



# National experiences on the management of the demand for intercountry adoption



# ChildONEurope Series 5



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on the management  
of the demand  
for intercountry adoption



### **ChildONEurope Secretariat**

c/o Italian Childhood and Adolescence Documentation and Analysis Centre  
Istituto degli Innocenti  
P.zza SS. Annunziata 12 I-50122 Firenze  
tel. +39 055 2037342/305/357 - fax +39 055 2037344  
e-mail [childoneurope@minori.it](mailto:childoneurope@minori.it) - website [www.childoneurope.org](http://www.childoneurope.org)

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The work has been coordinated for the ChildONEurope Secretariat by Alessandra Gerbo and Raffaella Pregliasco.

The ChildONEurope group of experts was formed by: Erika Bernacchi, Cinzia Bernicchi, Elizabeth Canavan, Vanessa Carocci, Eleonora Fanti, Radoslav Fedacko, Alessandra Gerbo, Claudia Geubel, Peter Gurán, Bente Hoseth, Claude Janizzi, Laure Neliaz, Isabel Pastor, Susana Pereira, Raffaella Pregliasco, Karin Rønnow Søndergaard, Signe Riisalo, Elena Isabel Ruiz, Odeta Tarvjdienė. Texts have been drafted by: Cinzia Bernicchi, Vanessa Carocci, Radoslav Fedacko, Alessandra Gerbo, Peter Gurán, Giorgio Macario, Laure Neliaz, Raffaella Pregliasco, Karin Rønnow Søndergaard, Elena Isabel Ruiz, Odeta Tarvjdienė.

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### **ChildONEurope Secretariat**

Roberta Ruggiero, Alessandra Gerbo, Fabiana Mazzoni, Silvia Toniato

### **Editorial coordination**

Anna Buia

### **Cover**

Cristina Caccavale

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## List of main abbreviations

<b>AB</b>	accredited (or authorized) body
<b>CA</b>	Central Authority for Adoption (at national level)
<b>CoE</b>	Council of Europe
<b>CRC</b>	Convention on the Rights of the Child
<b>EctHR</b>	European Court for Human Rights
<b>EU</b>	European Union
<b>HC</b>	The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
<b>HCCH</b>	Hague Conference on Private International Law
<b>ISS</b>	International Social Service
<b>PAPs</b>	prospective adoptive parents
<b>UN</b>	United Nations



## Introduction

After its establishment in 2003, the ChildONEurope Network has been working a lot on national and intercountry adoption, considering its importance as a growing phenomenon of special relevance. It was therefore decided to set up a working group of experts from receiving countries and countries of origin nominated by the ChildONEurope partners in order to explore the most relevant issues in question.

After having worked on the drafting of *Guidelines on Post-adoption Services* and on the comparison between the different EU member States' legislation concerning national and international adoption, the Assembly of February 2008 decided to give continuity to the work on adoption and entrusted the working group on adoption with a clear mandate, asking it to look more in depth at the theme of interventions related to the management of requests, in particular in intercountry adoption.

Specifically, this interest was aroused from the consideration that a trend was evolving in Europe in the last decade: an important drop in the number of international adoptions while the demand of PAPs seemed to keep increasing. This has led to a worrying inadequacy between both the volume and profile of the demand for international adoption in the receiving States (a huge demand by PAPs for young and healthy children) and the volume and profile of the needs for international adoption in the States of origin (fewer and fewer children in general, especially young ones, but more and more special need children).

A lack of consideration of this evolution in the management of the demand by the receiving States is likely to generate bad practices at a double level. The States of origin are put under pressure by the receiving States through the influence of PAPs, adoptive parents' lobbies, adoption accredited bodies and sometimes even of governmental authorities themselves. Their authorities can waste precious resources (in time and energy) in trying to manage non appropriate PAPs files instead of trying to resolve the situations of children in need of protection. This can finally lead to jeopardizing the whole system of child protection and adoption. In the receiving States, the risk is to generate unrealistic expectations among PAPs, allowing inhuman endless procedures and making risky matching between children and PAPs with incompatible profiles.

Since the beginning, the working group has considered it appropriate to deal with the ethical issues that the increase in adoption demand brings about. The CAs of receiving States are aware of the problem, but, due also to the general lack of statistics and information in this field, they are both facing and trying to answer these problems alone, not taking advantage of cooperation or dialogue on this topic. For this reason, the necessity to deal with the situation in a European perspective, promoting exchange and debate between the different receiving States and between them and the States of origin, appears to be even more urgent.

Given its institutional nature, ChildONEurope is perhaps in the best position to undertake this task, trying to increase the existing and still limited knowledge in this field. Being composed of experts from the National Observatories or institutions on childhood appointed by the national Ministries, ChildONEurope actually represents a privileged forum of observation and exchange, capable of producing policy-oriented research.

Furthermore, ChildONEurope's group of experts on adoption is composed of professionals and researchers coming both from countries of origin and from receiving countries, working in a highly cooperative environment. This certainly represents an added value to work on such a sensitive issue.

The members of the working group finally agreed that the research activity would focus on a comparative examination of the flows of adoption in different countries and on the strategies used to address the demand and to introduce quality profiles in adoption procedures. Moreover, in the context of this study, demand is intended as a wider concept, including both the expectations of PAPs and the conditions of the children themselves.

In particular, the objective of the survey is threefold:

- to compare the policies and strategies promoted by each European State to deal with the actual situation concerning demand for intercountry adoption;
- to collect data and statistics from receiving States and from States of origin, concerning the various aspects of the management of the demand in intercountry adoption;
- to draw up some basic good practices and guidelines in this field.

Concerning methodological aspects, two questionnaires were prepared by the experts of the working group: the first part is common to both questionnaires and concerns general aspects, while the second part differs from countries of origin to receiving countries. The countries selected to participate in the survey were chosen based on the relevance of international adoption in their national system (mainly from a quantitative perspective) or on its specific characteristics. Not all the selected countries are part of the EU, as adoption practices are significant only if analysed in a wider context. In some cases, for example, when talking about co-operation in respect of intercountry adoption, non-European countries have also been taken into consideration, in particular among the countries of origin. This is due to the fact that most EU Member States co-operate especially with non-European countries of origin.

With respect to receiving countries, the States that participated in the survey were: Belgium (Flemish Community), Cyprus, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain and Sweden. As far as the countries of origin are concerned, the European States taken into consideration are Estonia, Hungary and Slovakia. Although not directly through the questionnaire, some data about Belgium (Federal level), Bulgaria, Lithuania and Poland was integrated thanks to a former research on this topic carried out by the Secretariat on behalf of the European Parliament.<sup>1</sup>

The questionnaires were sent by the Secretariat to the national representatives of the ChildONEurope Network, each of whom was in charge of contacting the respective national authority to get the questionnaires filled in. The collected answers and statistical data were sent back to the Secretariat, in order to be analysed by the working group's members. After agreeing on a list of topics as a basis to develop the in-depth analysis, the questionnaires were divided among the working group's members to be analysed individually. In the following meetings, the single contributions were put together to elaborate the final results of the analysis, i.e. to make a comparative analysis of the practices concerning intercountry adoption at a European level.

It has to be underlined that there were difficulties regarding the collection of the data and information requested. Those difficulties can be seen at three different levels:

