity and what was included in the fees paid to adoption organizations.²²⁷ In 2014, the MIA made its second mission to South Korea.

The purpose of the mission was, among other things, to examine the factors influencing South Korea's ability to comply with the principle of subsidiarity and the advice given to single mothers. The MIA also wanted to hear how South Korea justified its relatively high adoption fees.²²⁸ A planned supervision mission in 2020 could not be carried out due to the coronavirus pandemic, which meant that the MFoF instead sent questions digitally to the authorities, institutions and organizations that the agency intended to visit during the mission.²²⁹ In 2023, the MFoF conducted a mission for its authorization decision.

CPS, SWS and the Ministry of Health and Welfare have visited Sweden several times and have had meetings with AC and the adoption authority to discuss and follow up the adoption cooperation.

²²⁴NIA. *Travel report from trip to Seoul, Korea January 26-30, 1976* and *Travel report from trip to Republic of Korea and Philippines October 12-23, 1976*.

²²⁵NIA. *Report of trip to Tokyo, Seoul and Calcutta, August 29-September 14, 1986*, 1987-01-29, dnr 72:28/86.

²²⁶NIA. *Report on developments in the field of adoption in some countries from which children have come to Sweden for adoption up to and including December 31, 1996*, May 1997, Report pursuant to the Regleringsbrev för 1997, dnr NIA 1:425/96.

²²⁷MIA. *Report of the MIA mission to South Korea, September 9-15, 2007*, No 40.

²²⁸MIA. *Report of the inspection mission to South Korea, March 2-8, 2014*, ref. 3.3.7:38:98/14.

²²⁹MFoF. *Supervision report 2020 Adoption Center*, 2021-03-23 AD 2020-638.

²³⁰For example, the SWS and the Ministry of Health and Welfare have visited Sweden in 1974, 1983, 1984, 1986, 1993/94, 2006 and 2010.

Consultation with the Swedish Embassy in Seoul

Since 2005, the MIA and subsequently the MFoF have consulted with the Embassy in Seoul for authorization decisions. Until 2012, the Embassy responded that adoption activities are working well and that the high adoption fees are due to the high cost situation in the country. In 2012, the first longer consultation response was received, in which the embassy informed that the 2012 law change (requiring the mother to register the child in her family registry) had led to an increase in the number of illegal adoptions, many of which were done online.²³¹ In 2017, the embassy responded that they had no knowledge of their own, but that they had asked the US embassy, which replied that South Korea's adoption legislation was reliable and that it was in line with the 1993 Hague Convention. There was no financial gain in the adoptions and the organizations were transparent in their cost accounting. Adoptions in South Korea were properly managed but there was room for improvement in terms of intercountry adoption quotas²³²

In the consultation response from 2019, however, the embassy writes that there is widespread awareness among both authorities and civil society organizations in the country that there have been irregularities in adoptions from South Korea to Sweden and other countries.²³³ According to the embassy, this mainly applies to the 1960s, 1970s and 1980s when South Korea was not yet a democracy and when corruption was widespread. The most common irregularities have been the falsification of children's documents and children being given up for adoption by people other than their parents, such as grandparents or other relatives. Falsification of documents can range from a single false statement to giving the child a completely new identity (name, date of birth, place of birth, family history, etc.). Sometimes the child is falsely stated to be a "foundling" with an unknown background. According to the Embassy, this is probably a combination of the person who gave the child up not telling the truth and changes made by the adoption organization.

²³¹MINISTRY OF FOREIGN AFFAIRS. Embassy of Sweden Seoul. *Re Consultation with overseas authority in connection with application for authorization to work with international adoption mediation*, 23 September 2013, dnr 3.1.2:527:5/13.

²³²MFoF. Email from the Swedish Embassy in Seoul to MFoF on August 8, 2017, dnr 3.1.2:650/17 nr 3.

²³³MINISTRY OF FOREIGN AFFAIRS. Swedish Embassy in Seoul. *Response to request for consultation regarding an application for authorization for international adoption mediation*, 12 August 2019, ref. no. UM2019/27777/SEOU.

There are also testimonies from adult adoptees who revealed mistaken identities or even shared identities with each other. In the case of children given up for adoption by persons other than their parents, this seems to have been accepted by the adoption organizations despite the requirement for parental consent and signatures. According to the Embassy, there are also testimonies from biological parents that they have temporarily left the house to carry out an errand and discovered that the child is missing when they return home. In some cases, the child has been left by one parent without the consent of the other. The Embassy's impression is that the Korean authorities were not transparent in their handling of intercountry adoptions²³⁴.

10.7.2 Sweden has exerted political pressure on South Korea to adopt children

In a letter from the embassy in Seoul to the Ministry of Foreign Affairs in Stockholm in 1990, the ambassador writes that the embassy often comes into contact with adoption activities and that it is an important issue for the embassy because it also has political implications.²³⁵ Based on the archival material we have studied, we can conclude that the Swedish embassy in Seoul has been an important player in adoptions, especially during the two stops of adoptions to Sweden that South Korea decided on in 1970 and 1974.

Sweden's ambassador to Tokyo was tasked with getting adoptions underway at the 1970 stop

At the time of the 1970 stop, the director of the SWS wrote to the National Board of Health and Welfare that the South Korean government could reverse the decision provided that the Swedish government ensured that communists did not contact the adoptive parents of South Korean children and to carefully control the North Korean agents. He asked the National Board of Health and Welfare to bring this to the attention of the Swedish Government.

²³⁴MFoF. Email from the Swedish Embassy in Seoul to MFoF on April 15, 2020, dnr 3.1.2:1149/19 nr 29.

²³⁵UD. Letter from the Embassy in Seoul to the Ministry of Foreign Affairs, February 28, 1990.

²³⁶See also P. Lundberg, J. Sköld and A. Mahmoud (2022), pp. 134 ff.

²³⁷National Board of Health and Welfare. Letter from the CPS to the National Board of Health and Welfare, December 23, 1970, R 34 Xko.

Stockholm instructed the Swedish Ambassador in Tokyo²³⁸ to discuss the problem with the South Korean Government. In January 1971, the Swedish Ambassador reported that the South Korean Government saw no problem with the adoption agreement or its implementation and that the South Korean Ambassador in Stockholm had reported that the adopted children were doing well. The interruption was entirely due to North Korean propaganda. According to the ambassador, the Minister of Health had said that the adoptions could continue quietly and with a minimum of publicity.²³⁹ In a later letter, he wrote that "everything will remain as it was" but that much depended on the Ministry's ability to limit media publicity in Sweden.²⁴⁰ The suspension was lifted in March 1971.²⁴¹

Sweden used its seat on the UN Security Council to get South Korea to resume adoptions in 1974

In early 1974, the director of SWS wrote again to the Social Welfare Board that he might find it difficult to place children in Sweden because of false rumors about his activities in Sweden. In a memorandum, the Foreign Ministry wrote that it believed the director was exaggerating ("he has made similar threats in the past") but nevertheless suggested that the Political Department say something appreciative about SWS in its routine contacts with the Korean Embassy in Stockholm.

However, it turned out that SWS was right and in November 1974 South Korea decided to stop adoptions to Sweden, Norway and Denmark. However, the 500 children who had already been matched with adoptive parents were granted exit permits. As an exception, the South Korean government could also allow adoptions to the Scandinavian countries if the prospective adoptive parents or their relatives escorted the child.²⁴² In December 1974, the Swedish ambassador in Seoul wrote to the Ministry of Foreign Affairs in Stockholm that Sweden could safely

²³⁸ The Embassy in Tokyo was at that time also responsible for South Korea.

²³⁹ Ministry of Foreign Affairs, cipher telegram from the Embassy in Tokyo to the Ministry of Foreign Affairs, January 29, 1971, R 34 Xko.

²⁴⁰ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Tokyo to the Ministry of Foreign Affairs, February 2, 1971, R 34 Xko.

²⁴¹ MINISTRY OF FOREIGN AFFAIRS. Telegram from the Swedish Embassy in Tokyo to the Ministry of Foreign Affairs, March 19, 1971, R 34 Xko.

²⁴² UD. *Adopted child from Korea*, February 28, 1974, R 34 Xko.

²⁴³ National Board of Health and Welfare. Letter from SWS to the National Board of Health and Welfare, January 20, 1975, no. NIA 49:68.

guard the South Korean decision and for the time being rule out further organized adoptions in South Korea. "The matter can be taken up later, preferably before next year's UN debate when the South Koreans are likely to be keen on Swedish goodwill". The ambassador wrote:

We can accept the South Korean principles but still seek a way to continue adoptions. This could be done by organizing group trips to Seoul for interested adoptive parents, preferably by chartered SAS planes, so that they could select and collect the children. From the South Korean point of view, such tourist trips would probably be considered valuable partly because they bring foreign currency into the country and partly because the traveling Swedes would have a much more positive image of the country than the so-called North Korean propaganda. If this alternative is chosen, it will be possible to negotiate with the South Koreans on ways of speeding up the process²⁴⁴.

Later in December, the ambassador wrote that he believed the best way to advance Sweden's cause was to inform and persuade the South Korean ambassador in Stockholm who, like President Park, was no doubt extremely anxious to keep on good terms with the Swedish government when Sweden attended the Security Council, which was to deal with the Korean issue.²⁴⁵

In January 1975, the Ambassador raised the issue with, among others, South Korea's Minister of Social Affairs, Minister of Foreign Affairs and the President's Foreign Policy Advisor. In a letter to the Ministry of Foreign Affairs, he reported that he had firmly opposed the discrimination against Scandinavia that the stop entailed. He further wrote that the South Korean Minister of Social Affairs had suggested that Sweden invite some South Korean journalists to write about the adopted children and also meet Swedish officials. The purpose would be to refute the North Korean arguments about child export.²⁴⁶ In a subsequent letter, the ambassador wrote that in a more general context of Swedish-Korean relations, he could remind the Koreans that they could use Sweden's friendship and that they should not unnecessarily annoy Sweden by discriminatory measures. The Ambassador further wrote that he believed that Sweden should accept the Minister's proposal for a journalist visit to Sweden. The Ambassador suggested that Sweden should share the cost of the visit

²⁴⁴MINISTRY OF FOREIGN AFFAIRS. Telex from the Swedish Embassy in Tokyo to the Ministry of Foreign Affairs in December 1974, R 34 Xko.

²⁴⁵ UD. Telex from the Embassy in Seoul to the Ministry of Foreign Affairs on December 19, 1974, R 34 Xko.

²⁴⁶MINISTRY OF FOREIGN AFFAIRS. Swedish Embassy in Seoul. Memorandum *Adoption issue: talks with Minister of Health and Social Welfare Ko, Jae Pil, et al. 19/5-01-28*, R 34 Xko.

with Norway but was more hesitant about Denmark because they had been 'compromised by the big adoption scandal'²⁴⁷ of which the South Korean Ministry of Social Affairs was well aware.²⁴⁸ Minutes of the NIA board show that the NIA's chairman and office were then instructed to try "as soon as possible" to invite two or three Korean journalists to come to Sweden to write articles about the Korean children's adaptation to society.²⁴⁹ In May 1975, the Swedish ambassador in Seoul wrote to the NIA that he had had a long conversation with the Deputy Minister of Social Affairs about the adoptions. The journalists, who visited Sweden in April 1975, had gotten the impression that the adopted children were doing well and that this image should be conveyed to a wider public. The Ambassador wrote that it was felt in Seoul that the standard of living had now reached such a level that "collective" adoptions abroad were no longer as necessary from the Korean point of view as they had been previously. If they were considered desirable from a Swedish point of view, a quid pro quo was expected in the form of friendlier treatment of South Korea in the Swedish media. The ambassador wrote that he personally considered it out of the question to accept such claims but that the consequence could be that the adoptions would eventually have to be discontinued²⁵⁰.

In September 1975, the Special Representative of the South Korean President, Mr. Kyu Hah Choi, visited Stockholm and Sweden reiterated that the Swedish Government would appreciate a change in the South Korean attitude towards adoptions to Sweden. Mr. Choi replied that there were no longer any children orphaned by the Korean War, that the general economic situation in South Korea had improved considerably and that children without parents could often find Korean parents. He further stated that South Korea was unhappy that Korean children only met their adoptive parents on arrival in their new homeland. Instead, the adoptive parents should pick up their Korean child in South Korea themselves. A prerequisite for the resumption of adoption activities was therefore that "this practical problem of a humanitarian nature" be resolved.

²⁴⁷We don't know what "scandal" is being referred to but in October 1974 a South Korean child died immediately after arriving in Denmark.

²⁴⁸MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, January 30, 1975, R 34 Xko.

²⁴⁹NIA. Minutes 1975:2 1975-02-12.

²⁵⁰MINISTRY OF FOREIGN AFFAIRS. Letter from the Embassy in Seoul to the NIA, May 8, 1975.

solution.²⁵¹ Following Mr. Choi's reply, the Embassy in Seoul wrote to the Ministry of Foreign Affairs:

The supply of adopted children in South Korea is still plentiful. Due to traditional reluctance, there has been no increase in adoption within the country - although the government would like to see this happen. The sending of adopted children to countries other than Sweden, Denmark and Norway continues unabated and without practical difficulties. No demands have been made for parents or nurses to take children to these other countries, including the USA, Canada, West Germany, Belgium and Japan (!). The information about practical difficulties is therefore pure evasion and also factually incorrect. The Embassy has argued to the Ministry of Social Affairs that the parental pick-up proposal is impractical, unnecessarily expensive and directly inappropriate as it could lead to charter trips for parents and children with a high risk of the very publicity that South Korea says it wants to avoid. It is no accident that the ban only applies to countries where there are North Korean embassies --- In the run-up to the autumn UN debate on the Korea issue - and with Sweden in the Security Council - even here at the highest level, there should be more than a little anxiety not to clash with Sweden, Denmark and Norway.²⁵²

South Korea later lifted the ban in October 1975 and a letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs states:

Now that adoptions from Sweden can resume, it is important to avoid any publicity, both about individual cases and the whole affair, that individual parents in Sweden do not undertake any pick-up trips or other private initiatives. The MFA and the Embassy must look after the interests of all parents, not individual cases, that Sweden realizes that this is a traffic which - either due to a lack of available children or otherwise - may come to an end quite soon, that in that case we cannot or should not insist on continued "export" of Korean adoptive children to Sweden for various reasons.²⁵³

A few days later, the Embassy wrote again to the Ministry of Foreign Affairs in Stockholm that the NIA must prepare itself for the fact that adoptions from South Korea could come to an end quite soon. This was partly due to Swedish TV and newspapers' "defamatory and often misleading information about conditions in the Republic of Korea" and to improved economic and social conditions in the country. The embassy

²⁵¹ UD. *Memorandum The South Korean Adoption Case*, September 15, 1975.

²⁵² UD. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, September 29, 1975.

²⁵³ MINISTRY OF FOREIGN AFFAIRS. Telex from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs on October 26, 1975, R 34 Xko.

saden wrote that "so long as the traffic is allowed to continue, the Embassy will do its best to promote it. But if it should cease or be suspended again, it may be that we should not and cannot insist on its continuance."²⁵⁴

The NIA's travel report in January 1976 states that the director of SWS stated on several occasions during the visit to SWS that 1975 had been a difficult year for SWS and that the government's decision to suspend the "transportation" of children to the Scandinavian countries had placed a great strain on SWS, both financially and in terms of work.

South Korea introduced a quota system to limit international adoptions

Later in 1975, South Korea introduced a quota system whereby each adoption organization could apply for an exit permit for 20 children per month to the Scandinavian countries. As SWS only had contact with Sweden, Sweden could "get" 20 children per month. The quota also included elderly, sick and disabled children. In addition to the 20 children, exit permits could be granted for six more children per month for parents who could pick up their children themselves in South Korea. "Six parents may come at the same time but should not travel on the same flight as children with escort hosts."²⁵⁶ In the fall of 1976, this was increased to ten children per month.²⁵⁷

Swedish Embassy and AC pushed for more children

In 1981, the NIA board minutes state that South Korea had abolished the quota system but that the number of children could not exceed the number for 1980.²⁵⁸ In later minutes of the same year, it is stated that the director of SWS reacted strongly against the Swedish embassy in Seoul together with AC visiting the South Korean Ministry of Social Affairs to enable more Korean children to receive exit visas for travel to Sweden than the previously established quota. It was decided that the NIA office

²⁵⁴MINISTRY OF FOREIGN AFFAIRS. Letter from the Embassy in Seoul, October 29, 1975, received by the Ministry on November 12, 1975, R 34 Xko.

²⁵⁵ NIA. *Travel report from trip to Seoul, Korea January 26-30, 1976.*

²⁵⁶ NIA. *Travel report from trip to Seoul, Korea January 26-30, 1976.*

²⁵⁷ NIA. *Travel report from trip to the Republic of Korea and the Philippines October 12-23, 1976.*

²⁵⁸NIA. Minutes 1981-03-31.

In a letter from the NIA to the Swedish Embassy in Seoul, the NIA informed that policy issues regarding the Agreement would be addressed by the contracting parties NIA and SWS. The NIA wrote that inter-country adoptions had always been a sensitive issue for South Korea and it was out of the question that a receiving country such as Sweden could make demands for clarification and planned measures during the ongoing processing in South Korea. Finally, the NIA informed that, in view of the incident, it had decided to remind the AC not to act on policy issues and that it had advised the AC to avoid discussions with anyone other than SWS in Korea unless the NIA had been consulted ⁱⁿ advance.

10.7.3 Children adopted to Sweden have been registered as orphans despite having known parents in life

As described earlier in this chapter, children adopted internationally from South Korea have often been registered in a separate family register where they have been registered as orphans despite having known parents alive.²⁶¹ According to KWS, the system was not created to conceal the child's background, but was a way of creating a legal birth registration for those children who were not registered in the mother's or father's birth register. If the child had known parents, according to the KWS, this information was generally available in the documentation at the KWS and was also submitted to Sweden.²⁶² In the 100 adoption files from South Korea that we examined, all children adopted to Sweden during the period 1980 to 2014 were registered as orphans in a separate family register. This is because the adoption organizations received instructions from the South Korean government in 1976 that all children who were to be adopted internationally were to be registered in a separate family register with the same family origin: Han Yang (Hanyang), see section 10.6.3. Almost all children registered as orphans in their own family register since 1980 have been given the family name Han Yang (46 out of 47). The most common surname is Kim,

²⁵⁹ NIA. Protocol No 2 1981-09-24.

²⁶⁰ MINISTRY OF FOREIGN AFFAIRS. Letter from the NIA to the Swedish Embassy in Seoul, October 6, 1981, dnr 72:243/81, R 34 Xko.

²⁶¹ In the place of the parents' names is written: No record or Unknown.

²⁶² Information provided at a meeting at Korea Welfare Services in Seoul on March 21, 2023.

Lee and Park. In cases where the child is not abandoned, the first and last names of the mother (83%) and father (72%) are most often given.

This means that an adopted person from South Korea may have two documents with different information: a document stating the name of the parents and a document stating that the adopted person is an orphan. The child's parents may be listed in the child's Social Study, even though the child's Extract of Family Register states that they are unknown. One of our interviewees, who was adopted from South Korea in the 1970s, states that the information about the original parents was not included in the documents given to the adoptive parents in connection with the adoption. It was only when the adopted person in adulthood requested the adoption documents from KWS that it emerged that there was information about the mother's name, even though the Swedish file shows that the adopted person was an orphan. According to the South Korean Truth and Reconciliation Commission, all the persons from Sweden who have reported their case to the Commission are registered as orphans, but six out of 22²⁶³ had information about their original parents in their documents²⁶⁴

The Adoption Authority and the AC have not questioned that children with known parents have been registered as orphans

Our review of the archives shows that Swedish authorities, courts and the AC have not questioned South Korea's system of defining even children with known parents as orphans. Already in SOU 1967:57 it was stated:

In the 1961 Act, a child who has no known parents is deemed to be a child whose adoption has been authorized by the person responsible for the child's maintenance.²⁶⁵

We cannot see that the issue has been discussed in connection with authorization or during any of the adoption authority's trips to South Korea. A letter from the Swedish Embassy to the Ministry of Foreign Affairs in 1969 states that for children who have Family registration, guardianship is transferred to the adoptive parents by the birth parents.

²⁶³ 21 of these cases have been reported via SKAN.

²⁶⁴ MFoF. *Travel report South Korea 2023*. Dnr 2023-368, p. 10.

²⁶⁵ SOU 1967:57 *Adoption of foreign children*, p. 38.

In some cases, the child may have 'natural parents' but still not have Family Registration, for example because the parents do not want to know about the child or for other reasons. In these cases, the SWS manager is appointed as guardian when the child is registered. Such registration was required by the Ministry of Health.²⁶⁶ In a 1975 letter from the NIA to the Handens District Court, the NIA describes the system as follows:

According to the information obtained by the Board on the intercountry adoption procedure in the Republic of Korea, the head of the Social Welfare Society is appointed

---²⁶⁷, on a case-by-case basis, to the guardian of children placed abroad for adoption. This applies both to foundlings taken into care by hospitals, orphanages, etc. and to children who have one or both parents alive. Where the child's parents are alive, they relinquish their parental authority and (*the director of the SWS*) is appointed, by special order, as guardian. When the parents relinquish their parental authority over the child, the child is removed from the family register relating to the parents. The child is given its own family register where, in the name of consistency, there is no information on the family relationship. According to the information available to the NIA, this is a technical procedure that has no equivalent in our civil registry. The adoption documents forwarded by the NIA from the Republic of Korea to the foster parents in Sweden have, in the case of children with living parents, this apparent lack of consistency in the information on the documents²⁶⁸

In AC's 1985 authorization application, there is a memorandum in which AC describes that "a family register is established for each child" and that the director of SWS applies for guardianship of the child. As the child's guardian, he can then apply for passports and exit permits, and then hand over custody to the Swedish families.²⁶⁹

The adoption authority and the AC have thus regarded the system of establishing a separate family register where the child is listed as an orphan as a purely administrative procedure and have not problematized the fact that it may have led to children with known parents believing that they were orphans. It is only in 2014 that there is documentation showing that MIA wonders how Swedish authorities and adoptive parents have thought when they received documents with conflicting information, a Social study with information about the family and a Family Registration stating that the child is an orphan.

²⁶⁶MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, November 1, 1969 No 5 R 34.

²⁶⁷ Name omitted by the Adoption Commission.

²⁶⁸ NIA. Letter from NIA to Handens tingsrätt, 1975-06-26, NIA 49:505/75. E1:7.

²⁶⁹ NIA. Memo from AC. *On adoption from Korea*. October 1984, file 60 no 289.

²⁷⁰MIA. E-mail from the MIA to the researcher Tobias Hübinette on July 23, 2014, ref. MA2014-432.

both the AC and the Adoption Authority have been well aware of how family registration worked in South Korea. The AC does not consider family registration to be a problem, even if it does not work exactly as in Sweden. According to AC, the adoption files contain what they should. If there is information in the child report about the parents, that information applies regardless of the system of registering the children in a separate family register. According to the AC, the Korean word *goa*, which translates as orphan, has a wider meaning than orphan. The word *goa* is used for children whose parents have died, children who have been abandoned by their parents, and children who have been given up by their parents if the parents cannot take care of them. It is thus a broader term in Korean and English than in Swedish and is used quite correctly as it is. However, the Truth and Reconciliation Commission of South Korea has found that children have been systematically and erroneously registered as abandoned and found outside the offices of the adoption organizations.²⁷² We have seen examples, through samples of files at the district court, of SWS's social study of the child not being attached to the application for adoption. The district court has therefore in the adoption decision, on the basis of the Korean family registration (*orphan hojuk*), stated the child as an orphan, despite the fact that we can establish in the file at the AC that complete information about the child's parents is included in the documentation from South Korea. We have also seen examples of the adoptive parents stating to the social services that the child is an orphan, despite the fact that information about the child's parents is contained in the SWS's social investigation.

10.7.4 Irregularities in how children have become available for adoption

There are Swedish adoptions where there is no consent to the adoption from the child's parents

We have taken note of testimonies from adoptees in Sweden where, after reunification, it has turned out that the parents have not given their consent to the adoption. In several of these testimonies, it is the grandmother or

²⁷¹ AC. *Comments on draft text South Korea*. Received by the Adoption Commission on May 30, 2024.

²⁷² The Truth and Reconciliation Commission of the Republic of Korea. *Investigation Status and Plans for Addressing Human Rights Violations in Overseas Adoptions*. March 2025, p. 6 ff. and *Truth Investigation into Human Rights Violations in the Intercountry Adoption Process Due to the Governments Systematic Failure in Overview and Management*. Press release 2025-03-26.

grandmother who gave the child up for adoption.²⁷³ Our file review shows that before 1994, the person who gave the child up for adoption varied. It could be an orphanage, a hospital, the police, the father or the mother.

After 1994, in the files we have examined, it has almost always been the mother who gave the child up for adoption. The AC has stated that the parents and society's attitudes forced the adoption. AC has seen cases where the mother signs with the grandmother as a witness, but where the mother tells her child several decades later that she did not want to but was pressured by her parents. The reason was that there was no support in society for single mothers and if they did not receive support from their family, it became impossible to keep the child. AC believes that consent exists from the mother from 1990 onwards. If the consent is not in the file at AC, the consent is with KWS because KWS (former SWS) did not send the consent in the periods where the mother had the right to confidentiality.²⁷⁴

In the book "Stolen Child. My Journey from South Korea and Back", a woman describes how her parents tried to get her and her two sisters, who had been adopted to Sweden without their parents' consent, back.²⁷⁵ The account shows that the CPS contacted the Social Welfare Board in 1970 because the children's father had requested the return of his three daughters, who had been adopted to Sweden in 1968 by two different families. In addition to filing a police report in March 1970, the parents in South Korea had also petitioned the President of South Korea, the Minister of Foreign Affairs and the International Civil Liberty Association, demanding the return of the three daughters. According to the parents, the children disappeared when the father went to serve a short prison sentence. The father's brother was supposed to take care of the family, but he left the children at a police station, claiming they were abandoned by their parents. The CPS searched for the parents for about two weeks before deciding that the children should be given up for international adoption. After less than two and a half months, the girls were placed with two different families in Sweden (without the adoptive parents knowing that there were siblings of the child in Sweden). After the parents filed a police report, the CPS replied that only if the adoptive parents were willing to give up the children could they be returned to their biological parents. CPS contacted the National Board of Health and Welfare and asked them to discuss a possible annulment of the adoptions

²⁷³ See also P. Lundberg, J. Sköld and A. Mahmoud (2022), p. 28 and L. Wool-Rim Sjöblom (2016), p. 102.

²⁷⁴ AC. *Comments on draft text South Korea*. Received by the Adoption Commission on May 30, 2024.

(²⁷⁵) C. Villaume Fägerstrand (2022), *Stolen Child. My journey from Korea and back*.

with the two Swedish families. Two social welfare consultants at the county administrative board were assigned to investigate the case. They visited the families and found that the children were doing well and that the families did not want to return the children to South Korea. The children did not return to South Korea.

A child pronounced dead in hospital

We have received information about an adoption in the 1980s where the child was declared dead in hospital and then adopted to Sweden. According to the adopted person, the original parents state that they were informed in connection with the birth that the child was stillborn. The documents from SWS state that the parents consented to the adoption. When the adopted person went to see their original family, they were shocked because they thought their child had died. The parents state that they never intended to give their child up for adoption.

AC and Swedish authorities have not ensured that there was the necessary consent from the child's parents

As stated earlier, it was the director of the Korean adoption organization who gave consent for the child to be adopted internationally.²⁷⁶ According to the agreement signed between SWS and NIA in 1980, the following documents were to be sent to Sweden:

- Consent to Legal adoption signed by the President of the Society or natural parents as legal guardian transferring his/her authority to the prospective adoptive parents.
- Certificate of Appointment as legal guardian.
- Certificate of Childs Family Register.
- The Release of the Child to the Society for the purpose of adoption signed by the child's mother and/or father, if they are known to the Society.²⁷⁷

²⁷⁶Between 1973 and 2012, SWS gave its consent to the child being fostered in Sweden. During that period, an adoption decision by a court in South Korea was not required before the child left the country, but only an exit permit decision.

²⁷⁷*Agreement between Swedish council for Intercountry adoptions, Sweden and Social Welfare Society Inc, Korea.* Signed on March 18, 1980. R 34 Xko.

We have reviewed the agreement between the AC and SWS from 2006 as well as all agreements from 2013 to 2024. According to the agreement, until 2020, SWS would send the consent of the child's biological parents to the AC. From 2021, the agreement stipulates that SWS should send an affidavit certifying consent to adoption by the biological parents. Despite the fact that the cooperation agreement between Sweden and South Korea until 2020 stipulated that the consent of the parents (if known) should be sent to Sweden, our file review shows that there is no documented consent from the mother in just over 40 percent of the files where the mother's full name is stated in the social investigation of the child. Documented consent from the father was missing in just over 70 percent of the files where his full name was given. There are clear changes over time. In South Korea, consent documents from the parent have been consistently missing both before 1983 and after 2009. In between, there are almost always documented consents from the parent in cases where they are known. There were no documented consents from any person other than the parents, for example a grandmother of the child. In half of the files reviewed, there is consent from SWS to the adoption of the child (Consent to legal adoption/ Statement of release for adoption). In the consent documents that exist, it is clear that the consent relates to adoption to Sweden. This applies to both the consent documents signed by the parents and those signed by the director of SWS. There may be a consent from a parent, even if it has not been documented or forwarded to Sweden.

We have seen in the archive material that Swedish district courts, in applications for adoption of children from South Korea, have asked the Swedish adoption authority how they should deal with the lack of consent documents from the parents. In 1982, the Lindesberg District Court put the following question to the NIA: "Since Swedish law is written in such a way that if the biological parents are known, they must be heard regardless of the fact that (*the representative of SWS*) is the guardian. Can we get a written answer from the NIA on what the procedure is in Korea?" The NIA replied:

According to the information we have on the procedure for international adoptions in the Republic of Korea, the head of the Social Welfare Society, ---,²⁷⁸ is usually appointed guardian of the children placed abroad for adoption by special decision in each case. This applies both to foundlings taken into care in hospitals, orphanages, etc., and to children who have one or both

²⁷⁸Name omitted by the Adoption Commission.

the parents are alive. Where the child's parents are alive, they relinquish their parental authority and ---²⁷⁹are appointed, by special order, as guardians. --- The parents have by this procedure relinquished all responsibility for and rights to the child. In Korea, it is considered a closed case as far as they are concerned. In addition to the fact that in many cases it would be difficult to find the parents of a particular child, it could also be compromising for them to be asked again about the child and the adoption. The parents' decision to surrender their parental authority should, in our view, be seen as an adoption consent in blanco.

As far as we can tell from the archive material, the Swedish Adoption Authority did not ask additional questions about what applies to the parents' consent to adoption in South Korea until AC's application for authorization for South Korea in 2011.²⁸¹ The year before, the MIA, through the Danish Family Agency, had become aware of a report from South Korea's Anti-Corruption and Civil Rights Commission which showed that the mother's consent to adoption was missing in 20 to 30 percent of 193 adoption cases reviewed.²⁸² After the major adoption reform in 2012, adoption organizations must include the mother's consent in the file except for the adoption of children placed in a baby box. The exception is certain information about the original family which is subject to confidentiality in South Korea. In those cases, the KWS writes a separate certificate to support the existence of a signed consent.²⁸³ In MIA's 2013 AC monitoring report, MIA states that both the UN Committee on the Rights of the Child and the ISS/IRC have reported that parents of underage teenage mothers have given consent to adoption without the consent of the teenage mothers.²⁸⁴ In 2017, the MFoF conducted a review of all child reports concerning children adopted from South Korea in 2017. All child reports stated that the mother gave consent three weeks after the birth of the child, however, the date of consent was not always stated in all reports.

²⁷⁹ Name omitted by the Adoption Commission.

²⁸⁰ NIA. Letter from NIA to Lindsberg District Court, April 5, 1982, no. NIA 44:139/82.

²⁸¹ MIA. E-mail from the MIA to the AC of November 7, 2011, ref. 61/572:11/11.

²⁸² Adoption Network. *Adoptionsnaevnets tillsynsresa till Sydkorea 20-28 november 2010 p. 19*, inkom till MIA den 5 maj 2010, dnr 72:348:1/11.

²⁸³ MFoF. Travel report South Korea 2023. Dnr 2023-368, p. 14.

²⁸⁴ MIA. *Inspection report AC 2013*, No 3.3.6:640/13 No 5.

²⁸⁵ MFoF. *Supervision of children reports January 2018, 2017-12-20* dnr 3.3.6:19/18.

Swedish court has challenged consents given on day of birth

In the files we examined and where there was documented consent, in half of the cases the consent was given on the same day or the day after the birth of the child. There are examples of the district court asking the NIA to comment on the formal legal requirements for the mother's consent. In 1989, the Umeå District Court asked the NIA to give its opinion in an adoption case from South Korea where the mother had given consent on the same day as the birth. The District Court referred to the fact that under Chapter 4, 5 FB⁽²⁸⁶⁾ the mother's consent must be obtained after she has recovered sufficiently from the birth. According to the District Court, it was irrelevant, in the examination in the Swedish court, what time may have been prescribed in the child's country of origin with regard to the mother's consent.²⁸⁷ The NIA replied that consent to adoption is given by the child's Korean representative. As the mother had no part in the custody, her consent to adoption was no longer required.²⁸⁸ The NIA's reply to the Court shows that the Swedish adoption authority did not consider it problematic that South Korea did not comply with Swedish, and internationally recognized, requirements for the mother's consent.²⁸⁹ Under Swedish law, it has been a requirement since 1968 that the mother's consent must be obtained after she has recovered from childbirth. The preparatory works to the provision in the Parental Code state that this period should generally not be less than six weeks.²⁹⁰ A letter from the AC in 1986 drew attention to the fact that a commentary on the Parental Code from the Association of Local Authorities contained comments that could affect the AC's work in adoption cases, "particularly if it were well circulated". In the letter, the AC referred to Chapter 4, section 5 of the Civil Code, 5 FB²⁹¹.

According to the AC, the requirement of the mother's reflection period was not new (the provision was introduced in 1968) but that the courts were not always aware of it. According to the AC, the requirement only existed in district court adoptions and only when the mother was the guardian and was the one to give consent to the adoption.²⁹² It was not until the AC's application for authorization for South Korea in 2011 that the MIA asked additional questions to

²⁸⁶ Numer 4 kap. 9 § FB.

²⁸⁷ Prior to 2012, there was no requirement in Korean law for the consent to be given after the child was born.

²⁸⁸ NIA 1989 F1:196 case no 42, 89-04-25 dnr 42 157.

²⁸⁹ The 1967 Council of Europe Convention on the Adoption of Children already required that the mother's consent should not be given until six weeks after the birth of the child.

²⁹⁰ Prop. 1968:114 med förslag till lag om ändrad lydelse av 4 kap. 5 § Parental Code, etc., p. 17.

²⁹¹ Numer 4 kap. 9 § FB.

²⁹² AC. *New book on Swedish child care legislation*. 86-07-08. AC Korr Chile 1974-92.

In its reply to the MIA, the AC replied that South Korean law did not require the mother's consent to be given after the birth, but that this was how it worked in practice. Furthermore, the AC informed that the new law that would enter into force in 2012 meant that the mother's consent to adoption could only be given one week after the birth.²⁹⁴ The AC has stated that consent can legally be given on the same day as the birth also in Sweden if the mother has recovered from the birth. According to the AC, there are Swedish examples of the mother giving consent and the children being collected by the prospective adoptive parents from the maternity hospital immediately after delivery. In both South Korea and Sweden, the mother has the right to withdraw her consent until a court decision is made, which is usually considerably longer than six weeks after delivery²⁹⁵.

Shortcomings in SWS's advice to mothers and risk of moral pressure on maternity homes

The statement submitted by the Swedish Embassy in Seoul in connection with MFoF's request for consultation in 2019 states that it appears that several women have felt pressure to give up their children in connection with receiving counseling at the adoption organizations' maternity homes.²⁹⁶ In the files we reviewed from 2003 onwards, half of the mothers have been at the maternity home "Shelter/Center for unmarried mothers" in Busan. There are a few cases where it appears that the mother has been persuaded to adopt. In one of the cases, it appears that the mother initially wanted to take care of the child, but after she had been in a maternity home and given birth to the child, the parents decided that they could not take care of the child for financial reasons. In another case, it appears that the mother decided on adoption under some influence from her parents.

We have interviewed two women in South Korea whose children were adopted to Sweden in the early 1980s. In one of the interviews, the mother stated that she did not think she received enough information from SWS. She did not receive sufficient information about what the adoption entailed, nor did she receive any information after the adoption, in which country the child was adopted.

²⁹³ MIA. E-mail from the MIA to the AC of November 7, 2011, ref. 61/572:11/11.

²⁹⁴ MIA. Email to the MIA from the AC on November 29, 2011, dnr 61/572:12/19.

²⁹⁵ AC. *Comments on draft text South Korea*. Received by the Adoption Commission on 2024-05-30.

²⁹⁶ MFoF. Email from the Swedish Embassy in Seoul to the MFoF on April 15, 2020, dnr 3.1.2:1149/19 nr 29.

and how the child was doing. She lived for decades without being able to do anything to find or search for her child. The issue of lack of objectivity in the adoption organizations' advice to the mothers has been an issue for the Swedish Adoption Authority in connection with the authority's supervisory mission in 2014 and in the authorization decisions in 2016, 2018 and 2020. In the MIA's mission report from 2014 stands:

Given the stigmatization of unmarried mothers in South Korean society and the various stories we heard during our visit, we wonder how counseling is provided²⁹⁷

In the 2016 authorization decision, MFoF asked additional questions about how the counseling was given to the biological family before they gave the child for adoption. AC replied that according to the regulations, the social worker had to meet the mother at least twice before she could sign the consent for adoption, but that SWS usually met the mother three to four times. SWS asked why she was planning to give up the child and if she knew what support she could get if she kept the child. SWS asked if the father could provide support. SWS provided information about the seven-day reflection period and ensured that the mother understood what the adoption entailed.²⁹⁸ The 2018 authorization decision states that ISS indicated that mothers, particularly unmarried mothers, had difficulty getting their child back from the adoption agency if they regretted their decision to give the child up for adoption.²⁹⁹ However, we have seen a document stating that a father has received his child back from SWS. In the letter, SWS writes that they only want the child to grow up in the best possible way in his father's home and asks AC to inform the Swedish couple about this. SWS would appoint a new child for the Swedish couple.³⁰⁰ According to the AC, adoptions have been canceled due to mothers' regrets. Since 2018, in five cases out of 150, the mother withdrew her consent after the Swedish adoption applicants were informed about the child. In these cases, the consent was withdrawn more than five months after the parent gave consent to adoption³⁰¹

In MFoF's authorization decision 2020, the authority writes that they consider it problematic that adoption organizations give advice

²⁹⁷ MIA. *Report of the MIA inspection mission to South Korea, March 2-8, 2014*, ref. 3.3.7:38:98/14.

²⁹⁸ MIA. Email from the AC to the MIA of November 26, 2015, ref. 3.1.2:512:29/15.

²⁹⁹ MFoF. Email from ISS to MFoF on January 22, 2018, ref. no. 3.1.2:650/17 no. 25-28.

³⁰⁰ AC. Letter from SWS to AC, September 20, 1983. Adoption Center E 4 Corr SWS Korea 1980-84.

³⁰¹ AC. *Comments on test draft South Korea*. Received by the Adoption Commission on 2024-05-30.

parents who are considering giving up a child, but notes that the allegations of lack of objectivity relate to events in the distant past. According to the MFoF, there has been no indication that there is a lack of objectivity in counseling today³⁰².

Consent has been obtained through economic pressure

In SKAN's notification to the South Korean Truth and Reconciliation Commission, they describe how a person adopted to Sweden, in the context of reunification with the original parents in South Korea, learned that the parents did not have the financial means to pay for their premature child's hospital care. SWS offered to pay for the care on the condition that the parents gave the child up for adoption³⁰³.

10.7.5 The process has been fast and children lost from their parents have been adopted to Sweden

As described above, the adoption process was simplified at the end of 1972 so that the child no longer had to be adopted in South Korea before leaving the country. The child could now leave the country after obtaining an exit permit from the Ministry of Health and Social Affairs. The reason for the change was the long waiting times in the South Korean courts, which meant that the children remained in foster care in South Korea for a long time. The shortened processing times meant that there was a risk that the child's background and the child's need for adoption were not thoroughly investigated. Another effect of the adoption not being decided in South Korea was that the announcement that the court would make if the child had unknown parents took place after the child had already left South Korea.³⁰⁴ The archive material shows that the change was discussed between SWS, NIA and

³⁰²MFoF. *Decision on authorization for adoption mediation abroad*, 27 November 2020, dnr 3.1.2:1149/19 nr 26.

³⁰³SKAN. *Application for initiation of investigation concerning human rights violations and incidents of historical significance in the field of international adoption*. Received by the Adoption Commission on 2024-05-14.

³⁰⁴See also Truth And Reconciliation Commission, Republic of Korea. *Status of Investigation and Plans to Address Human Rights Violations in Intercountry Adoptions*. May 2024 and Press Conference on the Decision to Investigate Human Rights Violations in the Intercountry Adoption Process. 2025-03-25.

Ministry of Foreign Affairs and that Sweden had no objection to the change. but "fully" approved it.³⁰⁵

In the 1970s, several cases of parents in South Korea requesting the return of their children who had been adopted internationally came to light.³⁰⁶ We have identified four children who were adopted to Sweden and where the parents have requested the return of their children, see below. In a report from 1970 by a Swedish social consultant who had previously worked for a Save the Children project in Pusan, it is stated that about 70 percent of the children in orphanages have their parents alive and that the methods used to trace the parents are inadequate. According to the consultant, advertising was not enough to ensure that the parents were not unaware of an impending adoption, as many poor people could not afford to buy the newspapers in which the children were wanted. The social worker concluded with:

A detailed account of what is known about the child and its origin and what steps have been taken to find the parents or other relatives should be required from the Swedish side before the child is accepted. The National Board of Health and Welfare should be properly informed of this before an adoption is approved in order to prevent Korean parents from coming afterwards and asking for their children back³⁰⁷

In our interviews with adoptees, we have received several examples of the adoption process in South Korea being very fast and decisions being made in the wrong order. One person adopted to Sweden in the 1970s told us that it took a week from the time they were handed in at a police station until they were selected for international adoption. Another person, also adopted in the 1970s, was found in April and flown to Sweden in June, which means that the processing time in South Korea was two months.

Our file review confirms that the time from finding the child abandoned to appointing Swedish parents for the child has been rapid. For half of the abandoned children, this has happened within 2.5 months of being found. Looking at all children in the file review (not just abandoned children), half of the children were less than four months old when Swedish adoptive parents were appointed. This raises questions about whether the child's background has been sufficiently investigated and

³⁰⁵ National Board of Health and Welfare. Letter from the National Board of Health and Welfare to SWS, October 2, 1972, HB2/14:5, R 34 Xko.

³⁰⁶ See, for example, SHAW(2023), p. 95.

³⁰⁷ National Board of Health and Welfare. *Memorandum concerning certain social conditions in South Korea, which form the background to Swedish adoptions of Korean children*. Received by the National Board of Health and Welfare on June 3, 1970, no. HB 2 13256/67, 194/68.

whether South Korea has made sufficient efforts to find other care solutions for the child within the country.

Decisions have been taken in the wrong order

One of our interviewees told us that the SWS director was appointed as guardian and approved the adoption when the child was in Sweden. Thus, the adopted person left the country even though there was no decision that the child was available for adoption. The Danish Korean Rights Group states that SWS has sent child proposals to Sweden before custody of the child has been transferred to the adoption organization and thus before there is a decision on consent to adoption³⁰⁸

Two children's identities have been mistaken for each other

A woman adopted to Sweden in 1985 discovered when she searched for her origins that she had been confused with another girl at the children's home in South Korea. They were adopted to two different countries with the wrong name, date of birth and background.³⁰⁹ According to AC, this is unusual, they only know of one such case.³¹⁰

A boy lost from his father has been adopted to Sweden

In 1975, SWS contacted NIA about a man's request for the return of his four-year-old son who had been adopted in Sweden in 1974. The boy had been found in June 1974 and the police, who considered him abandoned, had handed him over to the SWS. Five months later he was adopted to Sweden. However, the boy was not abandoned but lived with his aunt while his father worked. When the father found out that the boy was missing, he searched for him and eventually found out that he had been adopted. The father asked SWS to return his son to him and when his request was refused, he turned

³⁰⁸ Information provided at the meeting with the Danish Korean Rights Group in Seoul on March 22, 2023.

³⁰⁹ Madeleine Shim In Young Björk's Sommar & Vinter on Swedish Radio on July 17, 2019 and on December 25, 2019 and A. Arpi. *De kritiska* (2023), p. 106 ff.

³¹⁰ AC. *Comments on draft text South Korea*. Received by the Adoption Commission on 2024-05-30.

to the mass media. Swedish media also reported on the boy. Dagens Nyheter wrote that the case confirmed that the South Korean authorities' control of adoptions was highly inadequate. The article described that there were a large number of adoption agencies in South Korea engaged in the commercial "export" of children and that the police received money from some agencies to hand over abandoned or orphaned children to them. In Masan, an industrial city in the south of the country, the number of 'found' children had increased from 150 to 960 in four years. In some cases, family counselors had even persuaded child-rich poor families to give up their children for adoption to wealthy families in Western Europe or the United States for a fee.³¹¹ In the interview in Dagens Nyheter, the NIA first stated that they could not find a child in Sweden who matched the information about name, age and when it would have come to Sweden. The NIA claimed that the story was 99 percent wrong, stating that the National Board of Health and Welfare had the strongest possible guarantees that mistakes would not be made, including that all "foundlings" would be advertised before adoption in South Korea. According to the NIA, if a child was adopted against the parents' wishes, the best interests of the child must be the primary consideration in any subsequent assessment. However, it later emerged that the boy was in Sweden and the South Korean government requested that the boy be returned, which the Swedish authorities did not agree to. The Swedish Embassy in Seoul considered that it was in the best interests of the boy to remain with the Swedish adoptive parents and not to be sent back to South Korea.³¹² The minutes of the NIA Board state that the NIA was informed by the relevant authorities in Korea that there were no demands for the return of the child and that, in the opinion of the Korean authorities, SWS had acted correctly.⁽³¹³⁾ The boy was not returned to South Korea.

In a later article, Dagens Nyheter wrote that SWS was not responsible for the tragic case of the boy, but that it was the Swedish adoptive parents who put pressure on the South Korean authorities to speed up the paperwork. The NIA took the matter very lightly and concentrated on facilitating and shortening the procedure for Swedish parents. A Swedish diplomat stated:

³¹¹ Dagens Nyheter, *Kommers med Koreabarn. Got lost - was adopted*. Published 1975-10-09.

³¹² NIA. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, October 26, 1976. Received by the NIA on November 7, 1975, NIA 49:1021. E1:7, R 34 Xko.

³¹³ NIA. Minutes 1975:8, 1975-11-20.

⁽³¹⁴⁾ Y. Koo (2021), *The question of Adoption: "Divided" Korea "Neutral" Sweden, and Cold War Geopolitics, 1964-/5*, *The Journal of Asian Studies* Vol. 80, No. 3 2021, p. 563 f. See also Expressen. *The Korean child is allowed to stay in Sweden*. Published 1975-11-07.

It is not the Koreans who ask us to take care of the children, we are the ones who come across them again and again³¹⁵

SWS took action to prevent lost children from being adopted internationally

In a letter from SWS to AC in 1986, SWS wrote that they were sorry that prospective adoptive parents had been told that their adopted child could not travel to Sweden because the child might be lost and not surrendered. SWS wanted to explain in the letter which children might be "recalled". SWS stated that around 200 children a month were reported missing by their parents. Over 100 children had been reunited with their parents in the period May to July. There were five categories of missing children, almost all of which were based on the child being old enough to walk. If a child under the age of one was found, it was assumed that the child was abandoned. Therefore, one criterion for determining whether the child was lost was whether it could walk. However, as a precautionary measure, adoption of all foundlings was delayed for six months³¹⁶.

10.7.6 Incorrect and contradictory information in the child's background information

In meetings with the Association of Adopted Koreans (AKF) and SKAN, and in interviews with adoptees from South Korea, we have received many examples of shortcomings and inaccuracies in the information about their background³¹⁷.

Several of those interviewed by the Commission who were born in the 1960s and 1970s say that the documentation seems to be based on a template that has been used for everyone. Children have repeatedly been found on the steps of a church, at a police station or outside a hospital.³¹⁸ Our review of the files shows a variation in where the child was found. We did not see any exact descriptions that recur. Indication of where the child was found

³¹⁵ Dagens Nyheter. *Haste always carries a risk*. Published 1976-02-05.

³¹⁶ AC. Letter from SWS to AC dated July 24, 1986. AC South Korea. Country binder 1980-1998 E 4 b.

³¹⁷ See also SKAN's notification to the Korean Truth and Reconciliation Commission. *Application for initiation of investigation concerning human rights violations and incidents of historical significance in the field of international adoption*. Submitted to the Adoption Commission on May 14, 2024 and L. Wool-Rim Sjöblom (2016), p. 107.

³¹⁸ Among other things, information provided at a meeting with the Adopted Koreans Association (AKF) on March 25, 2022.

was found in almost 70 percent of the files where the child was reported as abandoned. This mainly concerns adoptions in the 1970s. Most commonly, the child was found on a street in a city. In a few cases, the child was found at/in a hospital, along a roadside/motorway, railway, at a station, outside or in a house or in front of an orphanage. Only 23% of the files examined concerning abandoned children contain information on who found the child. Information on who found the child was most common early on, around 1970. In almost 40% of cases, there is no information in the file about when the child was found.

The people we interviewed have stated that there is also a recurring story that the mother was young and single with no other options than adoption. Our file review shows a variation in terms of the reason for adoption. We have not seen any exact wording that recurs. Our file review shows that before 1988 it was common for parents who already had several children to give up the last child because they did not have the financial means to care for the child. After 1988, the reason is often that the mother is young and unmarried and has no contact with the father. Sometimes it is a young unmarried couple who are unable to care for the child. From 2003 onwards, however, there is a recurring statement that the mother cannot contact the father because his mobile phone does not work/is switched off/is out of order. The fact that there are patterns over time in the reasons for adoption raises questions, but it does not necessarily mean that the descriptions are not accurate. In the vast majority of non-abandoned cases, the age of both the mother and the father is given (87%). The average age of the mother is 26 years (between 15 and 45 years). Average age of the father is 30 years (between 18 and 50 years).

A study by AC shows that the documentation of children's background gradually improved during the 1980s. The survey covered 204 children who came to Sweden in 1980, 1982, 1984 and 1986. In 1980 and 1982, half of the children had unknown mothers, while 27 percent had unknown mothers in 1984 and seven percent in 1986. A similar trend applied to the information on the child's father. According to the report, the children's Social Study becomes more comprehensive and detailed as the years pass.³¹⁹In a 1985 memorandum, the AC states that the children's background varies and is always fully described in the SWS report to the adoptive parents. To obtain further information

³¹⁹AC. *A small study on the background of Korean children.*

This is very difficult and is only possible in connection with the case in question. In some cases the parents are known, but often they are "foundlings".³²⁰In our file review there is no information about any child being abandoned after 1987, which is probably related to the fact that SWS then decided not to give children without at least one known parent for adoption in order to prevent children being adopted inter- nationally against the parents' will.

In a letter from SWS to AC in 1997, it is stated that SWS decided to include only the first names of the mother and father in the children's Child Studies because Korean law protects parents who do not want to be known. If the mother could suddenly be visited by her adopted child, it could break up her current family.³²¹In our file review, the mother's surname is consistently missing from 2008 to 2013. From 2017 onwards, both the mother's first and surname are again given.

Conflicting information in the adoption dossier

In interviews with persons adopted to Sweden, we have received examples of different and incorrect dates of birth in the adoption documents.³²²In one adopted person's document there are three different dates of birth. The adoptee says that this may be because the date of birth is estimated by different people/agencies but that it appears careless and that it indicates that there was a rush in the process. Another explanation for the fact that there may be different birth dates may be that the dates were given according to different calendars (the lunar calendar and the Gregorian calendar).³²³In an adoption carried out to Sweden in 1968, the CPS had changed the birth dates of three siblings adopted to Sweden. The birth date of the oldest child was changed from December 7, 1963 to August 5, 1965.

The child's age was thus reduced by one year and eight months. This was discovered when, in 1989, the adopted person's parents in South Korea showed the registration they had made at the child's birth in 1963 in South Korea.

³²⁰ AC. *On adoption from Korea*. October 1984, file 60, no. 289.

³²¹ AC. Letter from SWS to AC, March 8, 1997. Adoption Center South Korea Country File 1980-1998 E 4 b.

³²² See also SKAN's notification to the Korean Truth and Reconciliation Commission. *Application for initiation of investigation concerning human rights violations and incidents of historical significance in the field of international adoption*. Received by the Adoption Commission on May 14, 2024.

³²³ MFoF, Travel report South Korea 2023, Dnr 2023-368, p. 20.

Korea. Thus, at the age of 26, the adoptee was told that her real age was 28. The age of the middle sibling was reduced by one year and six months and the age of the youngest child was reduced by seven weeks.³²⁴In an adoption carried out in the 1970s to Sweden, the child's age had been reduced by three years.³²⁵In another case, there was a difference of two years between the real year of birth and the documented one.³²⁶

In our file review, there was conflicting information in ten percent of the files. This is usually because different dates of birth are given in different documents. There are also several examples where the date of abandonment is not consistent with other information. In one case, a document states that the child was found abandoned, while other documents state that the mother gave her consent to the adoption when the child was six months old.

According to the AC, the incorrect date of birth is due to SWS estimating the age of the "foundlings".³²⁷However, in the case of the three siblings, SWS had the full name of the eldest child and the child was also registered in his family's court. Despite the fact that the child's date of birth was registered, SWS made a new registration where the child was stated to be an orphan and with an estimated date of birth. Several adoptees believe that the adoption organizations deliberately registered the children as younger than they were in order to make them more adoptable.

A case where SWS falsified information about the child's background

Through our search of the archives, we have become aware of a case from the early 1980s in which SWS falsified information about the child's background and also used a so-called acting mother. The correspondence in the case shows that the director of SWS was not aware that officials within the organization had falsified information about the child. The AC explained their involvement by saying that, due to lack of time, they had been forced to send a number of "in blank" signed certificates of adoption assistance to SWS, which were then used in the case without their knowledge.

³²⁴ C. Villaume Fägerstrand (2022), pp. 11 and 63.

³²⁵ Information provided at a meeting with researcher Tobias Hübinette on January 10, 2024.

³²⁶ Meeting with the Association of Adopted Koreans (AKF) 2022-03-25.

³²⁷ AC. *Comments on draft test South Korea*. Received by the Adoption Commission on 2024-05-30.

³²⁸ NIA. Letter to NIA 1983-02-06. Received by NIA 1983-02-08, ref. 42:46/83, FI:58 Code 42.

10.7.7 Processing of Swedish adoption decisions and Swedish citizenship

In our file review, just under 60 percent of children were under one year of age on arrival in Sweden. However, the age varied from 2.6 months to 7.5 years. Half of the files show that the child came to Sweden as a foster child and that the SWS manager was the child's guardian.

In the few files (1960 to 1970) where it appears that a decision on adoption was made by a court in South Korea, it took an average of six months before the adoption was approved in Sweden. However, the time has varied from just over two months to just under a year.

During the period in which the adoption decision was made in Swedish courts (1973 to 2011), the adoption decision was made on average one year after the child arrived in Sweden. This varies from just over a month to almost four years.

On average, the child has acquired Swedish citizenship one and a half years after arrival in Sweden

In 60 percent of the files we reviewed, it is stated when the child acquired Swedish citizenship. After the Korean decision on adoption has been approved or the Swedish court has decided on adoption, it has on average taken just over five months for the child to acquire Swedish citizenship. However, it varies from 0 days to almost 2.5 years.

This means that, on average, children adopted from South Korea have acquired Swedish citizenship one and a half years after arriving in Sweden. In one interview, however, we received an example of a person who came to Sweden at the age of 11 months gaining Swedish citizenship at the age of 14.

10.7.8 Sweden has cooperated with South Korea despite shortcomings in the adoption process

Sweden has cooperated with South Korea despite the fact that the country has not ratified the 1993 Hague Convention, which is due to the fact that South Korea's adoption process has lacked several important safeguards. When South Korea ratified the UN Convention on the Rights of the Child in 1991, it

against Article 21(a), which requires intercountry adoptions to be decided by competent authorities and after a home country placement has been considered. It was only in 2017 that South Korea withdrew its reservation.

The adoption process has been almost entirely managed by the adoption organizations

During the period 1973 to 2012, the adoption process has in principle been managed entirely by the adoption organizations. The only decision by an authority has been the decision on the exit permit by the Ministry of Health and Welfare. The decision on whether the child is available for adoption has been taken by SWS/KWS until 2021. According to the HCCH³²⁹ Guide to Good Practice, the decision on whether the child is available for adoption should be taken by a competent authority specializing in social, family or children's affairs in the State of origin and not by an accredited body.³³⁰

Overall, the review of the archives concerning South Korea shows that the Swedish authorities and the AC have had great confidence in Sweden's cooperation partners in South Korea. In the NIA's reports on developments in the field of adoption during the period 1993 to 2001, South Korea's organization of international adoptions is described as a model for other countries in the region.³³¹ It was not until 2005, when the NIA was transformed into the MIA, that the Swedish authorities asked more critical questions about South Korea's adoption process. In the 2011 authorization decision, the AC stated that the decision that the child is available for intercountry adoption is made by the Ministry of Health and Welfare.

However, the MIA found that there was no clear formal decision by the authorities that the child was available for intercountry adoption³³², which is a requirement under both the CRC and the 1993 Hague Convention. The MIA also found it problematic that the authorities' supervision of adoption organizations was weak. In the MFoF's authorization decision for South Korea in 2020, the authority assessed that the Ministry

³²⁹ The Hague Conference on Private International Law.

³³⁰ HCCH (2008), *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention. Guide to Good Practice Guide No.1.*, p. 489.

³³¹ NIA. *Development of intercountry adoption activities in Sweden*, annex to annual report 1993/94, 1994/95, 1995/96, 1997 and 2001.

³³² MIA. E-mail from AC to MIA of November 7, 2011, dnr 6:572:15/11.

³³³ MIA. *Report of the MIA inspection mission to South Korea, March 2-8, 2014*, ref. 3.3.7:38:98/14.

of Health and Welfare and the court's review met the requirements that adoption can only take place if competent authorities have determined that the child is adoptable.³³⁴In 2021, South Korea decided that local authorities should determine that the child is in need of adoption.

The Swedish Adoption Authority has reviewed South Korea's compliance with the subsidiarity principle

As noted earlier in this chapter, South Korea has been criticized for not completing its intercountry adoption program despite its tremendous economic growth from the 1960s onwards. How South Korea applies the principle of subsidiarity has also been a recurring issue for the Swedish Adoption Authority since the 1970s.

In the NIA's 1995 report on developments in the field of adoption, the agency writes that the NIA visited Korea several times during the period 1973 to 1979 and that they discussed how domestic adoptions in the NIA's 2003 annual report, the NIA states that the cost of adoptions from Korea has increased significantly in recent years and that the country is now one of the countries with the highest costs. MIA writes that, given the country's development, more children could be adopted nationally, but development is slow. According to the NIA, there is an ongoing discussion in Sweden and internationally about how receiving countries can influence successful countries of origin to take a more open approach to national adoptions.³³⁶The following year, the NIA reiterates that more children should be able to be adopted nationally, but that traditional values are slowing down development. Furthermore, the NIA writes that the activities for abandoned children have become dependent on the income from adoption activities.³³⁷In the 2005 annual report, the MIA writes that Korea has been one of the largest adoption countries for Sweden since the 1960s, despite the fact that Korea has long had the goal of ceasing inter-country adoptions. MIA notes that the socio-economic situation in Korea has changed since adoptions from Korea started in the 1950s and that Korea now has such a good economy

³³⁴MFoF. *Decision on authorization for adoption mediation abroad*, 27 November 2020, dnr 3.1.2:1149/19 nr 26.

³³⁵NIA. *Report on developments in the field of adoption in some countries from which children have come to Sweden for adoption*, NIA Annual Report, Year 1994/95.

³³⁶NIA. Annual Report 2003.

³³⁷NIA. Annual report 2004.

critics believe that orphaned and abandoned children should be able to be cared for in the country. According to the MIA, domestic adoptions are increasing but there is still resistance as blood ties are very important in Korea. Single mothers and their children can be severely stigmatized in Korean society. The MIA states that it will review the adoption agreement with South Korea in the autumn.³³⁸ During the MIA's visit to South Korea in 2007, one of the aims was to investigate how South Korea applied the principle of subsidiarity.³³⁹ The MIA's monitoring report on AC 2007 states that the situation for single mothers remains difficult in South Korea and that there is still resistance in Korean culture to national adoptions, but that Korean authorities and organizations are working to increase national adoptions. Many children are still left in institutions and there are not many national alternatives.³⁴⁰ The MIA's 2011 monitoring report on AC states that the policy in South Korea is that children should stay in the country and according to AC more children are placed in national than international adoption. However, many children remain in orphanages³⁴¹.

In 2014, SWS received a warning from the Ministry of Health and Welfare for failing to look for national solutions for children for a sufficiently long time.³⁴² The MIA's report from its 2014 inspection visit states that it is unclear how the principle of subsidiarity is applied. If SWS has not found a domestic adoptive family within five months, it must report this to the Ministry of Health and Welfare. The Ministry assesses whether SWS has done enough to find a Korean family. However, there is no clear formal decision by the authorities that the child is available for intercountry adoption. In order for South Korea to improve the application of the principle of subsidiarity, it is important that the development of adoption activities strengthens the possibilities for unmarried mothers to keep their children. It is not only the pressure from the family and society in general, but also government policy that leads to single mothers leaving their children. Furthermore, MIA writes that the state is working to take control of the adoption process to an extent that it has not previously had, but that there is some tension between the authorities and adoption organizations. According to MIA

³³⁸ MIA. *Annual report 2005*.

³³⁹ MIA. *Report of the MIA mission to South Korea, September 9-15, 2007*, No 40.

³⁴⁰ MIA. *Inspection report 2007*, 2007-12-21 dnr 67:705/07.

³⁴¹ MIA. *Inspection report AC 2011*, 2012-01-23 dnr 67:680/11 nr 8.

³⁴² MFoF. *Decision on authorization for adoption mediation abroad*, 27 November 2020, dnr 3.1.2:1149/19 nr 26.

it is not certain that the authorities will succeed in enforcing their rules and MIA intends to follow developments in the adoption process in South Korea closely during the authorization period.³⁴³ In 2017, MFoF conducted a review of all child reports concerning children adopted from South Korea in 2017. There was no information on how SWS explored the possibilities for the child to be taken into care nationally in any of the reviewed child reports.³⁴⁴

In the MFoF's authorization decision for South Korea in 2020, the authority writes that the information received by the MFoF about shortcomings in the application of the principle of subsidiarity is general and has not been confirmed in the further investigation. The latest legislative changes have given the South Korean authorities better insight into the work of the organizations than before. The National Child Research Center is of the opinion that the principle of subsidiarity is applied today. The MFoF considers that there is no evidence of such deficiencies in the application of the principle that authorization cannot be granted.³⁴⁵ In the latest authorization decision of 2024, the MFoF assesses that the South Korean regulatory framework regarding the principle of subsidiarity takes into account the fundamental principles of intercountry adoption in both the Children's Convention and the 1993 Hague Convention.³⁴⁶

In our file review, it is not clear from any of the files what measures SWS/KWS took to seek a national solution prior to international adoption. However, this does not mean that this has not happened.

10.7.9 Economic drivers in adoptions to Sweden

A memorandum from a Swedish social consultant who previously worked for a project through Save the Children in Pusan, describes that the orphanages in South Korea at the end of the 1960s were financed to about 20 percent by the Korean authorities and the rest by foreign aid organizations. The memorandum describes that the orphanage owners have had a direct financial interest in taking in children, which was necessary to obtain funds for the operating costs of the home. The providers have not always been suitable for their task but have considered

³⁴³ MIA. *Report of the MIA inspection mission to South Korea, March 2-8, 2014*, ref. 3.3.7:38:98/14.

³⁴⁴ MFoF. *Supervision of children reports January 2018, 2017-12-20* dnr 3.3.6:19/18.

³⁴⁵ MFoF. *Decision on authorization for adoption mediation abroad*, 27 November 2020, dnr 3.1.2:1149/19 nr 26.

³⁴⁶ MFoF. *Decision on authorization for international adoption mediation abroad*. 2024-03-20. Dnr AD 2021-1743.

³⁴⁷An article in Dagens Nyheter in 1976 described how adoptions from South Korea had become so widespread that the demand for children was greater than the supply. Competition for available children arose and there was corruption in the form of

of money to intermediaries at all levels. The private adoption agencies fought over the children and looked for every possible way to take care of those who were available. As a result, individual police officers who had to take care of foundlings were paid by orphanages to hand over the child to that particular orphanage, and then the orphanage was paid to hand over the child to a particular adoption agency. Children's hospitals also received money from the adoption agencies through agreements in order to pick up children there regularly. According to the article, one reason why South Korea allowed adoption agencies to operate so freely was that the country received much-needed foreign currency through payments from foreign adoptive parents. For the 600 children adopted by Sweden in 1974 alone, more than SEK 2 million was received by South Korea in the form of foreign currency. This explanation had been given by a number of social workers, church organizations and charities involved in adoptions in South Korea.³⁴⁸"

Corruption within SWS

A memorandum from the Swedish Embassy in Seoul in 1989 states that the former chairman of SWS mismanaged the organization, embezzled a lot of funds, employed relatives and friends in various positions, and used intimidation against employees, including the trade unionists in the organization. Social workers working with families leaving children for adoption felt unsatisfied in their work due to the fact that the former chairman had run the organization like a businessman with the motto "in with many children" without taking into account social aspects for the families. According to the Embassy, no proper audit had been carried out at SWS, although the person responsible for adoption issues at the Ministry of Social Affairs was authorized to carry out

³⁴⁷National Board of Health and Welfare. *Memorandum concerning certain social conditions in South Korea, which form the background to Swedish adoptions of Korean children*. Received by the National Board of Health and Welfare on June 3, 1970 dnr HB 2 13256/67, 194/68.

³⁴⁸Dagens Nyheter. *Social control important*. Published 1976-02-05.

audit. However, the embassy suspected that corruption also existed at this level. The AC's country manager and the AC's chairman of the board, together with the consultancy firm Sinova, had held in-depth discussions with the temporary chairman and staff at SWS in order to get the work going again. The aim was to "create good conditions for continued adoptions to Sweden for as long as possible". When asked by the Swedish Embassy how it was possible for a representative of Swedish adoption interests to have so much control over a Korean authority, the AC country officer replied that Sweden had a good reputation in South Korea and was therefore trusted. She also mentioned that American adoption organizations did not seem to be interested in getting involved in the problems of Korean adoption organizations.³⁴⁹ According to a document we have seen at the AC, the embassy's report aroused strong reactions at the NIA. The NIA found AC's actions inappropriate and wondered how AC could spend so much money on activities at SWS when adoptions were running out and when AC could count on so few adoptions. NIA had also asked about the seminar organized by Sinova. AC replied that the consultants from Sinova had given their services free of charge. However, the NIA wanted to talk to AC about this.³⁵⁰ During a visit to the NIA, AC informed about the problems at SWS and that SWS had increased the adoption fee by almost SEK 10 000 but that they had later been informed by the South Korean Ministry of Social Affairs that they would keep the previous fee. According to AC, American adoption organizations had then immediately replaced the difference with a donation per adoption. According to AC, it was not unusual for 'voluntary' donations to children's homes to be made at the time of adoption. This was the case, for example, with AC's private orphanage contacts in Bogota and with Catholic orphanages in Sri Lanka. The AC announced that they intended to follow the example of the Americans in Korea, which meant an increased cost of SEK 2 000 per adoption in 1991 and SEK 4 000 in 1992. If the need for donation were to rise above SEK 5 000, AC would reconsider the decision³⁵¹.

During the 1990s, the cost of adoptions from South Korea increased significantly³⁵²

³⁴⁹NIA. Embassy of Sweden in Seoul. *Memo Adoptions from Korea to Sweden*, 1990-01-30. NIA 1990 FI:216, R 34 Xko.

³⁵⁰ AC. Official note 1990-04-12. Adoption Center South Korea Country File 1980-1998 E 4 b.

³⁵¹ NIA. Minutes of December 12, 1991, No Ad 69:736/91.

³⁵²NIA. Minutes 1993/94 No 7 1994-02-23.

The high adoption fees have been explained by the high cost situation in South Korea

The high adoption fees in South Korea have been a recurring issue for the Swedish authorities since the 1970s.

In 1966, CPS charged a fee of \$130 per intercountry adoption³⁵³ and in 1975 SWS charged a fee of \$350 per intercountry adoption.³⁵⁴ In 1975, the Swedish Ambassador in Seoul wrote to the Ministry of Foreign Affairs that he could not judge whether the costs calculated by the director of SWS were reasonable. According to the Ambassador, there was probably not much that could be done about it, even if SWS had a larger staff organization than would be required in Sweden. He pointed out, however, that in his conversation with the director he had emphasized that in Sweden, as in Korea, people were suspicious when it expenses because it is a basic principle that no one should make money from adoption activities. The manager had replied that SWS did not charge more than was absolutely necessary³⁵⁵.

In 1977, the Ministry of Foreign Affairs again asked about the cost of the adoption procedure in South Korea. The Swedish Embassy replied that the cost was 700 USD.³⁵⁶ When the Ministry of Foreign Affairs asked whether there were any profit interests in the various stages of the adoption procedure, the Embassy replied that, as far as they could judge, there were no profit interests and that the authorities' control appeared to be very good.

In 2003, SWS's adoption fee was USD 7 500, compared with ESS's fee of USD 7 200, KSS's fee of USD 8 000 and Holt's fee of USD 6 600.³⁵⁸ In 2005, a letter was sent to MIA requesting that MIA withdraw from the agreement with SWS. The letter stated, inter alia, that continuing the adoption exchange was contrary to the Convention on the Rights of the Child and the ethical principles set out in SOU 2003:49 and Bill 2003/04:131.

³⁵³ SOU 1967:57 *Adoption of foreign children*, p. 110.

³⁵⁴ STATE DEPARTMENT. Letter from SWS, February 28, 1975. *Details of necessary cost for intercountry adoption*. R 34 Xko.

³⁵⁵ MINISTRY OF FOREIGN AFFAIRS. Letter from the Swedish Embassy in Seoul to the Ministry of Foreign Affairs, *Adoption issue in South Korea*, January 30, 1975, R 34 Xko.

³⁵⁶ The report of the National Social Appeals Board shows that in 1976 Holt Childrens Services charged an adoption fee of DKK 7 500.

³⁵⁷ MINISTRY OF FOREIGN AFFAIRS. Embassy of Sweden Seoul. *The international adoption business*, November 3, 1977, received by the Ministry on November 14, 1976, No. 76 127, R 34 Xko.

³⁵⁸ Information provided to the Adoption Commission by Norway's inquiry into international adoption activities on October 4, 2024.

to take care of children. However, it must be questioned whether it is ethically acceptable for international adoptions to pay for social activities in a country with a high social and economic infrastructure.³⁵⁹ Following the letter, the MIA requested an opinion from the Swedish Embassy in Seoul on continued adoption cooperation with Korea. In the letter, MIA refers to the statements made by the Swedish government³⁶⁰ regarding the risks of the adoption business providing so much benefit that a dependency on the income is created in the country of origin³⁶¹

During the 2007 MIA mission to South Korea, one of the purposes of the mission was to take a closer look at what was included in the costs and fees of adoption agencies. SWS had raised its fees substantially in 2001 to meet the increased costs in the country. Since then, the fee had remained more or less the same. The MIA concluded that the bulk of the fee was spent on orphanage and foster care costs. South Korea is a developed and modern country with good standards and a relatively high cost base, which affects adoption activities in the form of higher fees for the care of children and the operation of the activities. In the report, MIA refers to a report by ISS in which ISS states that adoptive parents pay costs that should be covered by the state.³⁶² MIA's 2007 supervision report on AC states that MIA carried out a special review of the parents' costs as these costs have long been under discussion. The review did not lead to any further action.³⁶³ Also during the 2014 MIA mission, one of the main issues was how "the relatively high adoption costs³⁶⁴ were justified". MIA found that there are no guidelines on how much adoption agencies are entitled to charge for intercountry adoption mediation. There is a big difference between intercountry and national adoption, which SWS said was because the process for intercountry adoption was longer. The state pays for the care of the children but according to SWS the real cost was not covered. According to the SWS, the adoption fee goes to adoption activities. However, according to MIA, the high adoption fees raised questions and MIA considered it urgent that the authorities regulate the costs.

³⁵⁹ Letter to MIA of April 7, 2005, received by MIA on April 12, 2005, ref. 49:230:2/05.

³⁶⁰ Prop. 2003/04:131 *International adoption issues*.

³⁶¹ MIA. Letter from the MIA to the Swedish Embassy in Seoul of October 19, 2005, ref. 61:583:2/05.

³⁶² MIA. *Report of the MIA mission to South Korea, September 9-15, 2007*, No 40.

³⁶³ MIA. *Inspection report 2007*, 2007-12-21 dnr 67:705/07.

³⁶⁴ In 2012, the cost of care provided by SWS was SEK 113 725.

adoption through guidelines on the fees that adoption organizations were entitled to charge.³⁶⁵

In the MFoF's authorization decision for South Korea in 2020, the authority noted that the information about high and arbitrary adoption fees related to events that occurred before 2014 and did not concern SWS. The MFoF assessed that the authorities in South Korea had the necessary transparency in the work of the adoption organizations and that SWS did not conduct adoption activities for profit.³⁶⁶ During the MFoF's inspection visit in 2023, the authority found that the international adoptions generated ten times more income for the adoption organizations than the national adoptions. Although the compensation charged by the organization for international adoptions is reasonable and does not imply that any financial gain or the possibility for the child to grow up in the country is not taken into account in the individual case, according to MFoF, this may nevertheless constitute an incentive for the adoption organizations to promote international adoptions instead of trying to find a long-term solution for the child in South Korea.

³⁶⁵ MIA. *Report of the MIA inspection mission to South Korea, March 2-8, 2014*, ref. 3.3.7:38-98/14.

³⁶⁶ MFoF. *Decision on authorization for adoption mediation abroad*, 27 November 2020, dnr 3.1.2:1149/19 nr 26.

³⁶⁷ MFoF, *Travel report South Korea 2023*, Dnr 2023-368, p. 22.

11 Private and individual adoptions

11.1 Introduction

11.1.1 The concept of private and individual adoption

Since the late 1960s, adoptions of foreign children to Sweden have, in the vast majority of cases, been mediated by an authority or authorized adoption organization. This has also been the main rule. An adoption that is not mediated by an authority or authorized adoption organization is called a private or individual adoption.

The term private adoption was mainly used until 1985 and referred to adoptions that took place alongside authorities or authorized organizations. It also occurred that those who adopted privately lacked consent for adoption from the social welfare board. The term private adoption was established in 1985 in connection with the introduction of a requirement for permission from the Social Welfare Board to adopt a child without the assistance of an authorized adoption organization. After 1985, both terms exist and are used and it is not always clear what is meant.

In the early 1980s, the NIA made an attempt to define different types of private adoptions (or individual adoptions as they called them). The NIA divided them into four categories:

- Genuinely private adoptions where the applicants have personal contact with a child's representative without an intermediary.
- Private adoptions where the applicants themselves contact an institution in the child's country of origin without an intermediary and, in direct contact with the institution, carry out an adoption themselves.
- Privately mediated adoptions with an intermediary where the contact between the applicants and the child is mediated by a private person

in either the child's or the applicants' country of origin and where the adoption is carried out in a proper and legal manner.

- Privately brokered adoptions with an intermediary where the applicants pay an excessive amount of money and/or receive incorrect documents.

The last category was the most problematic according to the NIA, but the first two categories could also be risky despite going through "good personal contacts". For example, there was a risk that the processing of adoptions was done in an incompetent way.

The NIA estimated that only 7-10% of the adoptions carried out outside the authorized organizations in 1981 were to be considered "genuinely private", i.e. the first category.¹

In our review below, we use the term (private or individual adoptions) used by different actors at different times to describe or take action on private or individual adoptions.

11.1.2 How many private and individual adoptions have taken place?

It is not easy to get an overall picture of the number of private and individual adoptions carried out. No comprehensive or consistent statistics on private and individual adoptions have been kept over time.

One way to calculate the total number of private and individual adoptions that have been carried out to Sweden from the mid-20th century until today is to start with the total number of international adoptions and exclude the adoptions that have been carried out through the NIA and authorized adoption organizations. A figure that is usually given is that 60,000 foreign adoptions have been carried out to Sweden during this period.² Of these, approximately 42,500 adoptions have been carried out during the period 1969-2021 through the National Board of Health and Welfare and the NIA and through the adoption organizations authorized by the NIA for

¹ NIA, Memorandum on adoptions brokered outside authorized organizations, 1981-11-05, p. 3.

² However, it is unclear where this figure comes from.

Private and individual adoptions would, on the basis of such a calculation, amount to a total of 17 500 adoptions from the middle of the 20th century onwards.⁴ However, it is not possible to say how they are divided between private and individual adoptions, since no such statistics have been kept. What we do know is that all adoptions carried out before 1965 are by definition private, as the State had no responsibility for adoptions at that time.

For the period 1969-2021, statistics are available from Statistics Sweden for children born outside the Nordic countries who immigrated for the purpose of adoption. The statistics are based on population registration statistics and include children adopted both through adoption organizations and through private and individual adoptions. According to these statistics, a total of 54,368 adoptions were carried out during the period.⁵ Based on a compilation of available statistics, approximately 42,550 adoptions were carried out during the period 1969-2021 through the NIA and the authorized adoption organizations.⁶ The remaining approximately 11,800 adoptions would thus be private and individual adoptions for the period 1969-2021. As mentioned, we cannot comment on the distribution between private and individual adoptions because no such disaggregated statistics have been kept. However, we can assume that the number of private adoptions decreases from 1985 onwards when the requirements for the social welfare board's approval of the agency route are introduced. Adoptions that are subsequently carried out alongside adoption organizations are increasingly individual adoptions. Today, we no longer speak of private adoptions, only the term individual adoptions is used.

Figure 11.1 shows the development of private and individual adoptions, respectively adoptions through the NIA and the authorized organizations, over the period 1971-2021.

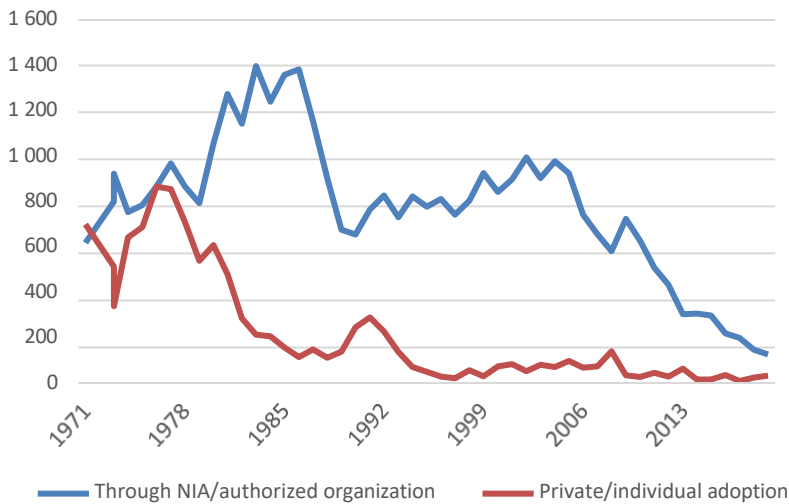
³The figure is based on a compilation of statistics from Statistics Sweden on non-Nordic-born children who immigrated for the purpose of adoption 1969-2021, information from the adoption organizations (total number of adoptions carried out during the period in which each organization was active), statistics from the MIA on adopted children arriving through authorized adoption organizations 1981-2008, Report from the activities of the mediation committee 1973-1979 (total number of children placed through the NIA's mediation committee and AC) and material from AC "Foreign adopted children in Sweden 1964-1980". As the statistics are not exact in some of the sources, the figures should be treated with some caution and seen as an estimate.

⁴MFoF, statistics from Statistics Sweden on non-Nordic born children who immigrated for the purpose of adoption. The statistics include children adopted both via adoption organizations and via individual adoptions.

⁵MFoF, statistics from Statistics Sweden on non-Nordic born children who immigrated for adoption 1969-2021.

⁶See note 4.

Figure 11.1 Trends in private and individual adoptions and adoptions through NIAs and authorized adoption organizations 1971-2019



Source: 1971-75 Adoption Center (via MFoF), 1976-2002, NIA (National Archives), 2003-2019, MFoF.

In a compilation for the period 1964-1980, the AC has estimated the number of adoptions carried out via the National Board of Health and Welfare and the NIA, through the AC and as private adoptions, see Table 11.1 below.

Table 11.1 Number of foreign adopted children in Sweden 1964-1980 and how the adoption was arranged

	Adoptions through the National Board of Health and Welfare and NIA	Adoptions through AC	Private adoptions
1964	-	-	-
1965	66	-	87*
1966	87	-	
1967	213	-	
1968	75	-	
1969	261	-	
1970	465	80 (ca)	Approx. 600**
1971	470	175 (ca)	150
1972	600	220 (ca)	200***
1973	704	235 (ca)	400
1974	375	400	600
1975	272	533	800****
1976	282	609	905
1977	383	606	883
1978	353	598	796
1979	159	651	557
1980	84	765	658
In total	4 849	4 872 (ca)	6 636

Source: Adoption Center.

* Estimated figure for 1964-1965.

** Estimated figure for 1965-1970.

*** Estimate of AC for 1971 and 1972 based on SCB statistics for NIA of children 0-9 years who immigrated as a 'separate person'.

**** "Clean estimate" of AC for 1973, 1974 and 1975.

At the beginning of the 1980s, private adoptions still accounted for a relatively large share of total adoptions, see Table 11.2 below.

Table 11.2 Number and proportion of private and individual adoptions out of the total number of international adoptions to Sweden 1981-1989

Year	Adoption through adoption agencies	Private and single adoptions	Total number of adoptions	Share of private and individual adoptions
1981	1 271	518	1 789	29 %
1982	1 143	331	1 474	23 %
1983	1 404	247	1 651	15 %
1984	1 279	214	1 493	14 %
1985	1 393	167	1 560	11 %
1986	1 354	188	1 542	12 %
1987	1 142	213	1 355	16 %
1988	920	155	1 075	14 %
1989	701	182	883	21 %
In total	10 607	2 215	12 822	17 %

Source: MFoF, statistics from Statistics Sweden on non-Nordic born children who immigrated for the purpose of adoption and statistics from MIA on adopted children arriving through authorized adoption organizations.

The 1990s also saw a relatively high proportion of private and individual adoptions. In 1993, private and individual adoptions amounted to about 20 percent of the total number of adoptions.

Private and individual adoptions were more common from some countries, such as Colombia, Ethiopia, India, Poland, Sri Lanka and Thailand.

11.1.3 Reasons behind private and individual adoptions

There are several reasons why private and individual adoptions have taken place over time.

The first wave of foreign adoptions to Sweden that started in the 1960s was by nature private. There was no authority or organization that had a responsibility to mediate adoptions. At this time, it was mainly Swedes who had lived and worked abroad who adopted foreign children on their own. Some of them also helped other Swedes who wanted to adopt abroad.

In the second half of the 1960s, the state, through the National Board of Health and Welfare, was given responsibility for providing support and information to Swedes wishing to adopt abroad. In 1969, two Swedish interest groups were also formed

for adoption: the Adoption Center (AC) and the Indo-Swedish Association. The NIA was established in 1973 with the responsibility of facilitating adoptions in cooperation with the AC. This meant that foreign adoptions would be carried out in an orderly and controlled manner. Despite this, many Swedes chose to adopt on their own until the early 1990s. There were several reasons for this, for example that they thought the waiting times for adoption were too long, that it cost too much to adopt through the adoption organizations or that, for various reasons, they had not received mediation assistance through the NIA or any of the adoption organizations. Another reason was that, over time, the children available for adoption were increasingly older and had various types of disabilities. However, many Swedes wanted small and healthy children and therefore chose to take alternative routes to find such children for adoption.

A further reason for private adoption is that persons who are resident in Sweden but who have their origin or other connection with another country choose to adopt a child from that country through private adoption.⁷ Adoption of a relative's child can also be carried out as a private adoption in those countries that allow such adoptions.

11.1.4 Individual actors who mediated adoptions

There is a lack of compiled information on individual actors who have participated in various ways in international adoption activities, for how long they have been active and how many children have come to Sweden through them.

Authorization to place a child for adoption

Under Chapter 7. 54 of the 1960 Child Care Act (1960:97), BvL, a private person or association was not permitted to conduct brokerage activities concerning foster children without permission from the Social Welfare Board. The penalty for violation of the provision was a daily fine or imprisonment for a maximum of six months, Chapter 13, section 88 of the BvL. The prerequisite for the public prosecutor to bring charges was that the relevant child welfare board/social central board or supervisory authority notified the prosecution, Chapter 13, section 94 of the BvL. 94 BvL. In the preparatory works to the provision

⁷Prop. 1996/97:91 *International adoption issues*, p. 63.

it is clear that the intention was not to prevent an individual or an association from occasionally placing foster children without being authorized to do so. The provision only applied to what could be described as an agency activity. Furthermore, the preparatory works state that the National Board of Health and Welfare would only grant permission for such mediation, carried out by an individual or by an association or foundation, which took place without compensation in any form. Authorization could only be granted to an individual in exceptional cases⁸.

In consultation with the National Board of Health and Welfare, the NIA had stated that it should be permitted to act as an agent or intermediary once or a few times. In connection with a prosecution for unlawful placement of foster children, the National Board of Health and Welfare had pointed out that a continuous activity using established channels was, however, undoubtedly a placement activity requiring a license. That prosecution led to the imposition of a small fine⁹.

According to the National Board of Health and Welfare, the legal effects of Chapter 7. 54 BvL was limited to Sweden. The National Board of Health and Welfare could thus not prevent persons resident abroad from placing foster children or prospective adoptive children with persons resident in Sweden without the permission of the National Board of Health and Welfare.¹⁰ This means that individuals, such as missionaries resident in another country, did not need permission from the National Board of Health and Welfare to place children with persons resident in Sweden. This was remedied when the requirement for authorization for intermediary bodies was introduced in 1979. After that, individuals living in another country were not allowed to arrange adoptions without authorization.

Private individuals and intermediation

In the 1960s, private individuals began to help place foreign children with Swedes. This was done by people working in Swedish aid organizations or accompanying people working for Swedish companies abroad. In most cases, this was not a large-scale activity, but there were exceptions.

⁸Prop. 1960:10, Cit. from Prop. 1978/79:108 *on the organization of international adoption activities*, p. 11.

⁹Prop. 1978/79:108, s. 11.

¹⁰AC. Letter from Greta Svedberg to the President of AC. *Concerning the adoption of Ethiopian children*. 1973-06-12. In AC's archive box "Adoption Center Ethiopia Country binder E4a, 1973-83".

In some cases, intermediation developed into a more organized activity through the formation of a non-profit association, such as AC.

Examples of countries where private individuals have helped with private adoptions include Ethiopia, India and Sri Lanka.

Mediation through Swedish missionaries

In several countries, missionaries from different Christian denominations have acted as intermediaries for international adoptions. In Africa, and particularly Ethiopia, adoption activities were started early on by Swedish missionaries working in the country. Some missionaries adopted children themselves and also helped friends and relatives in Sweden to adopt. A large number of private and individual adoptions from Africa took place. Another example where Swedish missionaries mediated adoptions is Guatemala¹¹.

The Pentecostal movement itself has commissioned a survey of how international adoptions have been handled within the framework of Swedish Pentecostal congregations' international activities, which was presented in a report in November 2021. The survey covers 13 countries where Swedish Pentecostal missions have run orphanages and around 200 children who were adopted by missionaries and aid workers during the 1960s and 1980s. These were mainly children from Honduras, Ethiopia and Bolivia. According to the report, with the exception of Honduras, the missionaries have arranged adoptions on their own, without a mandate from the home congregation. In contrast, the adoptions were usually arranged for members of churches in Sweden. In Honduras, the mission ran an orphanage that had been set up with the intention of taking in children and giving them a chance to grow up in an adoptive family. The report shows that mediation continued in three countries (Brazil, Honduras and Peru) in the 1980s¹², i.e. after the introduction of a requirement for mediation permits for residents of other countries.

⁽¹¹⁾C. Lindgren (2010) *International adoption in Sweden. Policy and practice from the sixties to the nineties*, pp. 105 and 122 ff.

⁽¹²⁾D. Lindberg (2021), *International adoptions in the Pentecostal movement*, p. 15.

11.2 Problems with private adoptions in the 1970s lead to organizational change and new regulation

Half of the adoptions carried out in the 1970s were private adoptions

Interest in international adoption grew rapidly during the 1970s. The NIA was established within the National Board of Health and Welfare in 1973 with responsibility for arranging adoptions and negotiating agreements with other countries. Cooperation agreements were in place with Greece and South Korea and later agreements were signed with the Philippines and Ecuador. However, the State and the NIA had no responsibility for finding children available for adoption. Instead, through an agreement with the NIA, AC was given the role of establishing informal cooperation with non-contracting countries on the placement of children.

The NIA and the AC handled a large number of applications in the so-called mediation committee. However, the number of Swedish applicants exceeded the number of children available for adoption and waiting times for adoption continued to be long. During the period 1973-1979, about 9,000 applications were processed by the committee and about 5,400 children were placed. Many people therefore chose to take matters into their own hands and go alongside the NIA and AC to find a child to adopt. In 1976, just over 800 children were placed by the NIA and AC while 900 children were placed through other channels. The NIA did not have any insight into the adoptions that went alongside the NIA and AC.¹³

Private adoptions were seen as problematic for several reasons. One problem was that individuals could be exposed to rogue intermediaries abroad, which could have consequences for the child, the applicants and for Swedish adoption activities. Another problem was that there were Swedes in Sweden and abroad who placed children without permission, which was prohibited under Swedish law. A further problem was that the best interests of the child could not be ensured in adoptions because there was no selection of applicants. There was also concern that private adoptions and the actions of individual Swedes abroad could damage Sweden's reputation as an adoption country. In this context, it was problematic that the NIA did not have an overview of private adoptions¹⁴

¹³ C. Lindgren (2010), pp. 32-35, 40, 42.

⁽¹⁴⁾ C. Lindgren (2010), pp. 42-43.

Trials show extensive private mediation from some countries

As early as 1973-74, the NIA was aware of child placement by private actors both in Sweden and abroad. The issue of child placement outside the NIA and AC was a recurring item on the Board's agenda. An informal working group between the NIA and the AC was formed to gather information on how many children came to Sweden for the purpose of adoption in total and by what routes the children came to Sweden. The working group was also to draw up proposals for measures.¹⁵ Information also emerged on several occasions about irregularities in adoptions from Thailand and Sri Lanka, among others.¹⁶

In order to gain greater control over private adoptions, during 1975-1977 the NIA requested information from social services departments in eight municipalities concerning data on children who had arrived without the involvement of the NIA and AC. A special form was prepared in which the social services were to state, among other things, how the adoptive and foster parents had come into contact with the child (through which persons, organizations and authorities).¹⁷ The information collected was not entirely uniform and it appears that private individuals refused to provide the social services with information about their contacts in the countries.

However, the material collected shows that private adoptions were carried out from just over 20 countries during the period.¹⁸ For just over half of the countries, there were 1-2 adoptions per country, which were carried out either through Swedish missionaries (Argentina, Brazil, Honduras and Pakistan), lawyers in the country (Chile and Colombia) or direct contact with orphanages or authorities in the country (Colombia, Greece, Peru and Poland).

For some countries, adoption agencies were more extensive. From Thailand, more than 60 children had been placed during 1975-1977 through private individuals in Sweden and two lawyers in Thailand. AC cooperated with one of these lawyers. The name of a Swedish woman was given for several of the adoptions. The woman also cooperated

¹⁵ NIA, Minutes 1973/74:4 1973-12-14 and NIA informs June 1974.

¹⁶ NIA informs June 1974, Aug 1975, June 1976, June 1977, March 1978.

¹⁷ NIA, Attempted statistics on children arriving without the involvement of NIA and AC 1975 to first quarter 1977, dnr 49:1071/75.

¹⁸ The countries are Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Ethiopia, Greece, Honduras, Hungary, India, Iran, Kenya, Liberia, Morocco, Mexico, Nicaragua, Nigeria, Pakistan, Peru, Poland, Thailand, Tunisia and Vietnam.

with another Swedish woman who had arranged several adoptions from Vietnam. About 25 children had been adopted privately from India during the period. Here, too, it was lawyers who helped with the mediation, but individual Swedish missionaries in the country were also mentioned. In Sri Lanka, from where some 15 children came during the period, one person in the country was involved in several adoptions. Several also stated that they had been in direct contact with orphanages after receiving contact details via other Swedes who had adopted from the country. 18 children came from Ecuador and here too a person in Sweden was involved in several cases. In one case, the name of a Swedish person working in Ecuador was given. About 10 children came from Ethiopia. The contacts given here were SIDA staff and an Ethiopian man who had helped to place children from orphanages in the country.

Various measures are being taken to tackle the problem of private intermediaries

In addition to collecting information on private adoptions, the NIA informed various stakeholders of the problems and risks involved in private adoptions and the legal requirements. Contacts were made with the district courts and information was sent to the social services of the municipalities.¹⁹ Amongst other things, the NIA highlighted that compensation in excess of actual costs and reasonable lawyer's fees could be considered as remuneration in the sense of the law and become an obstacle to adoption. The Swedish courts were obliged to obtain information as to whether consideration had been given or promised (Chapter 20, Section 6 of the Parental Code, FB). It was therefore important that individuals who wished to adopt were informed of the requirements for certifying that they had neither given, received nor promised any consideration²⁰.

Another measure was to contact the private individuals who placed foreign children. The AC contacted some private individuals with the aim of incorporating them into the AC's network of contacts. In some cases, the AC concluded agreements with private individuals who had previously acted as intermediaries on their own.²¹ In 1976, the Board decided to contact four private individuals in writing who were engaged in intermediation activities, requesting that they cease doing so.

¹⁹ NIA, Minutes 1973/74:8 1974-04-17, 1975:2 1975-02-12.

²⁰ NIA informs August 1975.

²¹ NIA, Minutes 1973/74:10 1974-06-12.

²² NIA, Minutes of Per Capsulam decision 1976-10-05 and Minutes 1976-12-16.

The NIA also contacted one of the two Thai lawyers who placed adopted children and with whom AC was cooperating. The Board also requested AC to terminate the cooperation with the lawyer²⁴.

Irregularities uncovered in private adoptions from Thailand

In the summer of 1977, the NIA informed the social services that an orphanage manager in Thailand had been arrested. A large number of children had come to Sweden privately through the orphanage manager and a few through AC. The NIA described how AC had broken off contact with the lawyer after suspicions of irregularities had arisen. At the time of the arrest, 33 children were taken into custody, including six children adopted to Swedish families. The families were not allowed to take the children home and a special investigation into the identity of the children was underway. The NIA had visited Thailand and there were ongoing discussions in which Thailand had expressed an interest in regulated cooperation with Sweden, something which, according to the NIA, could take time and was complicated ⁽²⁵⁾.

In March 1978, the NIA informed that, despite new requirements in Thailand that all adoptions should go through the Public Welfare Department, they had become aware that Thai children were still being illegally adopted by Swedish families. The procedure was that the Swedish adoptive father was written as the biological father of the child. He could then apply for a passport for the child without the Ministry of the Interior becoming involved in the case. A Thai lawyer had arranged the adoptions and urged the adoptive parents to return the false documents when they arrived in Sweden with the child. The lawyer then sent them an adoption consent form from the biological parents of the child. The NIA writes that "there seems to be reason to assume that these adoption consents are also false documents". The NIA also describes another practice where one of the biological parents applied for a passport for themselves and the child and traveled out of the country, for example Hong Kong or Kuala Lumpur. Here the adoptive parents met and took care of

²³ NIA, Protocol 49:235/76) 1977-12-19.

²⁴ NIA, Minutes 1977-03-23.

²⁵ NIA informs June 1977.

the child and also received an adoption consent from the parents. The adoptive parents paid the travel expenses for the child and the parent. Both procedures circumvented Thai laws. The NIA pointed out that in these cases there were no documents enabling the adoptive parents to complete the adoption procedure in Sweden. There was thus a risk that an adoption could not be completed with all that this entailed²⁶.

New organization to increase control and reduce private adoptions

Because of the problems with private adoptions, a working group was set up within the Ministry of Social Affairs in 1977 to review the organization of international adoptions. The working group's report, which was published in 1978, stated that about half of all those seeking to adopt children went other ways than through the NIA or AC. One reason for this was the increasing waiting times at NIA and AC. A large group of applicants therefore chose to seek children in other countries themselves, while others sought children through persons in Sweden who conducted brokerage activities without a license, as required by the Child Welfare Act.²⁷The working group also noted that illegal brokerage activities continued to occur, but that it could be assumed that most cases were conducted on a non-profit basis and without profit motive.²⁸

On the basis of the report, the Government proposed a system in which public and private activities would work together and in which non-profit organizations would be responsible for the placement work, while the State, through the NIA, would be responsible for control and supervision. The aim was to channel unlicensed placement activities to organizations subject to public scrutiny and control, and to provide greater opportunities for information and assistance so that the number of individuals seeking children abroad on their own would be limited.²⁹This organization took effect from 1 July 1979.

The requirement for authorization of intermediaries was introduced in 1979 by the Intercountry Adoption Assistance Act. The Act meant that persons resident abroad also needed authorization to

²⁶ NIA informs March 1978.

²⁷ Ds 1978:6 *International adoptions. Guidelines and organizational proposals*, p. 2.

²⁸ Ds 1978:6, p. 45.

²⁹ Prop. 1978/79:108, s. 8-9.

arrange for children to be adopted in Sweden. Individuals with contacts abroad were, however, still allowed to place individual adoptive children without authorization in individual cases. Examples of such individuals were missionaries or foreign workers who, through friendship or trust, had a personal involvement with a Swede who wished to adopt a child from abroad.³⁰ In information to the social welfare administrations, the NIA writes that there is no specification of how many cases are meant by "individual cases". According to the NIA, "it should be 2-3 cases"³¹.

11.3 Continuing problems lead to tighter regulation 1985

NIA sees continuing problems with private adoptions

The NIA noted in 1980 that private adoptions had increased compared with the previous year and stood at 40%. In the magazine "NIA infor- merar", which was distributed to staff at the municipal social services, the NIA wrote that, internationally, Sweden had very liberal rules for families wishing to adopt children from other countries, which had led to criticism in several countries of origin and to changes in legislation in Thailand and Sri Lanka, among others. According to the NIA, the trend had been for lawyers and others, with no particular expertise in the area, to discover that it was possible to make big money from Westerners' desire for children. Most of the time the adoptions went smoothly, but unfortunately, to an obviously increasing extent, it also meant that documents were falsified and routes were used that could not be approved by the authorities. The NIA noted that Sweden "has the rules we have and what can be done is to inform all adoption applicants as thoroughly as possible about what the reality is." The NIA emphasized that it was very important that all those who conducted consent investigations both informed applicants and collected information about who mediated the contact in Sweden and in the other country. "This is about the credibility of Swedish adoptions and thus about our future possibilities to help children from these countries to a family in Sweden." wrote the NIA³²

³⁰ Prop. 1978/79:108, p. 12 f.

³¹ NIA Informs No 3 1980.

³² NIA Informs No 3 1980.

Irregularities in private adoptions from countries including Brazil, Colombia, Sri Lanka and Taiwan

In the same year, the NIA wrote that they had become aware of Swedish families traveling to Brazil and contacting maternity clinics where they were assigned a child and where a birth certificate was issued stating that the Swedish woman had given birth at the clinic. The NIA found that this was punishable under both Swedish and Brazilian law. Sri Lanka also continued to receive a large number of children from private individuals. According to the NIA, there were reasons to believe that the adoptions had not been carried out properly.³³In 1981, trafficking in children in private adoptions from Colombia was revealed, in which a lawyer had played a central role. The NIA wrote that they knew that a few children had been placed with Swedish adoptive parents via the lawyer in question. They also wrote that they had been informed by the authorities in Colombia that there were lawyers who did not work seriously and were aware that the lawyer in question should not be used. The NIA had therefore been able to advise against it in cases where the NIA had been contacted about the mediation contact³⁴.

The NIA found in 1981 that one third of adoptions from India were still private adoptions despite the existence of five authorized organizations in the country.

In its meeting minutes from the summer of 1982, the NIA mentions that a person in Taiwan had been arrested and prosecuted for falsifying birth certificates.³⁵This followed reports in the Swedish media in May 1982 that children from Taiwan had been stolen and sold to families in Sweden and elsewhere. The police in Taiwan arrested 15 people for trafficking in children, including doctors and nurses whose job it was to provide the children with new birth certificates. Each child had been sold for 4,000 USD (approximately 23,000 SEK at the time). It is not known how many Swedish children had been stolen and sold by this gang, but in 1981, 11 children from Taiwan came to Sweden alongside the seven Swedish authorized adoption organizations.³⁶In August, 42 Taiwanese were charged with selling babies for international adoption, some of them stolen. They were accused of selling 33 children abroad for USD 500 (just over SEK 3 000) per child over the past two years. Police in Taipei had determined that at least 63 babies had been sold to

³³ NIA Informs No 4 1980.

³⁴ NIA Informs No 3 1981.

³⁵ NIA Minutes 1982-06-17 and 1982-08-24.

³⁶ TT 1982-05-07; Expressen 1982-05-17 "Stolen children sold in Sweden".

Swedish adoptive parents since 1980. Some of the children had been kidnapped from prams outside shops. The police suspected that specific baby traders had stolen or bought children from the parents and then contacted adoption agencies³⁷.

NIA calls on government to tighten controls on private adoptions

In a letter to the Government on November 5, 1981, the NIA pointed to a deeply disturbing trend in international adoptions. According to the NIA, foreign intermediaries were falsifying documents and records relating to the child, breaking the laws and regulations of the child's country of origin, placing children not intended for adoption and trafficking in children. The NIA did not consider that the measures taken were sufficient to address illegal and inappropriate adoptions. Adoptions that took place outside of the authorized organizations needed to be able to be controlled and allow for transparency. In a memorandum attached to the letter, the Board highlighted that Sweden had received criticism from other countries, including Norway and Denmark, but also countries of origin, that Sweden allowed adoptions without the involvement of a Swedish central authority or authorized association⁽³⁸⁾.

In 1983, the NIA approached the Minister of Social Affairs about private adoptions. The message was that Sweden was one of the countries from which children could be brought home on their own without any real control. About 25% of the children who came to Sweden came alongside authorized organizations. The NIA estimated that one in three adoptions might be inappropriate and considered that the measures taken were insufficient. Representatives from the Nordic countries had also, according to the NIA, reiterated their criticism of the lack of measures against private adoptions in Sweden. The Minister for Social Affairs referred to an ongoing investigation within the Ministry of Social Affairs. In response to a question in Parliament, the Minister for Social Affairs replied that he intended to work to prevent inappropriate and illegal adoptions as far as possible. He also saw reason for consultations between the Nordic countries on rules for international adoptions³⁹.

³⁷ TT 1982-08-19.

³⁸ NIA, Memorandum on adoptions brokered outside authorized organizations, 1981-11-05.

³⁹ NIA Informs No 1-2 1983.

According to the Government, these conditions were not acceptable. Private adoptions could still entail great risks for the foreign children, the original parents and the prospective adoptive parents. The Government noted that the legislation introduced in 1979 did not restrict the ability of individuals to seek children abroad on their own.⁴⁰ There was a need for stricter rules to prevent children being adopted through agencies or private persons abroad "who put the interests of profit before the best interests of the child or otherwise fail to safeguard the child's interests".⁴¹ A working group within the Ministry of Social Affairs was therefore set up and prepared a memorandum with proposals for measures.⁴²

The Social Welfare Board must approve the adoption route and obtain the opinion of the NIA

In 1984, the Government submitted a bill proposing amendments to the Act on International Adoption Assistance and the Social Services Act (1980:620) (⁴³SoL). Some commentators had advocated that private adoptions should be banned altogether. However, the Government concluded that there was no reason to require a ban on private adoptions, as many of them took place in a safe manner.⁴⁴ This could be the case, for example, when the prospective adoptive parents themselves had come into contact with a child they could adopt in connection with their service abroad, or when they had been offered the opportunity to adopt a particular child through friends, relatives or other close personal contacts in another country. Private adoptions could also take place when the applicants were in direct contact with a foreign intermediary body or orphanage, provided that these bodies were authorized to place children for adoption in other countries.⁴⁵ However, the Government considered that greater security was needed for private adoptions.

The amendments to the law, which came into force in 1985, meant that the social welfare committees, when considering whether to grant consent to adoption, also had to approve the intermediary route to be used for the adoption.

⁴⁰ Prop. 1984/85:16 *on certain questions concerning international adoptions*, p. 10.

⁴¹ Prop. 1984/85:16, s. 8.

⁴² Ds S 1983:14 *International adoptions, review and proposals for action*.

⁴³ Prop. 1984/85:16.

⁴⁴ Prop. 1984/85:16, s. 11.

⁴⁵ Prop. 1984/85:16, s. 19.

The Social Welfare Board was to refuse its consent to receive a foreign child for adoption if it could be feared that the child had not become available for adoption in a reliable manner. The requirement for consent also applied when the adoption was arranged by an adoption organization⁴⁶.

On the question of the reliability of the intermediation method, the Social Welfare Board would seek the opinion of the NIA unless it was clearly unnecessary. If the applicants stated that they would use an organization authorized by the NIA, the NIA did not need to be consulted. The opinion of the NIA was also not required if the expertise of the NIA would obviously not add anything to the investigation, for example in the case of a relative's child.

The Social Welfare Board was obliged to specify in its decision on consent the type of mediation to which the decision applied. If a Swedish authorized organization was to provide mediation assistance, the decision was to be formulated in such a way that it applied generally to mediation through all organizations authorized by the NIA. However, in the case of a private adoption, the name of the intermediary organization should be stated in the decision, as it had happened in the past that applicants, despite warnings, had turned to unsuitable intermediaries⁴⁷.

During the consultation work on the Ministry of Social Affairs' memorandum, several bodies argued that the NIA's opinion on reliability should be binding on the social welfare board. This was not accepted, as the government argued that the board could usually be expected to follow the NIA's opinion and that the board should take the opinion into account in the overall assessment. In the assessment to be made by the Social Welfare Board, the placement could be considered satisfactory if the applicants had come into contact with the child during service abroad, if the child was a relative's child, or where the applicants had contact, personally or through relatives or friends or the like, with another country and through the contacts had received an offer to adopt a particular child. Placement through direct contact with an orphanage or foreign organization could also be accepted. The applicant was responsible for providing sufficient evidence for the NIA's and the Board's assessment⁴⁸.

⁴⁶ Prop. 1984/85:16, s. 1.

⁴⁷ Prop. 1984/85:16, s. 13.

⁴⁸ Prop. 1984/85:16, s. 18-19.

NIA points to shortcomings in the social committees' assessment of the placement route

In the following years, the NIA informs the social secretaries of the social committees on several occasions that there are shortcomings in the social committees' approval of the placement route. These are:

- social services boards have not sought the opinion of the NIA in relation to individual agency contacts,
- social welfare boards not examining contacts they had previously approved even though there might have been changes in the contact or requirements in the country of origin,
- that social committees gave an unclear consent with reference to 'contact approved by the NIA',
- that social committees have given consent to a method of mediation that the NIA has rejected with detailed reasons⁴⁹

There were also cases of applicants adopting privately with the consent of an authorized organization. The NIA reported one suspected case of illegal brokering to the police⁵⁰.

The NIA emphasized that the reliability of the mediation method could never be overstated. The NIA's opinion was the instrument available to prevent the use of a method of mediation that could be feared to be unreliable. In a statement, the NIA said "The Government and Parliament have given the NIA a delicate and important task that is a fundamental prerequisite for Sweden to be able to continue with private adoptions. This requires everyone to work together to achieve the intended result - reliable adoptions."⁵¹

The problems with the control of private adoptions were also raised by the NIA in a memorandum to the Government in 1991. In this memorandum, the NIA described the system whereby the social welfare boards controlled the method of placement for private adoption as unsatisfactory and called for a review of intercountry adoption activities⁵².

⁴⁹ NIA Informs No 2 1991.

⁵⁰ NIA Informs No 2 1991.

⁵¹ NIA Informs No 2 1987 and NIA Informs No 2 1991.

⁵² NIA, Activities with international adoption issues, 1991-05-29, dnr 1:178/91.

11.4 The Hague Convention and the law on international adoption mediation limit the scope for private adoption

11.4.1 NIA to be responsible for approving intermediation route

In connection with Sweden's accession to the 1993 Hague Convention, the Act (1997:192) on International Adoption Intermediation (LIA) was introduced, replacing the 1979 Act on International Adoption Assistance.

The Government considered that individual adoptions should be limited in view of the involvement of the authorities required by the 1993 Hague Convention in individual adoptions. The Convention provides that a body must mediate the necessary adoption documents from the applicant to the country of origin. Since the Government considered that the NIA should perform this task, it might appear that individual adoptions between States bound by the Convention were in fact State-mediated adoptions with an extra degree of security. The Government considered that there was then an obvious risk that the NIA would appear to the outside world as an organization that mediated adoptions in competition with the adoption agencies, which was undesirable.

Although the NIA was not required to broker documents with the child's country of origin, the NIA was given a clearer role than before in individual adoptions. The procedure for approving an agency route was changed so that the NIA would continue to decide whether to approve the agency route.⁵⁴ According to the Government, the NIA had As a rule, they had better knowledge than the social welfare boards of the conditions in the countries of origin and of the risks associated with intercountry adoptions.⁵⁵ When the NIA took over the decision, the individual review of the procedure was abolished in cases where the adoption was mediated by an authorized association.

⁵³ Prop. 1996/97:91, s. 63.

⁵⁴ Prop. 1996/97:91, s. 51.

⁵⁵ Prop. 1996/97:91, s. 50-51.

11.4.2 Restrictions on adopting individually after permission from the NIA

The LIA also gave the NIA the task of giving permission in exceptional cases for the adoption not to be mediated by an association - so-called individual adoption. Permission for individual adoption was limited to specific cases where it did not appear necessary to use an adoption agency. Such cases would include where the prospective adoptive parents and the child were related or had a special relationship already before the adoption. The concept of "related child" would be given a broad interpretation. It was not intended to refer only to biological relatives but also, for example, to relatives by marriage. Account was also to be taken of the fact that the concept of relative could be broader in other legal systems than in Sweden⁵⁶.

Private adoption could also be granted if the applicants had special ties to a particular country and thus special reasons for wanting to adopt from there, for example if the applicant had lived or worked in a particular country or had originated there and wanted to adopt a child from that country.⁵⁷In the Bill, the Government stated the following:

The applicants who are excluded by the proposal from the possibility of adopting individually, and who are referred to an organization, are those who today find a child in a donor country on their own and carry out the adoption without the mediation of an accredited adoption organization. Sweden has largely been spared scandals surrounding adoption activities. The unethical adoptions that have attracted international attention have often involved individual adoptions. There are therefore risks associated with this type of activity. Against this background and taking into account the effects of the Hague Convention, the Government considers it reasonable to restrict individual adoptions in the way proposed here.⁵⁸

11.5 The adoption cost allowance for individual adoptions is removed

In November 1985, an inquiry was set up to investigate the possibility of reducing the costs to the individual in connection with the adoption of children from abroad. The background to the investigation was that

⁵⁶ Prop. 1996/97:91, s. 79.

⁵⁷ Prop. 1996/97:91, pp. 64 and 78.

⁵⁸ Prop. 1996/97:91, s. 63.

the costs of international adoptions had increased and there was considered to be a risk both that economically disadvantaged groups would be excluded from the possibility of adopting and that adopted children would not be able to have siblings. The Inquiry considered that the scope for reducing costs was very limited but that some cost items could be reduced. The Inquiry proposed that a contribution of SEK 5,000 per child should be introduced.⁵⁹ The consultative bodies were in favor of a contribution, but most advocated a higher level.

In 1989, a special adoption grant was introduced by the Act (1988:1463) on grants for the adoption of foreign children. The allowance was tax-free and was intended to cover 50% of the average cost of adoption from the country of origin, or a maximum of SEK 20,000. The allowance has since been continuously increased. After increases in 1991, 1997 and 2001, the adoption grant was SEK 40,000, which at the time corresponded to just under 40% of the average total adoption cost.

It was only through legislative changes in 2004 that the subsidy was limited to adoptions mediated through an authorized adoption agency.⁶⁰ The reasons given for removing the possibility of receiving a subsidy for individual adoptions were that people who do not use an authorized association have different costs than those who do. According to the Government, individual adoptions did not entail the same high administrative costs as the use of an authorized association. The Government therefore found that it was justified to limit the possibility of a contribution to adoption costs to adoptions carried out through authorized associations. The contribution now amounts to SEK 75,000⁶¹.

11.6 Irregularities continue and several stakeholders point to shortcomings in private adoption

11.6.1 Irregularities in adoptions from Vietnam

In 2000, a gang in Vietnam was sentenced to heavy fines and imprisonment for selling children to Western parents, including Swedish ones. The two main perpetrators were sentenced to 20 years in prison. The trafficking of children had been led by a high-ranking official at the Ministry of Justice for the

⁵⁹ Ds S 1987:1 *Costs associated with the adoption of foreign children*.

⁶⁰ Prop. 2003/04:131 *International adoption issues*, p. 74 ff.

⁶¹ Social Insurance Code, Chapter 21, Section 2.

northern provinces of the country. The gang had tricked poor and unmarried mothers in northern Vietnam into giving away their children or selling them cheaply. They then sold the children to adoptive parents in Sweden, Norway, France, the United States and Belgium at a price of SEK 8 000 to 12 000 per child. The child trafficking was said to have involved a total of 174 children and to have taken place between 1992 and 1998. AC stated that it had never brokered any children from the province in question. The NIA reported that some 40 children from North Vietnam had been placed for private adoption with Swedish adoptive parents during the period in question⁶².

FFIA representatives have described difficulties in working in Vietnam due to irregularities. One person who was herself adopted from Vietnam by private adoption in 1996 describes that the person who signed her adoption papers and wrote letters to her adoptive parents was the man who was the leader of the trafficking gang that was convicted in Vietnam. A copy of the letter is in the NIA file. She knows that two other adoptees who were sold came to Sweden at the same time as she did. She has compared her documents with one who was adopted to Belgium and their documents are almost identical. It says that they were both born in the same hospital at 20 (different dates), have the same doctor and midwife, the same first and middle names and were abandoned by their biological mothers in hospital after 2 days. She knows a person who met the man who was in charge of falsifying adoption documents. The man told her that if he knew the name of the biological mother, he entered it, but otherwise he made up a false name. She has also been in contact with some mothers in Vietnam who reported being manipulated, exploited and robbed of their children. She has also heard stories that the trafficking gang had houses where pregnant, young, unmarried women were placed and hidden together during pregnancy. The adopted person's adoption document shows that the NIA had approved the agency route and that the adoption was decided in the Swedish district court⁶³.

Vietnam stopped foreign adoptions in response to the events. In 2003, Vietnam introduced a bilateral agreement requirement for countries wishing to adopt children from the country. A Swedish government delegation visited Vietnam in January 2003 and in December 2003 signed

⁶²AC press release "Adoption scandal in Vietnam", received NIA 2000-04-03; Sydsvenskan 2000-03-30; Expressen 2000-03-30; Expressen 2000-03-31.

⁶³E-mail received by the Adoption Commission on 2025-01-22.

Sweden and Vietnam signed an agreement on adoptions which entered into force in May 2004.⁶⁴ The agreement was for five years. The NIA visited Vietnam in April 2004 and found that several questions remained about costs and fees. During the visit, NIA stressed the importance of clear cost accounting and transparency in all contexts so that organizations did not risk being suspected of child trafficking and unethical transactions. The NIA visited orphanages and found that they were of a low standard and dependent on donations. In the past, children had been adopted directly from the hospital to foreign countries, but this was no longer allowed. The most common reason for child abandonment was single motherhood, which was considered a scandal in Vietnam; previously, poverty had been a common cause. The NIA also found that corruption was a major problem.⁶⁵ Later in 2004, AC and FFIA, among others, were licensed for placement in several provinces of the country.⁶⁶ A former NIA staff member says that in 2007, the agency visited orphanages in northern Vietnam where babies were lined up and it was like a "baby factory."⁶⁷

In 2008, Sweden temporarily suspended adoptions from Vietnam following allegations of corruption and reports of bribes to biological parents. The Swedish government subsequently chose not to extend the adoption cooperation agreement between Sweden and Vietnam. The basis for the government's decision was a report from the US Embassy in Hanoi, Vietnam. The report claimed that adoption activities in the country were not carried out properly, including that mothers were given money to give up their children and in other cases the parents were not aware that the children had been given up. Representatives of the MIA and the Ministry of Social Affairs visited Vietnam in 2008 to clarify how the system worked but received no answers from Vietnamese actors.⁶⁸ Vietnam had also refused to sign international rules on adoptions.⁶⁹ AC was critical of the government's decision and stated that there had been no irregularities in their adoptions from Vietnam.⁷⁰ The then Director General of the MIA stated in the media that the environment and conditions in Vietnam had deteriorated

⁶⁴ NIA Informs No 1 2003 and No 1 2004.

⁶⁵ NIA Informs No 2 2004.

⁶⁶ NIA Informs No 3 2004.

⁶⁷ Meeting with a former NIA staff member 2023-02-16.

⁶⁸ Dagens Nyheter, Regeringen stoppar Vietnamadoptioner, 2008-10-22.

⁶⁹ SVT Nyheter 2008-10-22; Meeting with a former employee at NIA 2023-02-16; Meeting with Tobias Hübner 2022-03-08; DN 2021-02-21.

⁷⁰ DN 2008-10-25.

and was deemed too risky. It was not possible to continue operations in a legally secure manner.⁷¹ However, a new agreement was signed just one year later.⁷² Vietnam signed the 1993 Hague Convention in 2010, but it did not enter into force until 2012. However, only a small number of adoptions were carried out from the country in the 2010s onwards.

11.6.2 2003 Adoption Inquiry points to need for review of individual adoptions

The NIA pointed out in various contexts that there were particular difficulties in assessing whether an adoptive placement was in the best interests of the child in the case of an individual adoption. The difficulties concerned in particular the adoption of children already known, often children of relatives, who were resident in their home country at the time of the social welfare committee's examination of consent and the district court's examination of the adoption itself. Sometimes the children lived in functioning families in their home country. The NIA considered it urgent that it be investigated in the child's home country whether the planned adoption was in the child's best interests. However, in countries that had not acceded to the 1993 Hague Convention, there was no requirement for this to be done. Nor was there any requirement that such an investigation had to be included in the Swedish decision-making documentation⁷³.

The 2003 inquiry into international adoptions pointed to the need to review the shortcomings that could exist in individual adoptions.⁷⁴ The Swedish Migration Board expressed the need for a review of the handling of the adoption of a known child. The NIA also pointed to the need to review the rules applicable to the adoption of known children and considered that the procedure for these adoptions should be investigated as soon as possible. This concerned in particular the difficulties in determining what is in the best interests of the children and the lack of clarity in the division of roles between courts and social authorities. In the bill, the Government stated that it intended to consider these issues further⁷⁵.

⁷¹ DN 2008-10-25.

⁷² Meeting with former NIA staff member 2023-02-16; Meeting with Tobias Hübinette 2022-03-08.

⁷³ MIA, Annual Report 2008.

⁷⁴ SOU 2003:49 *Adoption at what price?*, p. 302 ff.

⁷⁵ Bill 2003/2004:131, p. 76.

11.7 2008 adoption review proposes stricter requirements for private adoptions

In November 2007, the Government appointed an inquiry to conduct a general review of the rules on adoption in Chapter 4 of the Civil Code. The inquiry was to consider the need for amended rules on the court's review of adoption cases in order to strengthen the child's perspective. The assignment also included investigating certain issues relating to international adoption, including the need for measures to ensure the best interests of the child in individual adoptions. A general review of the LIA would also be undertaken.

The report considered that, from a child's perspective, it was better for an adoption to be mediated by an adoption organization. It was considered desirable to achieve greater correspondence between social law and civil law regulations so that there would not be several routes to adoption. The inquiry therefore proposed in its final report in 2009 that the regulatory framework for private adoption should be streamlined and made more uniform⁷⁶.

The possibility of obtaining a permit for individual adoption would continue to be limited to children of relatives or children where, based on the personal relationship between the applicant and the child, there was a particular reason to adopt without the intermediation of an authorized adoption organization.

It was proposed that the task of examining the question of permission for individual adoption be transferred from the MIA⁷⁸ to the social welfare board.⁷⁹ In addition, it was still required that the applicant had received consent from the social welfare board to receive the child for adoption and that the social welfare board had made the assessment that the intended adoption was in the best interests of the child. The proposal was justified by the fact that the knowledge of the reliability of the mediation method that existed at MIA was not needed if the individual adoptions could only concern a child known in advance.

The report also proposed that an application for adoption of a child under the age of 18 from another country should be admissible in court only if the adoption was mediated by an authorized

⁷⁶ SOU 2009:61 *Modernizing Adoption Rules* p. 20.

⁷⁷ The difference was that there had to be a personal relationship between the child and the prospective adoptive parent, not just a special relationship.

⁷⁸ The Swedish Intercountry Adoption Authority (MIA) replaced the NIA as of January 1, 2005, taking over the former tasks of the NIA.

⁷⁹ SOU 2009:61 p. 208 ff.

adoption organization or if the applicant had obtained permission to adopt individually. There was no obstacle to a person wishing to adopt a child applying directly to court without either consent under Chapter 6, section 12 of the Social Services Act (2001:453), SoL, to receive a child for adoption or approval of an intermediary route under section 4 of the LIA. The inquiry's investigations had revealed that some municipalities had in some cases recommended that those wishing to adopt should apply directly to the court, particularly if it was a question of adopting a slightly older child.⁸⁰ The inquiry therefore proposed that both consent from the social welfare board and authorization for private adoption from the MIA would be required for a court review of an application for adoption without mediation.⁸¹

The report also proposed that if the application concerned a child under the age of 18 who was resident abroad or who had been brought to Sweden for the purpose of adoption, questions of parental consent to the adoption should be examined under the law of the child's State of origin. For example, consent could have been given by the mother shortly after the birth, in accordance with the law of the other country. It could also be difficult for the Swedish court to determine whether a parent had custody of the child and whether consent was therefore needed or not. In these cases, applying Swedish law could mean that additional investigations needed to be carried out. When the authorities in the child's country of origin had approved the adoption of the child, such investigations could be difficult to carry out and socially devastating for the child's parents. In many countries, one reason for adoption is that the child is born to an unmarried woman who, for social reasons, cannot keep the child and therefore does not want the birth to be known. In many cases, paternity is not established. Even when the father is known, it is often the case that he wishes the child to remain unknown to those around him. In order to avoid such consequences and ambiguities, the report proposed the introduction of a conflict-of-law rule that would respect the law of the other State. The proposed conflict-of-law rule would not apply in relation to countries or regions that did not have an adoption agency. In these cases, the provisions on parental consent in Chapter 4 would apply instead. FB apply.⁸²

⁸⁰ SOU 2009:61 p. 213-214.

⁸¹ SOU 2009:61, p. 214.

⁸² SOU 2009:61, p. 238 et seq.

11.8 Government decides not to limit the possibilities of private adoption

It would be almost ten years before the proposals from the 2008 adoption inquiry were put into law, and then it was mainly the rules in the Parental Code that were reformed. But international adoptions were also affected.

In Bill 2017/18:121, the Government noted that the majority of respondents had supported or not objected to the proposal to restrict individual adoptions.

The Government noted that the Inquiry's proposal was not justified by the fact that it had emerged that children who had come to Sweden through separate adoption had actually suffered harm. The Government agreed that there was value in adoptions involving the placement of a previously unknown child being handled as far as possible by authorized associations that had knowledge of, and experience in, adoption mediation and were under the supervision of the authorities. However, according to the Government, there were countries in which the authorized associations did not operate. Restricting the possibilities for private adoption reduced the opportunities for children in these countries to have a family. In these cases, intercountry adoption could be a valuable complement to enable more children to have a new family through intercountry adoption. In the Government's view, this was an argument for not restricting the possibility of private adoption.

In cases where the applicant already had a relationship with the child to be adopted, there was, according to the Government, rarely a need for an authorized adoption agency to be involved in the adoption, since in those cases there was no actual mediation.

Nor had the inquiry proposed that this possibility of separate adoption should be removed. In order to prevent unsuitable adoptions at as early a stage as possible, the Government proposed that, when adopting a known child, the social welfare committee should examine whether the adoption could be assumed to be in the child's best interests already at the committee's consent examination. Since the individual adoptions were not further restricted, there was, in the Government's view, no reason to move the examination of the question of permission for an individual adoption from the MFoF to the social welfare board⁸³.

The government also rejected the inquiry's proposal that a Swedish court should only be allowed to consider an adoption application if the adoption

⁸³Prop. 2017/18:121 *Modernizing adoption rules*, p. 108 ff.

had been mediated by an authorized adoption organization or if the applicant or applicants had received permission under section 4 of the LIA to adopt without mediation. If these conditions were not met, the application for adoption would, according to the proposal, be rejected.⁸⁴The Government considered that the fact that applicants went to court with an application for adoption without the necessary authorization should be counteracted in other ways, primarily through information. Municipalities should not advise people to refrain from applying for consent and authorization for private adoption, but inform them of the regulations that apply and the consequences of not complying with them.⁸⁵In an individual case, an adoption may be in the best interests of the child despite non-compliance with the regulations. Not allowing an application for adoption to be considered on its merits may, the Government argued, in such cases appear unreasonable. If it is not possible to obtain a permit afterwards, an application for adoption must be rejected, which can have drastic consequences for the child, especially if the child has already arrived in Sweden when the application is made. The Government continued: "With the inquiry's proposal, the only remaining option seems to be for the social services to take measures to care for the child. This would limit the possibility of determining what is best for the child based on an assessment of all possible alternatives (cf. the case *Paradiso and Campanelli v. Italy*, no. 25358/12, January 24, 2017)."⁸⁶The Government also considered that the proposal could lead to demarcation problems as it concerned children who had come or were intended to come to Sweden for adoption. Children who have come to Sweden for other purposes must be able to be adopted without an individual adoption permit being granted.

In the bill for the 2018 legislative amendments concerning adoption, the Government points out that in the budget bill for 2017 it was noted that there was a need to adapt the current organization of adoption mediation activities and the support provided in connection with international adoption to new circumstances. Since the question of in which cases individual adoption should be allowed is linked to how the adoption activities in general are organized and how they meet the needs that exist, the Government considered that these issues should be addressed in a context, which could not be done in this legislative matter. The Government intended to return to the question of the

⁸⁴ SOU 2009:61 p. 214.

⁸⁵ Prop. 2017/18:121, p. 111 f.

⁸⁶ Bill 2017/18:121, p. 111.

international adoption activities and, against this background, the Committee's proposal to restrict the possibility of private adoption should not be implemented.⁸⁷

⁸⁷Bill 2017/18:121, p. 110.

12 The need for support for adoptees and their families

12.1 Introduction

12.1.1 Sweden has a legal responsibility to provide help and support before, during and after adoption

According to Article 9(c) of the 1993 Hague Convention, Central Authorities shall promote adoption counseling and post-adoption assistance and support. According to the HCCH, States must make every effort to fulfill this obligation, which includes meeting the needs of both adopted persons and their families¹.

12.1.2 Adoption-specific needs and adoption-specific support

The term Post Adoption Services (PAS) refers to support provided to adoptees and their parents before, during and after an adoption.² Adoption-specific needs are described, inter alia, in the Guidelines on Post-Adoption Services developed by the ChildON-Europe Secretariat. The guidelines are aimed at both practitioners and policy makers³

¹HCCH (2008), *The Implementation and Operation of the 1993 Hague Inter-country Adoption Convention. Guide No.1.*, p. 125.

²National Board of Health and Welfare (2022), *How health and social services meet the adoption-specific needs of adoptees*, p. 7.

³ChildONEurope Secretariat (2007). *Guidelines on Post-adoption Services*.

12.2 Previous studies and reports on the need for specific support for adoptees

12.2.1 As early as the 1980s, research showed the need for special support

During the 1980s and 1990s, several research studies were presented describing the situation of intercountry adoptees (see Volume 1, Chapter 3). In 1996, the Swedish National Board of Institutional Care (SiS) published a report on young people (aged 10-20) in special youth homes, which showed that persons adopted from another country were over-represented among those admitted and that mental health problems were a common reason for admission⁽⁴⁾.

Researcher Anders Hjern⁵ first drew attention to the group of foreign-born children with Swedish parents in a public health study of children of foreign origin in Stockholm in the late 1990s.⁶ This was the beginning of further research showing that people adopted from another country had high suicide rates and a significantly increased risk of mental illness and substance abuse.⁷

12.2.2 The 2003 review identified gaps in existing support and the need for more research

The inquiry on international adoption issues, which was appointed by the government in 2001, was tasked, among other things, with examining whether the system of psychosocial support and counseling that has been

The social services and child and adolescent psychiatry were not considered to have sufficient knowledge of the specific problems adopted persons could experience, especially during adolescence. Another problem was

⁴Swedish National Board of Institutional Care (1996), *Adoptive children, youth and care. Documentation from a conference in Linköping on April 15, 1996, organized by Fölåsa behandlingshem*. General SiS report 1996:4.

⁵Anders Hjern is Professor of Social Epidemiology at the Department of Medicine, Solna. His research focuses on the health of vulnerable children and on differences in child health between different groups in society.

⁽⁶⁾ A. Hjern (1998), *Migration to segregation - a public health report on children of foreign origin in Stockholm*, Center for Child and Youth Health. Community Medicine, Stockholm County Council

⁽⁷⁾ A. Hjern, F. Lindblad and B. Vinnerljung (2003). *Suicide, psychiatric illness, and social maladjustment in intercountry adoptees in Sweden: a cohort study*. The Lancet, Volume 360, Issue 9331, August 10, 2002, pages 443-448. Läkartidningen Nr 9 2003, Volume 100, pp. 707-709.

⁸Dir. 2001:93 International adoptions etc.

that only the larger municipalities were in a position in practice to build up knowledge and experience of the support needs of adopted persons and to offer specific advice for children. Financial and accessibility issues were other problems highlighted. The report was to propose measures to better meet the needs of adoptive families⁽⁹⁾.

The Inquiry commissioned a research review of key research on adoptees as part of its analysis of the support. The research review summarized findings from research in a number of areas, including mental health, identity and language. The conclusion from the mental health research was that adoptees were over-represented in clinical groups for mental health problems, relationship problems, school problems and anti-social behavior. The older the child was at the time of adoption, the greater the risk of mental health and social adjustment problems. However, different epidemiological studies of adoptees of different ages showed different results; some researchers had found higher prevalence of mental health problems, suicide attempts, substance abuse and antisocial behavior while other researchers found no such differences. Adolescence and early adulthood were periods of increased difficulties due to identity problems¹⁰.

The analysis of the research synthesis problematized the existing research. One problem was that there were methodological weaknesses: most studies concerned children and young people, while there were few studies of young adults, and the studies were conducted on small and selected study populations, which could mean that the sample was not representative. In addition, most studies were based on a single point of measurement and there had been few studies following adoptees over time and the background factors were not known, which made analysis difficult. The researchers called for more longitudinal studies and studies that shed light on different phases of adoptees' lives, the prevalence and analysis of risk factors in the countries of origin and their outcomes, more studies of identity development, comparative studies of adoptions that went very badly and adoptions that went very well, and studies that shed light on the effects of ongoing support and treatment interventions for adoptees and adoptive families⁽¹¹⁾.

⁹ Dir. 2001:93 International adoptions etc.

¹⁰ SOU 2003:49. *Adoption at what price? Volume 2 Compilation of adoption research*, p. 11 ff.

¹¹ SOU 2003:49, p. 77 ff.

At the research hearing, participants raised several points and questions. One was the conclusion from various research studies that the vast majority of adoptees were doing well, but the question was whether there was an increased risk and vulnerability for a smaller group of adoptees or whether there was a basic vulnerability in all adoptees. Another point made was that adoption is a lifelong process for adoptees and this needs to be reflected in research and targeting of support. Prejudice and racism were also raised and how this should be addressed. There was also a call for more research on adoptive parents and support for the whole adoptive family. At the same time, it was expressed that adoptive parents had many positions in the adoption world, including in research. It was therefore important to bring more adoptees into research, consultation and knowledge contexts to provide different perspectives. It was also suggested that research needed to be better at gathering what knowledge was needed, but also at managing and understanding the knowledge already gathered. In turn, society and professionals who met adopted persons must become better at using the knowledge and research that existed. Many expressed the need for a national knowledge center to bring together knowledge, expertise and research findings on adopted persons and adoptive families to provide support and advice.¹²

Proposals from the 2003 report on international adoptions

The 2003 report on intercountry adoption made several proposals for support, one on post-adoption support and assistance and the other on research and knowledge development.

The inquiry noted that research showed that adopted people were at increased risk of developing mental and social problems, among others. Difficulties and problems could arise at different stages of life. As society contributed to family formation through intercountry adoption, the inquiry considered it important that society met the needs of adopted persons as early as possible. At the same time, adoptees testified

¹²SOU 2003:49, p. 363 ff.

and adoptive families that it was very difficult to get help from the regular help system in the municipality and county council.

The definition of post-adoption support and assistance was, according to the study, unclear. They defined it as follows: "the intention of providing support and assistance is that the donor contributes to the recipient's ability to solve a problem or cope better with a situation". The proposal was that a social worker from the social services department, with a good knowledge of the specific circumstances of the adopted person and the adoptive family, should act as a sounding board and provide support in the event of, for example, relationship problems within the family, difficulties in parenting and life crises arising from the adoption. The report also argued that all those who in their profession met adopted persons and adoptive parents should have a general knowledge of adopted persons, while those who worked with support and treatment for adopted persons and adoptive parents must have specific knowledge of adopted persons. Employers were responsible for ensuring that their staff had the necessary skills, while the state was to contribute to the further development of knowledge in this area¹³.

For many, especially smaller municipalities, adoption was a rare issue, which affected the possibility of building up competence and experience. The report's proposal was therefore that municipalities should cooperate through regional adoption counselling, i.e. a regional activity that would specialize in adoption and provide everything from parental education, investigation and decisions on consent to support and help after adoption. In post-adoption support, the municipalities would also cooperate with the county council's child health services. An important task for the regional adoption counseling service would be to actively disseminate knowledge about adoption to various professionals who came into contact with adopted persons and adoptive parents. This could involve organizing training and information days for, for example, school and pre-school staff, psychologists, family therapists and staff in child and adolescent psychiatry, child and maternal health care and youth clinics. These professionals would also be able to turn to the adoption advice service. The adoption counseling service would also be in close contact with the national research and knowledge center that the report also proposed. To stimulate cooperation, the report proposed that municipalities and county councils that wished to cooperate in adoption

¹³SOU 2003:49, p. 245 ff.

related issues could apply for a stimulus grant from the National Board of Health and Welfare¹⁴.

12.2.3 MFoF's proposals on support before, during and after adoption

The need for stronger support for adopted persons and adopted families has been raised in various contexts by both MIA and MFoF. In a letter to the Ministry of Social Affairs in 2013, MIA proposed that the authority should be given an expanded mandate to offer support to adopted persons seeking their origin and that this should be regulated in MIA's instructions. The support would not include psychosocial support, but efforts would be made to ensure that psychosocial support could be offered throughout the country by collaborating with various actors¹⁵.

In 2019, the MFoF produced a memorandum with proposals for support before, during and after adoption. In the memorandum, MFoF described the need for strengthened support, what such support should include and which actors could offer the support. MFoF emphasized that support for adopted persons and their families is an important part of the adoption process, before, during and after adoption. Adoption is a lifelong process and the need for psychosocial support can therefore be present throughout the life of the adopted person, for example when searching for their origin. While the number of adoptions is decreasing, the children adopted to Sweden increasingly have some neurological, physical or medical disability. The children have often lived in institutions for a long time, which increases the risk of trauma, abuse and lack of care. This requires extraordinary resources. Despite the fact that the right to support is regulated in both Swedish law and in international conventions and the social services have the answer, in most municipalities no adoption-specific support is offered. Adoptive families who have sought support and social workers who work with adoption testify to this. One explanation is that the field is narrow and municipalities deal with many groups with urgent needs. Without special funds allocated to the area or clearer legislation, both professionals and adoptive families find it highly unlikely that equal support will be available in the country's municipalities. MFoF also highlights other actors who have an important

¹⁴ SOU 2003:49, p. 265 ff.

¹⁵ MIA. *Support for adoptees seeking their origin*. 2013-03-27.

responsibility when it comes to supporting adopted persons, such as BUP and adult psychiatry.

In the work on the memorandum, adoptee associations were also asked to describe the need for support and the requirements for support. The associations emphasized, among other things, that those who meet adopted persons needed to have knowledge of adoption-specific issues such as break-ups, racism, crises and identity. Knowledge within social services, preschools, schools and health care needed to be improved. A national resource center with regional representation should be created. There was also a need for support for root-seeking at central, governmental level to ensure the right skills. This would not have worked under municipal auspices. The support should be both practical and psychosocial. Adopted persons also needed access to psychological support with adoption competence at a reduced cost. Adoptees who had reasons to suspect irregularities felt very bad and needed adoption competent support immediately. An adoption grant for the adoptee could help in the search for origin (for return travel, translation and interpretation costs).

MFoF described four possible solutions for how support could be offered:

- municipal social services,
- external provider (example from Finland),
- contracted providers held together by coordinators (example from Denmark), and
- government.

According to the MFoF, the municipal social services could make the support more accessible to those seeking support, but it could be difficult for the municipalities to maintain the competence. MFoF assessed that measures were needed to make it easier for the municipalities, including stricter legislation. The advantage of an external provider was that there was a pool of expertise and equal, uniform support.

In Sweden, however, there was no such organization and MFoF judged that a general procurement could entail risks that the quality of the support could not be maintained. Coordination of contracted providers based on a common model could mean both good availability and quality, but this required

a change in legislation as the responsibility lay with the municipalities. The MFoF did not consider it appropriate to concentrate early support in a central authority, as this would mean too little accessibility and would also require a change in the law.

MFoF's assessment in 2019 was that the responsibility for coherent support before, during and after adoption should best be provided by the municipalities' social services, but that the responsibility should be highlighted and clarified in various ways. There could be reason to clarify in legislation the responsibility of municipalities for supporting adopted persons and their families. The work of the municipalities could be relieved and facilitated by placing part of the coordination of the municipalities' efforts in the hands of the MFoF. Centralizing the most specialized parts of the adoption process was well in line with the decrease in the number of adoptions. Finally, the MFoF considered that part of the post-adoption support should be compulsory.

The MFoF also proposed a number of other tasks for the agency: the development of a knowledge compilation on international adoption, a model for early support, coordinated parent training and coordination of tracing.

In the MFoF's final report of the assignment on adoption-specific professional counseling support for adoptees and adoptive parents in 2024, the MFoF emphasizes that it would be rational and effective to build on the experience and knowledge of support in international adoption that the agency has. MFoF's role could be developed based on its experience and knowledge of intercountry adoption, its role as a central authority for intercountry adoption, and as a knowledge authority in intercountry adoption as well as family law and parenting support. In addition to its mission to provide counseling, the agency also offers support in tracing origins and acts as a national contact point for issues relating to irregularities in international adoptions. Combining the tasks of the MFoF creates great opportunities for synergies and a common base for knowledge management and effective support⁽¹⁶⁾.

¹⁶MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 15.

12.2.4 The National Board of Health and Welfare has concluded that the existing support does not meet the need

In 2021, the National Board of Health and Welfare was commissioned by the Government to map how health and medical care and social services meet the adoption-specific needs of adopted persons. The assignment also included submitting proposals for possible development initiatives to develop knowledge and skills to meet adoption-specific needs. Particular focus was to be placed on care and support measures for mental illness. In the assignment, the Government refers to research showing that mental ill-health among adopted persons is higher than in the general population, and that the Government wants to increase competence in the area in order to better meet the needs that exist.

In the report, published in 2022, the National Board of Health and Welfare states that the vast majority of internationally adopted persons have a positive social, cognitive and emotional adjustment, but that research also shows that as a group they are at higher risk of serious mental and social ill-health and suicide. The reasons for this are linked to the childhood conditions before adoption, the adoptive parents' readiness and access to adequate support for the adopted person.

Needs and experiences with existing support

In order to capture experiences about the needs and support of people who have been adopted, the National Board of Health and Welfare conducted interviews with organizations for adoptees, adoption organizations and representatives of the profession¹⁷.

Regarding the needs of adopted persons, the experience of interviewees was that adopted persons have an increased vulnerability due to break-ups, separations and other events that may involve different types of trauma. This in turn can lead to attachment issues that affect both the child and the parents and can follow the adopted person throughout their life. Often there is little knowledge of what the child has been through before coming to Sweden, which makes it difficult to know what the child's needs are. The perception is that the parents are left "in the lurch" after the adoption. Some parents

¹⁷ National Board of Health and Welfare (2022), p. 7 ff.

¹⁸ This included employees of social services, child and adolescent psychiatry (BUP), student health, LSS children, child rehabilitation, adult psychiatry and some psychologists in private practice.

Parents are not receptive to children's problems. Children's needs are often addressed at school when any difficulties and problems manifest themselves. There is an awareness that adopted people struggle with their identity, especially in adolescence. Needs and behaviors are similar to those of other vulnerable groups of comparable age, but there are also specific issues of background, appearance and why they were left. Most adoptees report experiences of racism, discrimination and exclusion that start at school and continue into adulthood. Adoption-specific needs of adult adoptees are often based on

in not having their needs met as a child, which can lead to mental illness, substance abuse and dependency problems, eating disorders and other self-harming behaviors¹⁹

With regard to experience of support for adopted persons, it emerged that it is unknown how many adopted persons seek support. The agencies, with the exception of the social services family court, do not keep statistics on how many adoptees they meet or treat, how many have been refused support or how well adoptees and their parents perceive the support. The perception is that there is a general lack of knowledge about support for both young and adult adoptees and that it is difficult to maintain adoption competence as health and social care staff meet few adoptees. This also means that there are no procedures for meeting needs. Within the social services, it is perceived as unclear what support the social services should provide in the form of help, care and support. The shared responsibility between social services and child and adolescent psychiatry (BUP) is another problem that means that individuals are passed between different agencies and that it often takes a long time before they receive help and support.

Moreover, experience shows that adopted persons and their families seek help very late.

Opinions are also divided on the need for adoption-specific knowledge and some, mainly in the health sector, question whether there is an adoption-specific need. It is considered that there is enough knowledge about the diagnoses that people who have been adopted often have, such as attachment problems, depression or ADHD, and the support can be provided within regular activities. One example is the BUP, which does not have any specific support for adopted persons, they

¹⁹National Board of Health and Welfare (2022), p. 56 ff.

is based on the person's diagnosis. The same applies to child rehabilitation. The adoption-specific needs identified by BUP are attachment problems and vulnerability. Social services, on the other hand, see a greater need for knowledge and competence about adoption-specific needs. They believe that a competence or resource center could support them professionally with knowledge ²⁰.

Existing support does not meet the need

The National Board of Health and Welfare's overall assessment is that the support and interventions offered to adopted persons and adoptive parents do not meet the needs that exist. Knowledge and competence about adoption-specific circumstances and needs need to be available among different actors at different times in the adopted person's life, both in health care and social services. The National Board of Health and Welfare's survey shows that support is fragmented and that there is no overall picture of how adoption-specific needs can be met. There is also a widespread lack of follow-up and support after adoption, so needs are often not recognized until school or later in adolescence, by which time they may have developed into various difficulties. The mapping shows that it is difficult to maintain adoption-specific skills and that this is becoming more difficult with fewer adoptions. This leads to a lack of experience, which in turn leads to a lack of knowledge and skills in both social services and health care. The social services see a need for skills development in the field of adoption, while the health services consider that knowledge of attachment problems or diagnoses is often sufficient to treat adopted people with mental illness. Several actors express that knowledge about, for example, racism and discrimination, trauma and the identity development of adopted persons must be available to people who, in their profession, meet people who have been adopted ⁽²¹⁾.

²⁰ National Board of Health and Welfare (2022), p. 60 ff.

²¹ National Board of Health and Welfare (2022), p. 10.

The National Board of Health and Welfare's proposals on how to develop support for adoptees

The National Board of Health and Welfare's report on how health and social care services meet the adoption-specific needs of adopted persons makes several suggestions on how support can be developed. Some of them are listed below.

- Mandate the MFoF and other relevant authorities to develop a model for pre-, during- and post-adoption support in a life perspective (PAS).
- Investigate the post-adoption follow-up by social services and how it can be organized.
- Ensure adoption-specific competence of the profession (several points for the National Board of Health and Welfare and the MFoF to take are highlighted here).
- Establish a permanent individual support for origin search at MFoF.
- Give MFoF the task of investigating how interview support can be organized in the long term from an individual and resource perspective.
- Investigate the conditions for establishing a structure for pooling knowledge in the field of adoption (knowledge center).
- Strengthen research on the health and living conditions of adopted persons.
- Developing knowledge on racism and discrimination against internationally adopted persons.

The National Board of Health and Welfare provides an overall reasoning on the costs of the proposals. The authority argues that there may be economies of scale in gathering knowledge in the area in a national structure, a permanent organization of origin searches at national level and that several authorities are tasked with collaborating on a model for PAS compared with each region and municipality developing expertise in the area. There may also be socio-economic benefits in developing knowledge and skills to better meet adoption-specific needs through early intervention for children and young people ⁽²²⁾.

²²National Board of Health and Welfare (2022), p. 10 ff.

12.2.5 2022 registry study shows need for psychiatric care continues into adulthood

Anders Hjern, researcher at the Center for Health I n e q u a l i t i e s Research (CHESS), Karolinska Institutet, and Bo Vinnerljung, Department of Social Work, Stockholm University, published in 2022 a register-based study on the health and social living conditions of internationally adopted adults. The study was commissioned by MFOF and is a follow-up to studies conducted about 20 years ago, which showed that internationally adopted persons had significantly increased risks of psychiatric care and suicide during adolescence and young adulthood. This study examines whether the high rates of psychiatric morbidity persist into adulthood. The report also focuses on family formation, childbearing and labor market position. The study population consists of internationally adopted persons, refugees originating from Asia, Latin America and Africa who arrived in Sweden before the age of eight, and native Swedes with a Swedish background. Some parts also include Swedish adoptees, who were born in Sweden and adopted in early childhood²³.

The results of the study show that internationally adopted people were more likely to have been treated in psychiatric care after the age of 18 compared to refugees and Swedish-born people. A total of 25 percent of females and 20 percent of males among internationally adopted persons had had contact with psychiatric care after the age of 18, which is about 60 percent more than among native Swedes. International adoptees had twice the risk of ever being admitted to a psychiatric hospital compared to native Swedes, and the risk of new admission did not decrease with age. Depression was the most common diagnosis for psychiatric treatment, especially among inter- nationally adopted women. It was also significantly more common among international adoptees to be treated for psychotic illness. Although the risk decreased with age, it was still significantly higher than for Swedish-born people. Suicidal acts and other self-harm are complications of both depression and psychosis and may therefore be an important indicator that

(23) A. Hjern and B. Vinnerljung (2022), *Health and social living conditions of internationally adopted adults*, p. 3 and p. 15.

a care need was not met. The study shows that twice as many non-European internationally adopted persons per capita committed suicide after the age of 18 compared to Swedish-born and refugees. Significantly more (just over 5%) had also been hospitalized at least once for suicide attempts or self-harm after the age of 18. The risk of suicide decreased significantly with increasing age, although the risk of hospitalization for depression remained high. This could be explained by an increased awareness that internationally adopted people are at higher risk of suicide and other self-harm. Those adopted internationally in their first year of life were consistently at lower risk of psychiatric care. The risk increased the older the child was when the adoption took place. This indicates that difficult life circumstances prior to adoption, such as orphanages, separation and neglect, increase the risk of psychiatric morbidity.

Internationally adopted persons, especially men, also had a higher proportion of care contacts due to substance abuse or alcohol compared to Swedish-born and refugees.

In terms of social living conditions, the study found that two-thirds of internationally adopted persons were firmly anchored in the labor market between the ages of 34 and 45. However, international adoptees were twice as likely to be long-term outside the labor market due to illness compared to non-adopted Swedes, although the risk was higher among Swedish adoptees. International adoptees, especially men, were less likely to have experienced marriage and cohabitation and divorce was more common than among Swedish-born persons. Internationally adopted women were less likely to give birth compared to Swedish-born and refugees²⁴.

The researchers summarize the results by saying that internationally adopted persons' increased need for psychiatric care continues into adulthood and that internationally adopted persons also have more difficulty than others in establishing and maintaining relationships. This means that more internationally adopted persons live alone in adulthood than native Swedes and refugees. Living alone increases the risk of depression and suicide.

According to the researchers, the study shows the need for government support for both

(24) A. Hjern and B. Vinnerljung (2022), pp. 3 and 19 ff.

adoptive families and adopted persons. However, the need for support must be systematically examined.

The researchers highlight some needs that they see as urgent. One is access to qualified clinical support for adopted persons up to adulthood. Such support could be centralized in a few locations in Sweden and still have national coverage.

The researchers also highlight the proposal for a national knowledge center presented in the 2003 report. Such a center would develop methodological support for child and adolescent psychiatry, adult psychiatry, municipal family counseling and other actors such as child care centers, schools and preschools that meet internationally adopted and their families. It could also provide a hub for the "lived experience" research on adoption that is now increasingly in demand²⁵.

12.2.6 Report from the Center for Psychiatry Research at KI shows knowledge gaps among healthcare providers

In May 2024, Mattias Strand, psychiatrist and researcher at Karolinska Institutet and the Transnational Center, and Natte Hillerberg, resident physician in psychiatry at Region Stockholm, presented a study on the experiences and wishes of transnationally adopted persons in health care.²⁶ In the study, 66 participants from 15 different countries of origin in East Africa, South, Southeast and East Asia, South America and Oceania were interviewed in depth about their experiences, views and wishes regarding care and support for transnationally adopted persons.

The study identifies barriers, resources, needs and wishes in terms of support to and for intercountry adoptees.

²⁵ A. Hjern and B. Vinnerljung, (2022), p. 42 ff.

⁽²⁶⁾ M. Strand and N. Hillerberg (2024), *Transnational adoptees in healthcare: barriers, resources, and needs*. Front. Public Health, August 22, 2024, Sec. Public Mental Health, Volume 12 - 2024 <https://doi.org/10.3389/fpubh.2024.1426489>.

Obstacles and barriers to seeking and receiving support and care

Several barriers were identified. One barrier was the ignorance and disinterest of health professionals in talking about adoption. Many reported that health professionals (doctors, nurses, psychologists, psychotherapists, etc.) seemed to be uninterested or uncomfortable when the topic of adoption was raised. Another barrier is colour blindness and reluctance to talk about racism. Few of those interviewed in the study have had the opportunity to talk to a practitioner about their experiences of racism and how it affects their wellbeing. Many link this to a general "color blindness" in Swedish society. There is also an expectation both inside and outside the healthcare system that adopted people should be grateful for having been adopted to Sweden, which makes it more difficult to seek help. A lack of respect for personal integrity also contributes to discomfort in a treatment contact. Some adoptees also highlight that there is a simplified view of adoptees as either deeply traumatized or fully functional. Adoptees are infantilized by being referred to as "adopted children" even in adulthood. Many participants describe not receiving any support from their adoptive parents, being let down and not being supported in seeking care.

Another barrier is that many adoptees have turned to psychotherapists in private practice because of a lack of expertise in mainstream health care, which is expensive. Root searches and return journeys, which many say are important for mental well-being, are also very expensive. Finally, many participants mentioned that knowing that adoption organizations and adoptive parents are involved in support activities affects their trust in the support.

Helpful resources to feel good

The study also identified resources that are helpful for adoptees in dealing with health-related issues. One resource highlighted by participants was access to other adoptees (in private relationships, forums, within organizations or in the media) that allows them to mirror others and share their experiences. Several also highlighted that media revelations about irregularities in adoptions provided a kind of recognition that made it easier to address

with negative experiences. Some participants also reflected on the fact that changing attitudes in society help adoptees. These include greater awareness of adoption-related issues and less stigmatizing views on mental distress and seeking help.

Health-related needs and suggestions for improving support and care

Participants were also asked to describe their need for support and their wishes for how support for adopted persons could look like and be developed.

Several different needs were identified. Several participants highlighted that it can be easier to open up and address important adoption-related issues if the therapist is also adopted or racialized. Others said that the most important thing is that the therapist has the right skills and that the "chemistry" works between them. Many participants called for a single knowledge center where different aspects and needs related to transnational adoption (support and treatment, tracing, legal, etc.) are under one roof. They reflected on how such a centre could best be organized, so that support is available in different parts of the country. They also considered what support should be offered through the center and what should be offered in the regular care system. The need for increased knowledge among therapists and other health professionals was also raised. There is a need for improved knowledge in several areas, such as the impact of adoption trauma, racism and other post-adoption factors on the health of adopted persons. Several participants highlighted the need for complementary psychotherapeutic approaches to CBT. An important aspect of support is that it needs to be adapted to the age and life situation, i.e. throughout the life cycle. One example is in the context of life-changing events such as pregnancy and becoming a parent.

Many participants mention that adoptive parents need more help to be better prepared for potential challenges, such as navigating racial differences and standing up to racism. Just as adoptive parents need support, many participants discuss how adopted people would benefit from some type of structured follow-up during childhood and adolescence. How are the children doing and how are they for them?

Several participants also mention that meeting other adoptees in organized support groups can be empowering, as a forum for sharing experiences and seeing oneself in others.

Many participants also discuss the fact that transnationally adopted persons usually have no - or sometimes very sparse - information about biological hereditary vulnerability and disease. However, the experience is that health care providers do not carry out any extended assessment or additional investigations. Several participants also expressed a need for improved knowledge in health care about medical conditions that more often affect people from non-European backgrounds, including expertise in the assessment of melanin-rich skin. A need highlighted by many is financial support to ensure that adoptees have access to competent psychotherapy, tracing and repatriation.

Finally, many participants also pointed out that children of adoptees need attention in health care. In a sense, they belong to a 'second generation' that shares a background and experiences with the adopted parent.

Suggestions from the study on the experiences and wishes of transnationally adopted persons in health care

Natte Hillerberg and Mattias Strand's study on the experiences and preferences of transnationally adopted persons in health care provides ten recommendations for improved support:

1. Take action to improve knowledge about the situation and living conditions of adopted persons, as well as about medical conditions that more often affect people from non-European countries.
2. Prioritize therapists' competence in addressing experiences of racism, and ensure a broader representation within the profession.
3. Provide access to a greater diversity of treatment models alongside CBT.
4. Create one or more knowledge centers with different competences under the same roof.

5. Introduce a structured follow-up of transnationally adopted persons during their childhood years, possibly as a standing offer of support contact.
6. Ensure training and support for prospective adoptive parents, for example on facing racism.
7. Raise awareness of adopted persons as a particularly vulnerable group in prenatal and postnatal care.
8. Offer extended health screening, testing etc. for those who have no information on heredity etc.
9. Provide funding to ensure that transnationally adopted persons have access to competent treatment, as well as to issues such as tracing and repatriation, which many report as crucial to their mental well-being.
10. Explore support needs for children of adoptees in research and clinical practice²⁷

12.2.7 People who have been adopted have experienced more risk factors for mental health problems than others

Mental health problems are divided into mental disorders and psychiatric conditions depending on whether the mental health problem meets the criteria for a psychiatric diagnosis. Psychiatric conditions are in turn divided into mental illnesses and syndromes and neuropsychiatric impairments.²⁸ Our mental health is influenced by a variety of factors such as hereditary vulnerability, conditions during childhood, economic and social well-being, habits and behaviors, ability to cope with stress, etc. Factors affecting mental health are sometimes referred to as protective factors and risk factors. The more risk factors a person is exposed to, the greater the risk of mental health problems. However, protective factors can mitigate the effect of risk factors.²⁹ All individuals have both protective and risk factors, and these, together with the type of event and degree of exposure, affect how the person reacts to the risk factors.

²⁷ M. Strand and N. Hillerberg (2024) and ppt from presentation of the study 2024-05-06.

²⁸ National Board of Health and Welfare, Public Health Agency of Sweden, SKR and SBU. *Concepts in the field of mental health*. Version 1.1. 2024, p. 7 f.

²⁹ <https://www.folkhalsomyndigheten.se/livsvillkor-levnadsvanor/psyisk-halsa-och-suicide-prevention/what-affects-our-mental-health/>. Retrieved 2024-12-20.

and feel in the moment and after the event. As individuals, we also have different biological capacities to deal with severe stress.

Severe childhood events increase the risk of physical and mental health problems later in life

According to research on Adverse Childhood Experiences (ACEs), difficult childhood experiences affect health later in life. International studies have shown that ACEs increase the risk of illness and premature death from a range of common diseases, such as severe mental illness, cancer, cardiovascular disease and diabetes. The more negative childhood experiences, the greater the risk of negative consequences.³⁰ The fact that negative childhood experiences early in life can have such serious consequences is linked to the serious, so-called toxic stress that affects the child's central nervous system and other organs during development into adulthood. Toxic stress refers to strong, frequent, prolonged activation of the body's stress-response system. Negative childhood experiences have a profound negative impact on people's lives and health well into adulthood and can also affect the next generation³¹.

Adoptees have experienced several difficult events early in their lives, such as separation from their parents, changes of caregivers and sometimes mental and physical abuse. Most people adopted from another country also report racism, discrimination and exclusion starting in school and continuing into adulthood.

As noted above, people who have been adopted have more risk factors for mental health problems than many people who have not been adopted. Although the risk factors differ from one individual to another, it is still a risk that non-adoptees are not exposed to in the same way. This vulnerability can manifest itself at different stages of the adopted person's life when they face changes or life crises. Becoming a teenager, establishing a relationship, becoming a parent or losing a close relative are some examples of what can put extra strain on an adopted person. Access to

³⁰Centers for Disease Control and Prevention (2021), *Adverse Childhood Experiences Prevention Strategy*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

³¹S-O. Andersson et al (2021), *Adverse Childhood Experiences are associated with choice of partner, both partners' relationship and psychosocial health as reported one year after birth of a common child. A cross-sectional study*.

professional support in such life situations reduces the risk of future ill health. However, a number of studies and reports show that adopted people do not have access to adequate support and treatment. It is important that adoption is seen from the perspective of the whole life course of the individual and that society provides support to adoptees of all ages.

12.3 Adoption-specific counseling

Experience from the counseling support offered by MFoF to adopted persons shows that many adopted persons share similar experiences and difficulties, such as an inner experience of loneliness and a fear of being left behind. It is common to experience difficulties in close relationships in different ways. Many have also experienced racism and racialisation in various forms. In order to understand the reasons for the increased risk of mental health problems among adopted people, an understanding of the complexity of being adopted is needed. There are multiple vulnerability factors that seem to be mutually reinforcing and perpetuating. One that cannot be ignored is the most basic: being adopted means that you have experienced an attachment breakdown. Many adoptees have reported developing coping strategies to please, be good, avoid criticism and put others' needs before their own⁽³²⁾.

Other themes that have emerged in counseling for adoptees include the complex emotions that can arise when there are both adopted and biological children in the same family. Media coverage of stolen children in intercountry adoptions has led to more adoptees, who previously lived stable lives without emotional disturbances, seeking counselling. The information has raised deep-rooted questions about identity, origin and belonging that many adoptees had not previously confronted. Another growing need is for emergency support during adoptees' ongoing journeys of origin. These journeys are both exciting and transformative, but they can also evoke complex and difficult emotions, where the need for emergency crisis support may arise⁽³³⁾.

³²MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 8 f.

³³MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 9.

12.3.1 Areas and themes of a conversation support

Adoption is a heterogeneous life experience and there is no one answer to what it is like to be adopted. All adoptees have their own unique experiences, depending on their experiences and events both before and after adoption. The level of counseling support needed by individuals is therefore highly individual. In our interviews and discussion groups, certain thematic areas have recurred.

Debt of gratitude

A recurring theme in our interviews and focus groups with people who have been adopted internationally is that many feel that they are expected to be grateful for having had the chance to come to Sweden. A strong sense of gratitude can have consequences and adoptees may need support from people who understand and can deal with it. For some of our interviewees, this has led to them becoming overly adaptable, having internal high performance requirements or finding it difficult to set limits and stand up for their own needs. One interviewee says that you come to fulfill someone's longing for a child, and that there is a risk of giving something up to get love, of "fulfilling the adoption contract" and losing yourself in it:

All adoptees feel a debt of gratitude. It cannot be taken away. It is the very condition for being here. You can't get rid of it. You are born and given away and you get a lack of trust. You have to accept that you will always have it with you. And then that leads to not listening to your own needs /.../ Gratitude guilt makes you have to perform, not be in your feelings.

One interviewee describes that their own behavior becomes clear when they compare themselves to their own children:

It also becomes clear that I myself adapted and had a strategy and thought more about what was expected of me and was praised for being good. There is no way in my child's world that they would do that.

Psychologist and psychotherapist Hanna Wallensteen has in her thesis from 2024 studied experienced psychotherapists' perspectives on working with people who have been adopted internationally

nally. She highlights that it can be a challenge for the therapist to relate to the complexity of an adopted person's mental health problems and internal difficulties while the person may have very good adaptation in society. The fact that adoptees have often lived in affluent and well-ordered circumstances and have been quick to adapt can make it more difficult for both themselves and others to understand why they might have problems. Therapists describe how people who have been adopted have often developed strong survival strategies that enable them to cope with everyday life, quality jobs and social life: "So there is an exterior that works, but an interior that crumbles."³⁴

Exclusion and intermediation

Many adoptees experience some form of alienation or in-betweenness; they describe the experience of not fitting in anywhere. Some have not felt Swedish even though they wanted to feel Swedish. Someone else felt abandoned, unwelcome and excluded. Yet another describes himself as rootless and lost and that his appearance does not match how he feels. One adopted person says that it can be difficult to land in your adoption even if the adoption has been good. They emphasize that they may need help to process why things turned out the way they did and to come to terms with how things turned out.

Several interviewees describe feeling different both when they are in Sweden and in their country of origin. One of them describes the experience of being in his country of origin as follows:

I went to my country of origin and got to see my hometown and be in an environment where I blended in. But at the same time, I didn't fit in. It was like pulling up a tulip and putting it in the tulip bed.

Several make the comparison with immigrant children, and say that adopted people do not feel the same sense of belonging.

As an adoptee, you live in a very white context with few or no people to reflect on or talk to about perceived racism. Many adoptees lack a context where they can share experiences with others. Immigrant children have parents who experience the same things, exclusion and racism. They can provide guidance from their own experience

⁽³⁴⁾ H. Wallensteen (2024), *Working with the unknown. Psychotherapy with transnationally adopted persons*. Thesis, Stockholm University, Department of Psychology.

Adoptees don't have that support, they are all alone in that. That basic understanding is so important.

One person in our focus group described the experience of both feeling Swedish and not:

I walk around and think I'm Swedish. Then I look in the mirror and see that I'm not. Then fifteen minutes pass and I've forgotten it again. No one who is not adopted can understand that.

Often it is in the encounter with others that some kind of dissonance arises.

As an adoptee, you have no group affiliation, you don't fit in anywhere. This is noticeable socially, in the culture, in the workplace etc. In some people's eyes you are a white Swede, in others not. It is a kind of nobody's life.

In his master's thesis in social anthropology, David Asplund has described how adopted people are raised and socialized as "Swedish" by their adoptive parents, but are then met in a different way by those around them. Others may have made comments, acted in some way or asked questions that remind adoptees that they are not perceived in the way they have been taught and perceive themselves. This creates an inner conflict, a "clash", between one's own self-image and how others perceive one.³⁵ One of our interviewees describes exactly that experience:

You think of yourself as no different and associate with them at home. Then you meet others out in society. It affects you emotionally /.../ It creates a deep insecurity. You should talk to someone early on about these issues.

Racism and discrimination

In our interviews and focus groups with adopted persons, it is clear that internationally adopted persons are exposed to racism and discrimination in Swedish society and that there is a great need for support in dealing with it. Several mention that it has been difficult to grow up in an all-white environment and to be the only black or brown person at school. Adoptive parents do not always understand what it is like to be different, to be looked down upon. Another person said

⁽³⁵⁾ D. Asplund (2023), *The negotiation and crafting of identity among transnational and/or trans-racial adult adoptees in Sweden*. Stockholm University, Department of Social Anthropology.

writes that before school age it was common for adults to call them "the little Korean child" and feel their hair. One person says that they felt that their adoption was everyone's property, that anyone could ask anything, even very intimate questions.

People in our focus groups say that racism can also be subtle. It can be about always having to explain why you are so Swedish even though you are black, that others start speaking English to you because they find it difficult to understand that you speak Swedish when you do not look Swedish, and that you are more often than others suspected by the police and security guards. One person describes that the police have come and asked what they have in their bag and that security guards go up to them but not to their friends. Another adopted person says that they are checked more carefully at the airport:

It's just a random sample but I always end up in a different queue.

One interviewee describes that while there is overt racism in Sweden, there is also a form of racism that is more difficult to touch and capture:

There is a subtlety to racism, to never being that priority person. This everyday wear and tear that takes so much out of you. The everyday reminder that you do not have the same place. That you constantly have to work your way up. Being treated as a foreigner in your home country.

Several have described that they enjoy traveling to larger cities, that it can be like a refuge.

I have to go to London at least once a year. Sitting on the tube and people not noticing. There's a black woman sitting there! And people just move on. It's absolutely wonderful! To be more anonymous.

Racism within the adoptive family

Our interviews and focus groups show that adoptees have sometimes experienced racism within their own families. This can be both from adoptive parents and from other relatives, such as grandparents. Several also say that their adoptive parents have prevented them from taking action and seeking help when they have been subjected to bullying and racism at school. One person describes their adoptive parents as racists. They have expressed that they would never go to a country like their country of origin, with so many germs. Our interview

person had to use separate cutlery and cups, have a separate toilet. They were also subjected to racism at school, but their parents were unable to help them. One interviewee describes that the adoptive parent used them as a "showpiece". Another describes:

My adoptive parents used me for entertainment and gratification for themselves and their family and friends in ways that violated my human dignity and worth even as a young child. Growing up, I was treated like an animal in a zoo, where I was displayed for the amusement of others and to be used for the satisfaction of adults.

The Swedish color blindness

In our interviews, several people highlight that Swedish colorblindness is a problem. One person says that Sweden has not wanted to recognize and talk about the fact that internationally adopted people have been subjected to racism. Another describes that it is difficult to come to an all-white family that makes the fact that you have a different color invisible:

Being asked: "Are you adopted, are those your parents, they are a different color?" You are constantly told that you are different. Some people say "I don't see color", but how blind can you get? Of course it' s color. Everyone is a different shade /.../ To be in your teens and not know what you are, maybe not even acknowledged that you look different.

A psychotherapist also describes how in Sweden people do not talk about race, the issue is hushed up, while in other countries there is a perception that people need to be treated positively in their "racial identity". Several interviewees also emphasize that the Swedish self-image can complicate the work against racism. One of them explains in our interview:

I have a hard time with Sweden's collective view of itself, that we think we don't have the same problems as others with racism, for example. We are self-righteous, see ourselves as superior, good, neutral. If we don't see the problem, we don't need to work on these things.

The reluctance of the environment to see racism can inhibit the adopted person's resistance to everyday racism as well as racist and discriminatory prejudices.³⁶

⁽³⁶⁾ D. Brodzinsky, M. Gunnar and J. Palacios (2022), *Adoption and trauma: Risks, recovery, and the lived experience of adoption*. Child Abuse & Neglect, 130. 2022. 105309, p. 13.

In Hanna Wallensteen's study of experienced psychotherapists' perspectives on working with intercountry adoptees, they highlight adoptees' experience of "living in brown and black bodies" in a society where white is the norm but skin color is considered by many to be irrelevant, so-called color blindness, despite the fact that many face racism and discrimination. Therapists have met many adopted people who have never been asked about adoption before by other health contacts; the subject had previously been treated as a non-issue. They have also not been taught about racism and racialization themselves in their initial training but have learned from their clients⁽³⁷⁾.

Sexual harassment and exoticization

In an interview study with adopted people, sexologist Anna Linde has shown how adopted people are subjected to abusive treatment and exoticization. Her interviewees describe, for example, how others have looked at them and whispered, wanted to take their pictures, touched their hair, wanted to see them naked and so on. One adoptee notes that she was the kind of person you had sex with but absolutely did not want a relationship with. One adoptee has stopped going for mammograms and other examinations because of the way she is repeatedly treated by the health services. Another adoptee describes being asked by MVC and BVC if she is the parent of her child or where her former husband had taken her from. One adoptee says that her adoptive mother was happy when they would have a grandchild and expressed that it would be great if the child was blonde like the father. Several adoptees in her interview study also expressed the feeling that "no one wanted me", "no one would ever want to date me" or "it is not possible to love me".³⁸In an earlier study, Linde reports that the perspective of sexual and reproductive health and rights (SRHR) is often missing when discussing the mental health of adoptees. For example, it was not mentioned in the National Board of Health and Welfare's 2022 report on how health and social services meet the adoption-specific needs of adopted persons. Adopted persons are also not mentioned as a particularly vulnerable group in the Swedish Public Health Agency's national SRHR

³⁷ H. Wallensteen (2024).

³⁸Anna Linde's data from the interview study on adoptees' sexual and reproductive health and rights (SRHR), submitted to the Adoption Commission on 2024-05-02.

In his master's thesis, Linde shows how both a "The "process of othering", structural racism and poor treatment in the health care system, among others, can affect adopted persons' relationships and sexual and reproductive health. The Swedish color blindness also makes it more difficult to identify discrimination and structural racism and to address and discuss it³⁹.

The issue of sexual harassment was also raised in our focus groups and interviews. One interviewee says that they experience sexual racism as the worst. Another told our focus group about his experiences:

You are waiting for the bus and a car stops and asks how much you cost. 1 000 SEK? I've been asked that question several times since I was 14 years old. They really hurt.

A psychotherapist who has met many adopted people describes that women are exposed to more sexual violence and eroticizing stereotypes. Asian men are subjected to a lot of violence and belittling. She believes that men are even more vulnerable, especially the darker they are.

12.3.2 Counseling support needed at different stages of life

As adoption is a life process, the need for psychosocial support may be present at different stages of life and may change over the life course, both in terms of the level of need and the type of support required. Our interviews and focus groups suggest that support may be particularly important at certain life stages or particular events, for example during adolescence, when you are pregnant or a new parent, when relationships begin or end, when a parent dies or when you become seriously ill or are at the end of your life.

Support for children and young people

In our interviews, adoptees, adoptive parents and psychotherapists have emphasized the need for early support for children and young people. A child who has been adopted may need an external

(39) A. Linde (2023), *International adoptees sexual health - To be seen or to be visible*. Master's thesis, Malmö University, Faculty of Health and Society.

someone to talk to, someone to call if problems arise or if the child is being abused in their adoptive family. Several of the adoptees we interviewed said that they themselves had needed more help and support from an outsider when they were children and teenagers. Several compare this to children placed in social care:

Children placed in foster care have their own social worker. Adoptees have no outsider to turn to. No one is on their side. If you need to vent with someone other than the adoptive parents, there is no one.

One person describes not being able to talk to anyone about their feelings about the adoption:

There are very few people you can talk to about your thoughts. You have to borrow books and try to navigate on your own. I tried to find someone to talk to in primary school, and then it was the school counselor. But the response was like my parents': "You're doing so well".

One of our informants, who works as a teacher, says that it is common to support the family, but that it takes time for the child to get his or her own support. An adopted person emphasizes that children are survivors, that they can deny their own needs in order to survive:

It takes so much energy for adopted children to connect to family and society. They are busy with that, they risk hiding in their identity. It's easy to overlook adoptees and that the problems are linked to the fact that they are adopted.

An adopted person describes that it is important to get help as a teenager, although it is often difficult to talk about adoption because it can be linked to shame. It can mean being singled out, like something is wrong and that you look different. Another says that they themselves were not receptive to support when they were young:

When I was a kid, I didn't want to be brown, I wanted to fit in. So the risk is that you step in. It's important to make sure that your identity is fluid. A child can think completely differently from an adult.

Support in the context of family formation

Adoptees may have a fear that they will not be a good parent given their biological origins. Several describe that their parents of origin were described in a very negative way in

adoption documents, which affected their feelings about their own parental capacity.

One woman says that when she had her own child, it became so obvious how small and unprotected she herself was when she was adopted to Sweden, which aroused strong feelings in her. Another adoptee describes that she has felt bad since she had her child 10 years ago, with postpartum depression and panic attacks. A psychotherapist describes that it is not unusual for adoptees to experience strong emotions when their own child is the same age as the adopted parent was at the time of adoption.

Support when a parent dies

The death of a parent can pose particular challenges for adoptees. It can create new separation traumas as well as reawakening old ones. It can also make it harder for the adopted person to get information about their background. Our focus groups and interviews have also revealed that people who have been adopted can be very lonely when their adoptive parents die.

Several adoptees also report that it is not uncommon for conflicts over inheritance to arise when adoptive parents die. Sometimes biological children claim a greater right to inheritance from their parents than their adoptive sibling. One person we interviewed said that the adoptive parent had given money to their sibling before the death of the adoptive parent. The situation brings up old feelings of being abandoned, unwanted and left out. Several of our informants say that there is also a concern among adoptees that irregularities in the adoption may mean that their rights in connection with inheritance transfers may be questioned. For example, if an adoption is annulled in the country of origin.

Support in old age

Several of our informants have highlighted the need for a better understanding of the needs and challenges that may arise as internationally adopted persons age. Many adoptees have very limited or no knowledge of hereditary diseases and medical history. This can create concerns about ageing as an adoptee.

Another important issue is the involuntary loneliness of adopted persons as they get older. According to the National Board of Health and Welfare, older people over 75 are one of the groups most likely to experience involuntary loneliness. As reported in section 10.3.5, a register study from 2022 shows that internationally adopted persons, especially men, had less experience of marriage and cohabitation and divorce was more common compared to Swedish-born persons. Internationally adopted women were also less likely to give birth compared to Swedish-born and refugees. This means that when many other contacts disappear, such as work-related networks and friends, loneliness can be even more pronounced for adoptees who do not have a partner or children.

12.3.3 Other target groups for counselling

Although adoptees are the main target group for adoption-specific counseling, there are people around the adoptee who may also need some support. In particular, adoptive parents but also children of adoptees, partners of adoptees and other close relatives, such as siblings.

Adoptive parents need early support

A psychologist and a social services investigator describe that adoptive parents have a lot of anxiety and worries about how to do the right thing and be adequate, and how to get help when they get it wrong. They believe that adoptive parents need practical advice and support at different stages that children go through. These include racism, alienation, attachment and acting out behavior.

Since 2022, MFoF also offers counseling support to adoptive parents. Among adoptive parents who have sought support, there are common challenges, for example, that adoptive parents may need to work on the emotions that arise within them when they see their adopted child struggling with strong emotions. Many adoptive parents feel very alone in their parenting and do not have their needs met. What emerges for both adoptees and adoptive parents are difficulties with attachment, difficulties in connecting and developing a good relationship. It is not enough to

only receive help in the initial post-adoption period, but that more support is needed for the family later on as well. In 2024, an emerging theme for adoptive parents has been that they are seeking support for post-adoption depression, help to deal with feelings of sadness, exhaustion and emotional distance after adoption. Another theme for adoptive parents is the challenges of dealing with their children's intense emotional expression and relational difficulties. Many adoptive parents find that their children oscillate strongly between closeness and distance, which can lead to stressful and complex relationships in the family.

Adoptive parents also describe relational and marital difficulties that may arise as a result of the specific challenges of parenting an adopted child.⁴⁰ Many adoptive parents have children with an NPD diagnosis. Several are on sick leave, mainly adoptive mothers are on long-term sick leave for exhaustion. The representative of Apoteksgården describes that adoptive parents may have thought that if you just give enough love, it will be enough, and that it can be difficult when they realize that they do not reach the child. She believes that those who adopt nowadays understand that they will have to "work", but the older parents have not received the same support. She describes that those who contact Apoteksgården really struggle and work hard⁴¹.

A person who used to work in training and counseling for adoptive parents noticed that when families called, it had often gone very far. A psychotherapist says that support for adoptive parents tends to come in very late in the child's life, in the teenage years. She says there is so much shame in it, so it's important that adoptive parents get some kind of offer of support, and that it doesn't become a control function. In our focus groups for adoptive parents, one parent put it this way:

It is when the children are not well that the parents also start to have a crisis. When you have kids living on their own, in social services. I think there would be enormous benefits there, from middle school onwards.

When your child feels bad, you get such enormous feelings of guilt. These are feelings that I have kept very secret, even within the family.

Adoptive parents may find it difficult to understand their children's experiences of racism because they have not experienced it themselves. Some have been completely unprepared for their child to be exposed to racism and have not

⁴⁰MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 8 f.

⁴¹Meeting with Apoteksgården 2024-06-14.

tools to talk about skin color and racism. It is important to ensure that there is knowledge about racism and intermarriage, as otherwise it can create an exclusion in the own family. One adoptee says that otherwise there is a risk that adoptees will feel even more lonely and isolated if they are informed but their family is not:

When something happens, someone in the family or at school or on the street says something, the family doesn't understand it. They say: You are white and you are Swedish. You are cute and sweet. That signals that your perception is not correct.

Adoptive parents may also need more knowledge about how separation can affect a child and how they can talk to their child about their origins. A psychologist describes that many adoptive parents have been told that families of origin are not important. Some adoptive parents may need support in encouraging this interest, and also support in making it easier for their children to accept that they want to search for their origins. One adoptee says that it took several years before his parents accepted that he wanted to search for his roots:

You should be grateful that you have been saved.

Children of adoptees may need support in their relationship with their parent and in dealing with racism and discrimination

Our interviews and focus groups revealed that children of adoptees may also need counseling to deal with adoption-related issues. AC describes that the need for support does not end, they now also receive calls from children of adopted persons who want to talk about root searches and return journeys. MFoF has also noticed an increased demand for support from people who have an adopted parent. This generation faces questions not only about their parents' origins, but also about their own identity and health. They are not currently included as a target group for counseling support.⁴²One of our informants says:

There has been an idea that the need for support will end but it never does. It continues in the next generation.

⁴²MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 9.

Children of adoptees may need support if, for example, they feel that their adopted parents have a complicated relationship with their origins or that their parents have not dealt with their own problems. An adopted person may wonder what the feeling of abandonment and rejection is doing to their children. Children of adoptees can also be exposed to racism and experience exclusion. Several adoptees describe that their children wonder a lot about the adoption and ask a lot of questions, often more questions than they have asked themselves. These may include questions about where the parent comes from, whether the grandmother is not the child's real grandmother, where the grandfather is and what he looks like, whether you can come and see how they live and how you have become who you are today. However, children of adoptees can have very different attitudes to adoption. Some children feel a very strong connection to their parent's country of origin, and may have more interest in the country of origin than the adopted person did. Others do not have the same interest at all.

Partners and other relatives may need training on racism

The other network around the adopted person may also need support. One adopted person describes that his grandparents had strong reactions to his parents adopting a black child. It took some time for them to accept.

In our focus groups, it emerged that some support may also be needed for the partners of adopted people. One person describes that it would have been valuable for them, and especially for their partner, if they had been able to talk to another adopted or black person early in the relationship who could describe how racism works in Sweden and what adoption can mean. Then their partner would have been able to ask "stupid questions" and make mistakes before it became a problem for their partner.

12.3.4 Level and performer

A common reason for adoptees seeking MFoF's counseling support is various forms of mental illness. Many who have taken part in the adoption-specific counseling support have wanted it to also include treatment. Since the counseling support is a complement to

the regular health care system, 20 adopted persons have been referred to other care after the first consultation in 2024. Providing treatment has not been part of the mission, but the authority believes that there is a need for an actor in society that strengthens this type of care.⁴³

Our interviews and focus groups emphasize the need for both therapeutic skills and specific knowledge about adoption. Many adoptees also emphasize the importance of accessing counselling support over a long period of time.

12.3.5 The psychosocial support currently offered

Only social services have a specific designated responsibility to provide support and assistance to adopted children and their families after adoption. MFoF has a temporary mandate to offer counseling support to adopted persons and to adoptive parents. But other actors, such as primary health care, school health services, youth reception services and child and adolescent psychiatry, also have an overall responsibility to provide the support and care that adopted persons and their families need, based on their respective missions.

Social services have a special responsibility to support and help children as they grow up

The social services have a particular responsibility to meet the special need for support and assistance that may exist after a case of adoption has been decided under Chapter 5, section 1, point 9 of the Social Services Act (2001:453).⁴⁴The provision applies to both national and international adoption. The preparatory works state that adoptive children and adoptive parents should primarily receive support in the general activities that exist for all children and parents. However, social services have an important role to play in helping families to access the right services in society or to assist them, in collaboration with others, when general support is not sufficient⁴⁵.

⁴³MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p.14.

⁴⁴ Chapter 18, section 10 of the Social Services Act (2025:000), latest wording Bill 2024/25:89.

⁴⁵Prop. 2003/04:131 *International adoption issues*, pp. 28 and 65 ff.

According to MFoF's general advice, the social services should schedule a home visit with the family within four months of the child's arrival. The purpose of the home visit is to identify what support is needed and then make a plan for how to support the child and family. If the child has not reached school age, the investigator should ask for the applicant's consent to the child health care being informed. If the adoption is decided in a Swedish court, the social services should, at the appropriate time, together with the adoptive parents, draw up a plan for post-adoption support. The plan should include follow-up contacts as well as other support measures.⁴⁶ There is no model for social services support, but the MFoF handbook gives examples of areas that the support can cover, such as support in connection with the return home, support in the interaction between child and adoptive parents, support in language development, advice on the conversation with the child about the adoption, advice in connection with the start of preschool and school, support during the teenage years and support in connection with own parenting.

According to MFoF, some municipalities in the country offer special counseling and support, with specific expertise on the needs of adoptees and adoptive parents.⁴⁸ The city of Gothenburg offers a special adoption counseling service where adoptive parents and adoptees (teenagers or young adults) can meet with a psychologist and discuss issues related to adoption. The visits are free of charge for those living in Gothenburg.⁴⁹ The City of Stockholm also offers special support to adoptive families through the Duvnäs parental support program for children aged 0 to 10.⁵⁰

MFoF has a temporary mission to offer counseling to adopted persons and adoptive parents

Since 2020, MFoF has been tasked with providing adoption-specific professional counseling support to adopted persons and adoptive parents.⁵¹ After procurement, the counseling support has been offered via Apoteksgårdens Kognitiva Center AB. The counseling support has consisted of individual psychotherapeutic support sessions and group sessions.

⁴⁶The Agency for Family Law and Parental Support's general advice (HSLF-FS 2022:25) on the handling of intercountry adoption cases by the social welfare board.

⁴⁷ MFoF (2022), *International adoption - Handbook for social services*, p. 108 ff.

⁴⁸ MFoF (2022), *International adoption - Handbook for social services*, p. 108.

⁴⁹ <https://goteborg.se/wps/portal/start/omsorg-och-stod/familj-barn-och-ungdom/stod-to-family/family-council/adoption>. Retrieved 24-10-31.

⁵⁰ <https://socialtstod.stockholm/familj-och-barn/duvnas-foraldrastod/>. Retrieved 24-10-31.

⁵¹In 2022, the mandate was extended to include the target group of adoptive parents.

talks conducted by licensed psychotherapists and licensed psychologists. The support is intended to be a complement to ordinary health care and thus does not involve any treatment but includes counseling. This means that people with needs that are deemed to be more extensive than what the counseling support can offer are referred to regular health care ⁽⁵²⁾.

The call support for adopted persons covers persons aged 15 and over. A prerequisite is that the person is a Swedish citizen and adopted within the country or internationally adopted to Sweden. The counseling support for adoptive parents has covered both those who have adopted nationally and internationally, regardless of whether the adoption was recently completed or whether the support was requested by adoptive parents with adult children.

Individuals can be offered a maximum of one session per week and it is not possible to receive individual sessions and participate in group sessions at the same time. There is no maximum number of individual sessions, but the availability of resources for the assignment, together with the individual's needs, determines the extent of support for the individual.

According to Apoteksgården, the absence of a maximum ceiling means that a queue is created. Those seeking counseling today have to wait at least a month, perhaps a month and a half.⁵³ The group sessions consist of six meetings based on different themes. The counseling is free of charge⁵⁴

The calls are primarily made via digital solutions. It is also possible to have the conversation by phone or visit one of Apoteksgården's clinics in Västmanland, Dalarna and Stockholm.

The support should be partly available outside regular office hours⁵⁵

Number of people who received counseling

Since September 2020 and until October 31, 2024, a total of 792 adoptees have received counselling (776 international adoptees and 16 national adoptees). Since September 2022 until 31 October 2024, a total of 136 adoptees have received

⁵²MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). January 2024, p. 6.

⁵³ Meeting with Apoteksgården on June 14, 2024.

⁵⁴MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). January 2024, p. 6.

⁵⁵MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). January 2024, p. 4.

parents received counseling (133 parents international adoption and 3 parents national adoption)⁵⁶

More women than men have used the counseling service in 2024, both among adoptees and among adoptive parents. The proportion of women among adoptees is 80 percent and the proportion of men 20 percent. For adoptive parents, the distribution of women and men is 65% and 35% respectively. The difference between men and women can be compared with the gender distribution for all persons adopted internationally to Sweden, where the proportion of women is 55 percent and the proportion of men 45 percent.

Mixed perceptions of MFoF's existing call support

MFoF's evaluation of the support shows that participants are satisfied with the support.⁵⁸ Apoteksgården has followed up the counseling support through an online survey to all participants.⁵⁹ The results showed an overall high level of satisfaction with the support, especially regarding the relationship with therapists and the counseling methods. Participants highlighted the support as very important for their well-being and relationship management, and found the sessions relevant for understanding and processing the unique emotional challenges of adoption. Individual development and improved relational satisfaction were also clear positive effects, especially among older participants and women. Many appreciated the concrete tools offered by the support person and emphasized the importance of the adoption-specific skills of the therapists. Parents' comments indicated that the support strengthened their ability to respond to their children's emotional needs and that relationships with their children improved. Some participants wished for more structure and face-to-face meetings and asked for flexibility in the timing of the sessions. Group participants described the sessions as a safe and supportive environment where they could share experiences with others in similar situations, which reinforced their sense of community and belonging. This indicates that the support was perceived as meaningful

⁵⁶MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 3.

⁵⁷MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 12.

⁵⁸MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). January 2024, pp. 3 and 13.

⁵⁹From 2022, Apoteksgården has been using the SRS (Session Rating Scale) and ORS (Outcome Rating Scale) which focus on measuring specific aspects such as the quality of the session (e.g. relationship, objectives, method) and the psychological well-being of the participant.

fully and that participants saw it as a central part of dealing with the complexities of adoption, both emotionally and practically.⁶⁰

Chileadoption.se conducted its own survey of its members in November 2023, which shows that many were dissatisfied with MFoF's support. Of the 18 people who had been in contact with MFoF, almost none felt that they had received the help they needed.

On a scale of 1-10, only one respondent gave more than 5. Of the 18 respondents, 13 indicated 1-3 on that scale.

Representatives of Apoteksgården describe that they initially received a lot of criticism from some adoptees. The criticism was, among other things, that someone who was an adoptive parent should not have conversations. The employees were not prepared for this, and several chose to leave because they did not want to be part of the social drive that arose. According to Apoteksgården, the criticism comes from people who have not been on calls, but only had a conversation about the calls themselves. Those who have had conversations, on the other hand, have been very satisfied with the content of the conversation itself. The feedback they have received on what could be improved has mainly been about the desire for more support, that it should be more accessible and without a queue, so that you can get an appointment the same day⁽⁶¹⁾.

In Natte Hillerberg and Mattias Strand's interview study with adoptees, criticism of Apoteksgården's counseling support was consistently expressed. They believe that there was not the right competence and that the support was difficult to access. The interviews reveal that many lack confidence in MFoF. The mere fact that their logo is on the support service may prevent some from seeking help⁽⁶²⁾.

In our interviews and focus groups, mixed views have emerged about the counseling support offered through MFoF. There is some criticism of a lack of competence and that Apoteksgården has too strong a connection to adoptive parents. Some adoptees are also critical of the fact that the counseling support is not spread out in the country, but only in three locations and digitally. In terms of the calls themselves, some adoptees have found that counseling has worked well. One adoptee found the therapist very helpful in working through feelings of abandonment. They were given good 'tools' and also the time and opportunities they needed. One adoptee

⁶⁰MFoF (2024), *Final report Adoption-specific professional counseling support for adoptees and adoptive parents*. Government commission S2021/08111 (partial). December 2024, p. 8.

⁶¹ Meeting with Apoteksgården 2024-06-14.

⁶² Meeting with Natte Hillerberg on 2022-06-02.

A person who has had counseling by phone says that the therapist at least had some knowledge and understanding. However, he or she wishes they could provide therapy and not just counseling. Other adoptees are dissatisfied with the telephone support. One person describes that they first had to talk to someone who did not understand their problems at all and wrongly assumed that it was about attachment problems. They were also offered too few sessions - first three meetings, and then a follow-up after six months.

AC has a support line

The AC offers counseling for adoptees on feelings and thoughts about being adopted. However, AC does not offer therapeutic counseling support. According to AC, they receive a high volume of calls (about five calls per day) and there are many people in the AC office working with the support line. There are three full-time positions working with PAS but there are more people receiving calls⁶³

12.3.6 International outlook

Denmark has contracted PAS advisors

In Denmark, the development of PAS support started in 2007. The Danish Social Appeals Board initially offered psychological counseling to adoptive parents, but the work has since developed to include support for children, support for adult adoptees and training for the profession. One reason for starting work with PAS was that many adoptees were not getting the help they needed from primary care. Adopted people were not a specific group identified by the health services.

The PAS support currently offered by the National Social Appeals Board includes support for adoptive parents, support for adopted persons and support for the profession. PAS is offered to both national and international adoptees. It does not replace the regions' responsibility for providing treatment, but should be seen as an adoption-specific complement. The activity is mainly financed through state funds. According to information from 2022, approximately DKK 7.5 million is allocated annually to PAS.

⁶³Meeting with AC 2023-10-23.

activities. PAS support does not cover tracing, but is offered through the adoption agencies.

The responsibility for the PAS program lies with a coordinator at the National Social Appeals Board, but the actual advice is given through approximately

25 PAS counselors located in different parts of the country. PAS counselors are private psychotherapists or psychologists with experience in the developmental needs of children and the adoption-specific needs of adopted children (e.g., attachment, trauma, etc.).

The advisors are not procured as in Sweden but are selected through a recruitment process. The advisers offered to be part of the PAS program. The program signs a contract with the National Social Appeals Board for a certain period of time and is reimbursed for the hours of advice it provides. The contract can be extended. Of the approximately 25 counselors currently under contract, five are adoptees themselves and five are adoptive parents. The counselors meet regularly for guidance, training and knowledge exchange under the guidance of a person at the National Social Appeals Board. The group has thus developed a common methodology and knowledge base that is owned by the PAS program at the Agency. The therapists are reportedly long-standing and the group is close-knit, which can make it difficult for newcomers to join. The Ankestyrelsen now needs to recruit new staff and has 140 applicants, a selection of whom are called for interview. Consideration is given to how they fit into the group and whether they can contribute their expertise to the PAS program.

The PAS counselor is paid DKK 1,000 per counseling session by the National Social Insurance Board. The individual pays D K K 100 per individual counseling session. Adult adoptees are required to sign a document with the PAS counselor after each session. The counselor is then paid by presenting this document, which is submitted with the invoice to the National Social Appeals Board.

Support for adopted persons

Support for adoptees includes counseling groups for children (up to 18 years), PAS counseling for adult adoptees (over 18 years) and counseling groups for adult adoptees (over 18 years).

The children's discussion groups give children the opportunity to meet other adoptees of a similar age and talk about things like thoughts

and feelings about being adopted and about belonging and relationships with friends, family and school. The aim is to strengthen the child's identity development. The groups of children meet every 14 days under the guidance of two therapists.

PAS support also offers individual PAS counseling to adult adoptees with adoption-related challenges. The counseling is provided by the approximately 25 PAS counselors with adoption-specific expertise located in different parts of Denmark. To receive counseling, the adopted person submits an application to the Appeals Board. Once the application is granted, the adopted person can contact one of the PAS counselors. Each session costs DKK 100. For the counseling support for adult adoptees, a limit of 8 sessions per individual was initially set, but exceptions have been and are being made and there are persons who have received up to 20 sessions or more.

In addition to individual counseling for adults, group counseling is also offered for adult adoptees. The groups meet up to 15 times for three hours each time. In the groups, thoughts, feelings and experiences are exchanged with other adoptees. They also work on various relevant themes along the way. There are groups for adoptees with children and groups for those without children. To join a group, you sign up, you have to attend an individual interview with a PAS counselor to see if the group is the right intervention for you. When there are enough registrations (up to eight people), the group starts. Participation is free of charge.

Support for adoptive parents

Support for adoptive parents includes a mandatory component and is part of the pre-adoption assessment and approval process (Phase 4). The purpose of the mandatory PAS counseling for adoptive parents is to

The aim of this program is to support the adoption process in the best interest of the child. It includes three hours of pre-adoption counselling and three hours of post-adoption counselling (within the first three months of the child's arrival in Denmark). Parents also receive information about the support services available. In addition to the mandatory PAS counseling, since 2016 adoptive parents are also offered 20 hours of counseling per adopted child up to the age of 18. The counseling covers various

questions about adoption and being adopted. There are also parenting groups for parents with teenagers and themed afternoons on topics such as preparing for adoption and racism.

Support for the profession

The PAS program also offers training to professionals on adoption-specific issues. The training, which is four hours long, is given by PAS counselors, is free of charge and is aimed at caseworkers, nurses, psychologists and others in schools, municipal social services and universities.

The training is general, specific issues can be discussed but not individual cases. The experience is that the training can provide knowledge about all children who have had a difficult start in life. Here too, the Ankestyrelsen is notified⁶⁴.

In Norway, Bufetat East is responsible for counseling adoptees

In Norway, Bufetat in Region East is mandated to offer PAS. Bufetat Region East offers telephone counseling for adoptees, adoptive families and professionals that is open four hours a day, four days a week.

They also offer counseling for adoptees over 16 years old.

However, the counseling support will be extended to adoptees

⁶⁵The sessions are conducted by therapists with long experience in family care and child protection, but they have not had specific adoption expertise from the beginning. Therapists are bound by confidentiality. The counseling support is mainly provided as digital support calls via Teams. Physical sessions are also available in two locations in Norway (Oslo and Østfold). It is possible to receive six 45-minute video calls and the calls are free. According to Bufdir, they need to be able to offer eight hours to cover most people's needs.⁶⁶The sessions are not therapeutic and the therapists do not investigate, diagnose or

⁶⁴The section is based on information on the National Social Appeals Board's website www.ast.dk, retrieved on October 28, 2024, notes from a meeting with the person responsible for PAS at the National Social Appeals Board on September 1, 2022 and June 10, 2024, and The National Board of Health and Welfare (2022), pp. 51-52.

⁶⁵ E-mail to the Adoption Commission from Bufetat Region East 2025-01-27.

⁶⁶Bufetat (2024), *Underveisrapport. Conversation support for adoptees and parenting courses for adoptive parents*. Assignments 1.9.2 and 1.9.3 - Disposition letter 2024, p. 15.

medical assessments. If the adopted person needs care and treatment (mental health care), the counselor can issue a statement that the adopted person can take to their family doctor. Only family doctors can make referrals to other health services⁶⁷.

In the Netherlands, up to five individual calls are offered free of charge

The Netherlands Expert Center for International Adoptions, INEA, is responsible for supporting adoptees and their families.⁶⁸ Children and families are offered "Video home training" in the homes of families. These programs can vary in scope depending on the needs of the family. INEA also offers up to five individual sessions of approximately one hour with a specialized counsellor. These sessions are free of charge. If a person returns after completing the series of sessions, INEA makes an individual assessment of whether further sessions should be offered or whether the person needs support within the regular health care system. INEA also offers group counseling sessions on the topic of adoption.⁶⁹ Health care providers, schools and other professionals can also contact INEA for consultation and skills development. INEA also organizes various events for adoptees and professionals to raise awareness about adoption⁷⁰.

12.4 Adoption-specific knowledge in health care

12.4.1 Adoption-specific knowledge in general health and mental health care

In our interviews, both adopted persons and psychologists, psychotherapists and researchers have stated that there is too little knowledge of adoption-related issues among the health care professionals who meet individuals with adoption experience, such as MVC, BVC, BUP, youth clinics, primary care and specialized care as well as in municipal health care.

⁶⁷ <https://www.bukdir.no/adopsjon/samtalestotte-til-adopterte/>. Retrieved 24-10-25.

⁶⁸ INEA took over this responsibility in 2025 from Foundation Adoption Services (Fiom).

⁶⁹ Email to the Adoption Commission from INEA 2025-02-27.

⁷⁰ Email to the Adoption Commission from INEA 2025-01-16.

Many adoptees in our focus groups and interviews highlighted the need for specialized psychiatry and mental health services to deal with adoption and trauma. Several believe that health services should offer trauma therapy to adoptees and that the concept of adoption trauma should be introduced. A psychotherapist believes that psychiatry needs a better understanding of how to deal with adoptees. If you work in a psychiatric clinic, you meet too. A psychologist believes that general care needs to have at least a minimum level of adoption-specific competence, wearing special "glasses" and being able to ask questions when meeting an adopted person.

Screening for hereditary diseases

Several adoptees request free health screening for adoptees and general DNA screening to find out about hereditary diseases. Adoptees are often asked questions about hereditary diseases and medical history that they cannot answer and without being offered additional tests to find out. One adopted person put it this way:

Sometimes you get the question "do you have cancer in your family?" When you say "I'm adopted", there's no follow-up, so you get that extra blood test to find out if you have a predisposition to different types of cancer or diabetes or something.

Several adoptees wish they could be offered free screening for the most common and dangerous diseases and where there is a known risk. One person believes that adopted people should be offered a blood test at a certain age, to check for a number of genetic diseases known to be common to different countries of origin.

Sweden has brought the adoptees here, so healthcare and the services provided should also be free of charge or at such a low level that everyone can benefit from it.

12.4.2 There is a special child health care program for internationally adopted children

The National Handbook for Child Health Care⁷¹ has a specific section on special adaptations of the child health care program for internationally adopted children. The program states that children who come to Sweden through international adoption must be examined by a doctor within 14 days of arrival. The health examination usually takes place at a medical center, a health center or a local asylum or refugee reception center. The medical examination must assess whether the child has infectious diseases, whether an age assessment needs to be carried out and the need for supplementary vaccinations.

The family should also be offered a home visit by a BHV nurse and possibly other appropriate professionals such as a BHV psychologist, family counselor or social worker with links to preventive social services. Assessment, support and advice should be given to parents regarding growth, health, development, nutrition and parent-child contact. Hearing screening and dental health screening should also be offered. The family should be offered an appointment with a BHV nurse or a team visit with a BHV doctor for vaccination planning. After these initial examinations, the family should be offered an appointment with a BHV nurse once a month or at the parents' request for developmental assessment and support and advice on growth, health, development, sleep, nutrition, stimulation, parent-child contact and child safety.

⁷¹The National Handbook of Child Health Care contains methods and guidelines for Swedish child health care as well as current and quality-assured knowledge about children's health and development. The national handbook is produced on behalf of the Swedish Association of Regions and Municipalities (SKR).

⁷²<https://www.rikshandboken-bhv.se/halsobesok/barnhalsovard-for-internationalt-adopted-children/>. Retrieved 2024-10-21.

12.5 Forum for exchange of experience

12.5.1 Adoptees ask for meeting places to share experiences

Our interviews and focus groups show that there is a need for forums/meeting places for adopted people to meet and share experiences with others. There is a need for both group discussions on different themes led by a discussion leader and other, more informal meetings.

Children of adoptees may also need to share experiences with each other. One of our interviewees has expressed that children of adoptees may need a "bridge" to the cultural heritage from which they were torn.

Discussion groups for adopted people

In our focus groups, it was expressed that it would be good if there were separate discussion groups for adopted persons. Several emphasized that it is important that the person conducting the discussions is adopted themselves but at the same time is a neutral party. Several adoptees have highlighted that many do not feel comfortable in the forums/groups that the organizations have had. One person feels that it has been like a "complaints forum", and wants it to be forward-looking.

For example, they could talk about their identity as an adoptee and receive support at different stages of life, such as the teenage years, having a family of their own, or when their parents pass away. Discussion groups can also be organized by country or continent. People in our reference group emphasize that it is valuable to get cultural support, to get to know your country and to socialize with others from the same country of origin. One person expresses:

It's important to be in rooms where everyone looks like me.

David Asplund writes in his master's thesis in social anthropology that many adoptive parents have tried to make their adopted children feel included and socialized the child to become Swedish. Some adoptees distance themselves from things related to their country of origin, while others find ways to reconnect with it, for example by learning the language, attaching importance to documents, and so on.

mentation and photos, travel back and experience the culture or meet others of the same origin.⁷³

Meeting places, events and camps

Many adoptees find it valuable to meet other adoptees, to feel a sense of belonging, to meet more easily, to do things together and to talk about things other than adoption. People in our reference group emphasize that social support can prevent mental health problems.

One possibility is to organize meetings in existing organizations that exist locally in the country, such as ABF. Another possibility is that organizations for adoptees organize groups and social meetings. However, the associations that receive financial support are often for adult adoptees; there are no organizations for children and young people. One person who has organized camps for adopted young people for a long time says that it has been very good for the young people. He says that adult adoptees are also looking for camp activities. However, only organizations can apply for state support for camp activities.

Many adoptees describe that they themselves have gained a lot of valuable knowledge from exchanges with other adoptees. Several have appreciated that during their childhood they were able to participate in meetings with adopted persons from the same country and then met and shared experiences. One interviewee thinks that it would be good if all adopted people had access to such meetings because many adopted children and young people grow up in a very white environment where it is difficult to find others to identify with. Another thinks it would be good to be in an environment with other adoptees, but his parents did not organize such a thing from the point of view that "everyone is human".

Several adoptive parents emphasize how important the Spira open preschool, which was specifically aimed at adoptive families, has been for them and their children. One adoptive parent says that it was incredibly important for their child that AC brought them together with another family who had adopted from the same country.

(73) D. Asplund (2023), *The negotiation and crafting of identity among transnational and/or transracial adult adoptees in Sweden*. Stockholm University, Department of Social Anthropology.

Social media accounts

There are several Facebook groups and other social media accounts that can provide support and where adoptees can share experiences. Some of these accounts are country-specific.

Our interviewees have mixed experiences with these different accounts. Several have found it difficult to find the right kind of forum to meet other adoptees. On the one hand, some who come from more "unusual" countries of adoption have found it difficult to find groups, and on the other hand, people may have different expectations and needs. Some want to socialize, eat food from the country of origin and talk about the country and culture, while others would rather talk about the rights of adopted people and how to make a political impact.

Many people want a physical meeting place

The opportunity to participate in exchanges of experience needs to be easily accessible. Some value digital meetings precisely because of their simplicity, while others prefer face-to-face meetings because they think it offers something more. Both young and older adoptees (including partners of adoptees) emphasize the importance of having a physical place - not least a place for young people - to meet:

A place to meet for coffee, such a simple thing, in a library or book circle.

A psychotherapist who has met many adopted people has also found that it is important for adopted people to have a physical place with, for example, a library, coffee and lectures/information meetings. She believes that having a physical place can be healing:

Then even the Swedish state says that we have our own place - for a group that does not have a home in the world. /.../ A manifesto, I can be here, have a cup of coffee.

In a letter to the Adoption Commission, organizations for adoptees highlight the need for a library for literature, research and also artistic material linked to adoption issues⁷⁴.

⁷⁴Chileadoption.se, TAR, AEF, AKF, SKAN network and AFO. *Joint document to the Adoption Commission regarding the establishment of a knowledge center for adoptees*. Submitted to the Adoption Commission 2024-09-16.

Many people specifically ask for meeting places for adopted young people, where they can meet and share experiences. One young interviewee considers that the most important support for adopted young people would be to feel a sense of community, to be able to mirror themselves in other adopted people, to share the experiences of others. They wish there was a place where they could go to meet other adopted children and young people in whom they could reflect and recognize themselves, hang out and get to know each other, as well as learn information and facts about adoption, learn about other people's experiences, find out about the process itself, how to find their roots. There can be libraries with books with facts and autobiographies, play and craft rooms, conversation rooms and rest rooms. He suggests that it could be gathered in an "Adoptees' House". But it could also be at leisure centres or within an organization such as Bris. The staff who meet the young people should be adopted themselves and not too far apart in age. They can be both young adults without special training and trained staff, such as counselors. In addition to being adopted, support providers should be knowledgeable, committed, active and outreaching. People should be able to ask questions about adoption and get answers, and have the opportunity for in-depth support.

12.5.2 The meeting places that exist today

Organizations for adoptees offer various forms of meeting places for their members

Adoptee organizations organise different types of meetings and events for their members. These can include lectures, book and study circles, discussion groups for members both online and in person, and social events.

Adoption organizations organize lectures and other activities

AC organizes various lectures, sometimes for members only and sometimes open to anyone who wants to attend. AC local chapters also organize social events and activities.

Websites and social media accounts

There are several websites⁷⁵ and social media accounts run by adoptees. There are several different types of accounts. Some are about adoption and the rights of adoptees, while others are more country-specific and about the country and culture.

12.6 Support in origin search

12.6.1 Origin search is about both biological and cultural origin

Searching for origin can involve both searching for one's biological and cultural origins. Searching for origin can range from requesting one's adoption documents here in Sweden and in one's country of origin, to making a return journey to search for or reunite with one's original family or experience the culture, geography and language of one's first country. According to the HCCH, cross-border cooperation between States of origin and receiving States is necessary when adult adoptees are searching for their origins, which is a lifelong process⁷⁶.

The right to identity is a human right, but the need to seek one's biological origins varies

The right to identity is a human right and not knowing who you are and where you come from is for many adoptees an extremely stressful and stressful experience.

However, the need to search for one's origins is very individual. Some people think that knowing their biological origins is very important. Others do not. Some are torn on the issue. Some are curious about their original family but at the same time unsure whether they want to know. They may be afraid of the consequences and feel unsure of what to do with the information. Several describe a longing to recognize themselves, both in terms of personality and facial features, in someone else. The interest in the original

⁷⁵ See for example <https://www.adopterade.se/>. Retrieved 2024-11-27.

⁷⁶ HCCH (2008), *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention. Guide No.1*, p. 125.

search can also change over time. We have met several adoptees who say that they were completely uninterested until a certain point, when it became very important instead. According to the HCCH, there is an example of a 96-year-old adopted person searching for his birth certificate⁷⁷.

Adoptive parents' attitudes and ability to support vary

Adoptive parents' attitudes towards their children's search for origin vary. Some find it difficult to talk about it, while other adoptive parents are interested and supportive of their children. Adoptees report that there is sometimes shame towards the adoptive parents when they want to search for their origins, it can take years before the parents accept that the adopted person wants to search for their origins. Some adoptees start their search only when the adoptive parents are dead. This may be due to loyalty to the adoptive parents and a fear that they will be hurt or feel questioned. But it may also be because adopted people may feel very much the same after the death of their adoptive parents and the need to know about the original family may increase.

12.6.2 There is a demand for both practical and financial support in tracing

From our interviews and focus groups, it is clear that there is a need for guidance, practical and financial support in origin search:

Searching for your roots is an emotional and practical full-time job, which many people do not understand.

Adoptees are looking for professional support from a governmental and neutral actor. At the same time, it is important that the person who helps with tracing has cultural understanding, or connects with people who do. MFoF emphasizes that it is important to ensure long-term support in tracing. They believe that the need will remain for a long time, even if the number of adoptions decreases. Several adopted persons state that the state should pay for tracing because the state has contributed to the adoptions and

⁷⁷HCCH (2008), p. 123.

that the adoptee has not chosen to come here. An adopted person says:

Adoptive parents get a grant for adopting, I get nothing for searching for my roots.

The Dutch inquiry, the so-called Joustra Committee, carried out a survey which showed that about 1 in 3 of the adoptees who collected additional information about their background had discovered that the information in their adoption documents, such as date and place of birth, names of original parents and reasons for adoption, was wrong.

If the information in the adoption documents is false, the search for origin is obviously even more complicated and time-consuming⁷⁸.

Access to adoption documents

Many adopted persons describe that it is difficult to get access to their adoption documents. One problem today is that the information is available in many different places, which means that adoptees have to contact several different bodies: social services, the district court, the Swedish Tax Agency, the Migration Board, the National Archives, city archives and adoption organizations.

Access to adoption documents from the country of origin is also difficult. An adoptee from Colombia describes the ICBF as offering support that looks good "on paper". The agency keeps all the documents, can provide documents and offers to search for biological family for free. But in practice it is difficult to get help from ICBF. An adoptee from India describes being told by the orphanage that all documents were destroyed in a flood. Adoptees from other countries also say that they have been told that the documents have been destroyed by floods and fires or that they have been eaten by rats. One adoptee states that the archives in the countries of origin need to be digitized, otherwise the adoption documents risk being lost and that Sweden needs to "press" the countries of origin on this issue. Several adoptees state that help is needed with translation and interpretation of what is written in the adoption documents.

⁽⁷⁸⁾ D. Deijle (2024), *The struggle towards collective justice through financial compensation for intercountry adoptees in the Netherlands*. In E. Loibl and D. M. Smolin (eds), *Facing the Past. Policies and Good Practices for Responses to Illegal Intercountry Adoptions*, pp. 217 and 219.

Adopted persons are looking for "a way in" to the adoption documents. An actor who knows where adoption documents can be found and who can guide the adopted person in the right direction.

Practical support in the country of origin

The adoptees we have interviewed describe how difficult it is to search for their origin in their country of origin. These include language and cultural barriers, but also difficulties in knowing "how to get around" authorities and other institutions.

Several adoptees report that they have received valuable help in their country of origin from other adoptees or from individuals who offer support in tracing. However, several adoptees recognize that there are some risks associated with private help, for example, that they do not always fully understand the consequences of tracing for the original families. Adoption can be a family secret that is revealed. One adoptee describes not wanting to disclose information to strangers as they do not want to risk the safety of their mother. It can also be difficult to know who to trust as some of these actors have financial interests and charge a lot to help.

Adoptees are looking for practical and tangible support on the ground in the country of origin. This could be, for example, a designated contact person in the country of origin that adoptees can turn to. It could also be a state actor who can train and refer to people who can assist with the origin search, a kind of quality assurance. One variant is that the origin search is carried out in cooperation with the Swedish embassies in the countries of origin. They would be able to support adoptees in returning, give tips on local people who can guide and help, have knowledge of where to find their documents, search registers, assist in DNA research, assess risks and prepare the original family for reunification.

Support in the context of reunification

Reuniting with the birth family is a complex process. Sometimes the needs of the adopted person and the needs of the birth family are different. Sometimes the birth family does not want contact or wants to keep contact secret. Sometimes the adopted person wants information about their birth family but is not ready for a relationship. Differences in culture and understanding of what it means to be a family can create misunderstandings and conflicts in the relationship. Expectations of financial provision can also contribute to complicating the relationship. The family's explanations for the reasons for adoption may be partial or contradictory. And, above all, language can be a major obstacle to fully communicating and understanding each other. Our interviews and focus groups show that adoptees and their families need help and support when reuniting.

Representatives of Apoteksgården describe that a lot happens in connection with meetings in the country of origin and that it is often painful and raises existential questions about one's own identity: "Who am I, what would my life have been like if I had stayed?" According to AC representatives, "you think it's over when you find your original family, but that's when it starts". Reactions of the adopted person can also come long after reunification.⁷⁹ One adopted person describes how painful it can be:

Something you should get help with is when you have found your biological family. Then you often get an incredible backpack of grief and pain because they have lost their child. It becomes like a double backpack to carry. On the one hand, your own trauma and what you have experienced throughout your life in another country. And then you have to carry the pain and grief of your biological parents.

In our focus groups, adoptees have also highlighted the need for support if the original family does not want to meet. Or, conversely, support if you have been approached by a parent who wants contact but you do not want it. You may need support in making the right decisions and dealing with emotions. One person in our reference group points out that it is a life-changing situation that can stir up emotions, and that as an adoptee you should be able to say yes or no to contact. There may also be birth parents who feel that the

⁷⁹Meeting with AC 2023-10-26.

adoptees must provide financial support to the family, which they may need help to manage.

Original families must also be supported during reunification

Several of our informants emphasize that the original families need to be prepared and supported for reunification. Contact with the original parents requires sensitivity and they often do not have access to professional support. Several adoptees point out that the birth parents are often very vulnerable and that their rights must be respected. One adoptee says that he has been in contact with his Korean family since the 1990s, but that his mother did not want to meet him on the last visit because it was too difficult. Our interviewee believes that this is because the criticism of adoption is so massive in South Korea now. "It does something to all the mothers who have given up their children. There is tremendous guilt and shame and they are afraid that their adopted children will be angry."

Financial contribution to search for origin and return

Tracing one's origins is often associated with significant costs for the adopted person. These include the costs of translating documents (both documents in the adoption file in Sweden and in the country of origin), DNA tests, travel to and accommodation in the country of origin, and hiring an interpreter. Several adoptees are critical of the fact that they have to pay these costs themselves. This is partly because it was not their choice to be adopted to another country, and partly because it is often the absence or inaccuracy of information in the documentation that makes the search for origin so difficult and costly.

Return travel grants

Adoptees, as well as ACs⁸⁰, ask for financial support to return to their country of origin. For some, a return journey is about trying to find their original family, others want to travel to reconnect with the country, language and culture. For some adoptees, the possibility of returning to their country of origin can provide relief from the challenging existential questions. A return journey can help provide a more complete picture of the adoptee's identity and history and also reshape their life story and provide a sense of belonging. How a person views their life story and sense of belonging has a significant role in their health and well-being.

Several adoptees emphasize that a return journey is not a "holiday trip". Partly because a return trip is associated with specific costs, for example for interpreters, visits to authorities and hiring people to provide practical help in the country. But also because a trip to the country of birth is about identity. One adoptee describes that it gave them a reassuring feeling to go back and see what the city looked like and how the people there functioned and lived their lives.

Some also want to be able to travel back with their children. An adopted person with very little financial resources says:

What if I never get there? I've been thinking about it for so many years, but it hasn't happened yet.

Several adoptees compare this with the adoption grant of SEK 75,000 that adoptive parents can apply for from the the social security fund after an international adoption. One person has stated that this proposal has met with resistance, arguing that such a grant would be difficult to administer and that it would be unfair, as the costs of tracing and repatriation differ depending on the country of origin. At the same time, the adoption allowance has been the same for all adoptive parents, regardless of their country of origin. Another suggestion is that the state could provide means-tested assistance to make the possibility of return more equal. Those who have the most

⁸⁰Adoption Center's Interest Policy Program (IPP), <https://www.adoptionscentrum.se/app/uploads/2023/01/ipp-februari-2022.pdf>, downloaded 2024-10-28.

need to return may be the least financially able to do so. It has also been suggested that adoption organizations that still carry out adoption-related activities should provide financial support to those who have been adopted internationally.

Original families ask for financial support to travel to Sweden

In our interviews with families in Chile, they asked for financial support to visit their children or siblings in Sweden. One woman told us that her sister is unable to buy a plane ticket to visit her daughter in Sweden, whom she had recently returned digitally.

Two siblings who have a brother in Sweden asked:

Can the Swedish government help us visit our brother in Sweden? We cannot afford it.

12.6.3 The support offered today

MFoF has a specific responsibility to provide individual support to adult adoptees seeking their origins. The authorized adoption organizations and associations/networks for adoptees also offer some support. Social services should offer advice and support when an adopted person requests information about their adoption.

MFoF offers individual support for origin search

Since 2020, the MFoF has been working on specific government assignments aimed at providing individual support to internationally adopted persons seeking their origin.⁸¹In 2023, long-term funding for support in tracing origins was finalized, with the costs being added to the agency's regular appropriations. This decision means that inter-

⁸¹MFoF (2022), *Pilot project with individual support for internationally adopted persons in search of origin. Final report January 2022*, Government assignment S2019/05315/RS (partial) and *Final report. Support for internationally adopted persons in the search for origin*. Government assignment S2021/08111 (partial) January 2024.

nationally adopted persons in Sweden will continue to be offered individual support in tracing their origins.

The support offered by MFoF in the search for origin is free of charge and limited to persons over 18 years of age. The individual support primarily refers to guiding support in the search process, i.e. help to self-help, but can also refer to practical and to some extent financial support. MFoF's investigators work from Sweden and do not travel to the country of origin to search for people, for example.

Guiding support can, for example, be about getting help with creating a structure in the search, getting support with reading the content of adoption documents, searching for information that may be valuable for a continued search or getting information about different search and contact routes in the country of origin. The practical support can, for example, be about getting help to formulate a text to send to an authority or organization in the country of origin, assessing what information or documents may be appropriate to attach to an application or support in connection with contact with other countries' authorities. The economic support includes the possibility of having adoption documents translated from the language of the country of origin into Swedish and the possibility of a telephone interpreter at the first contact in connection with reunification.

Beyond this, the MFoF does not provide any financial compensation to adoptees or their families, for example in the form of repatriation grants.

Adoptees want more support than MFoF offers

In our interviews, several people have stated that they need more support in their search for an origin than MFoF can offer. Several describe that MFoF has replied that they cannot help them. One of our informants expressed great disappointment with the support that MFoF had offered them in connection with their search for origin. He says that MFoF has told him that they can only give tips on who to contact, they cannot take over the origin search. They cannot help book meetings or attend meetings with authorities in the country of origin. He also says that MFoF only offers a translation tool, not translation by professional translators, which is a big problem. Several

of our informants were also not aware that the MFoF has a mandate to assist with tracing.

A person who has helped many adopted persons to search for their origin is critical of how MFoF and AC work with searching for origin. He believes that they do not make any direct effort to guide adoptees in this. He believes that the Swedish state should fund actors or organizations in the countries of origin that can do a good job, and that there should be someone in every major adoption country.

MFoF believes that they have been able to provide several adoptees with new and better information about their background and adoption, and that they have helped with reunifications with biological families. MFoF perceives that adoptees are satisfied with the fact that it is a government agency that helps, as many have a distrust of adoption organizations.⁸² However, we have also interviewed adoptees who do not want to turn to MFoF because they do not perceive that the agency "is on the side of adoptees".

Adoption organizations offer support in tracing origins

AC's support to adopted persons is called Post Adoption Services (PAS). It consists of three parts: assistance in tracing origins, return travel and copies of adoption documents. According to AC, they provide support to both adoptees and adoptive parents and also to non-members, although some of the support is directed only at members, for example, repatriation. AC has been working with PAS for 30 years. When they started, they were able to fund the support because they were facilitating so many adoptions per year, but now AC is finding it difficult to fund the work. AC has applied for government funding to run PAS but has not been successful⁸³.

The work of the AC includes preparatory advice and support for tracing biological origins, individual support for adoptees and parents who want to know more about the origins of the adopted person, and individual support or counseling for a return journey. AC also organizes a workshop where adoptees, regardless of their country of origin, have the opportunity to discuss and reason about issues related to tracing. The workshop is mandatory for

⁸² Meeting with MFoF 2022-02-10.

⁸³ Meeting with AC 2023-10-26.

to be able to start a root search with the help of AC and anyone who wants to participate needs to be a member of AC.⁸⁴

AC states that they receive many calls in connection with adoptees requesting to see their adoption documents. The AC goes through all the information before the adopted person is allowed to see their adoption documents, to see if there might be sensitive information. If something is particularly sensitive, the AC contacts the adopted person before sending the documents.⁸⁵

The Children Above All (BFA) states that they have few root searches. It is about 10 to 15 per year, but they became more in 2021 when irregularities were highlighted in the media.

Return journeys

Since the mid-1980s, AC has been organizing group return trips for adoptees and adoptive families. The idea and purpose of these trips is to give adoptees the opportunity to experience their country of birth in the company of other adoptees and to receive support and assistance before, during and after the trip. AC staff will make the arrangements and accompany you on the trip. The group return trip is aimed both at those who want to search for their biological origins and at those who primarily want to get to know their country of birth. AC has organized trips to South Korea, Chile and Colombia and there are plans to expand the offer in 2025, including to Vietnam⁸⁶.

For return trips, the AC organizes two meetings that those who want to travel must attend. The first meeting is about six months before the trip. It is important to talk about expectations and concerns. It is important that the adoptive parents are present at the pre-meetings to make them understand that this is about the adopted person, so that their own feelings do not take over. AC therefore has two groups, one for adoptees and one for adoptive parents. Those going on the trip also receive an education on how the country has developed over time. According to AC, it is important to inform about the difference between now and then. The return trips are not "root-seeking trips", but many people want to take the opportunity to search for their roots on a return trip. In these cases, the AC also has talks before the meetings

⁸⁴MFoF (2022), *Pilot project with individual support for internationally adopted persons in cases of origin search*. Final report January 2022. Government assignment S2019/05315/RS (partial), p. 26.

⁸⁵ Meeting with AC 2023-10-26.

⁸⁶<https://www.adoptionscentrum.se/ac/adopterad/aterresa/gruppaterresor>. Retrieved 2024-10-21.

with biological families and ensures that biological families are supported before the first meeting.⁸⁷

In some cases, the BFA can assist persons adopted through the BFA in connection with return travel. This is particularly true if the return journey is to a country with which BFA still cooperates. BFA can then help establish contact with the relevant authorities, orphanages and organizations in the country of origin⁸⁸.

Adopted persons can also apply for a return travel grant from the Family Federation for International Adoption (FFIA) Foundation. Grants can be applied for a maximum of two times per adoptee with a minimum of three years between trips. Priority is given to adoptees adopted through FFIA, and a grant of up to a maximum of half a basic amount can be awarded. Scholarships are only awarded to the adopted person and not to fellow travelers⁸⁹.

There are different views on AC support in origin search

Several of the people we interviewed are critical of the fact that AC requires membership to get help with tracing one's origins and that they charge for a limited effort. Several adoptees have also experienced resistance from AC when they want to search for their roots.

Others feel that they have been well supported by the AC. An adoptee from South Korea describes that he received very good support from the AC in connection with his reunion with his Korean mother. One adoptee gained a better understanding of the importance of preparing for contact with the birth parents, having thought through what happens next, for example if there are feelings of guilt about supporting them financially.

Adoptee organizations and networks share practical experience and provide support

Several organizations and networks for adoptees have gathered information on how adoptees can search for their origins on their websites and several organizations also assist individuals with advice

⁸⁷ Meeting with AC 2023-10-23.

⁸⁸ <https://www.bfa.se/adopterad/>. Retrieved 2024-10-21.

⁸⁹ <http://www.ffia.se/adopterad/aaterresor.aspx>. Retrieved 2024-10-21.

and support in tracing origins. The organizations also receive requests from original families looking for children adopted to Sweden.

Through the experience of adoptees, there is a wealth of knowledge and practical experience on tracing within these organizations. For example, the Swedish Korean Adoptees' Network (SKAN) has compiled the information booklet "Searching for roots in South Korea", which contains information on tracing origins in South Korea. SKAN has also compiled a list of orphanages in South Korea. The Organization for Adult Adoptees and Foster Children (AFO) has developed a network of contacts that can help with tracing origins in other countries. Chileadoption.se cooperates with the Chilean non-profit organization Hijos y Madres del Silencio, which works to reunite adoptees with their families.

Social services should offer advice and support when information about an adoption is disclosed

The social services do not have a specific responsibility to support tracing. However, according to general advice from the MFoF, the social services should offer advice and support when an adopted person requests information about their adoption. Even if the requested information is covered by confidentiality and therefore cannot be disclosed, the social welfare board should offer advice and support. The person concerned should also be informed where he or she can go to find out more about his or her origins.⁹⁰MFoF has published a guide to tracing origins. The target group is the country's municipalities and the aim is to strengthen the social services' competence and ability to support internationally adopted persons seeking their origin. The guide includes, for example, information on the adopted person's right to origin and identity, how the adopted person can prepare for the search process, where adoption documents can be found, specific contact routes for different countries and information for a return journey⁹¹.

⁹⁰The Agency for Family Law and Parental Support's general advice (HSLF-FS 2022:25) on the handling of intercountry adoption cases by the social welfare board.

⁹¹MFoF (2021), *Search for origin in international adoption - guidance for municipalities*.

12.6.4 International outlook

In Norway, there is a government support for origin search

In Norway, Bufetat in the Eastern Region has the task of assisting adopted persons in searching for their origin. A search starts by the adopted person first requesting their adoption documents from Bufdir. After that, the adopted person can contact the country of origin, either on their own or with the help of Bufetat or the adoption organization. Bufetat Region East can provide information on the documents to be sent to the country of origin, assist in filling in forms and make the necessary translations. Bufetat Region East can also contact the country of origin on behalf of the adopted person. In this case, Bufetat Region East will cover the costs of translating the necessary documents and the costs of a telephone interpreter for the first telephone call in case of reunification. Bufetat Region East does not reimburse earlier costs related to the translation of documents or similar, DNA tests, costs of travel to the country of origin or costs of assistance from other persons⁹².

In the Netherlands, some guidance support is offered through Fiom and the INEA expert center

In the Netherlands, the responsibility for tracing is shared between two authorities: the Foundation Adoption Services (Fiom) and the Netherlands Expert Centre for International Adoptions (INEA). Fiom offers tracing support in cooperation with the International Social Services (ISS). INEA is responsible for maintaining an up-to-date overview of tracing possibilities in different countries and for providing adoptees with the right information.⁹³ INEA also provides contacts with other organizations active in the Netherlands.⁹⁴ INEA provides information on private providers of DNA testing for different continents. INEA does not keep adoption files but can provide guidance on where to find adoption files and how the adopted person can access their file. INEA also has a pilot project called "reconnecting home". This includes support for the five countries specifically identified by the Joustra Committee. INEA can

⁹² <https://www.bufdir.no/adopsjon/soke-etter-opprinnelse/>. Retrieved 24-10-25.

⁹³ Email to the Adoption Commission from INEA 2025-02-12.

⁹⁴ Email to the Adoption Commission from INEA 2025-01-16.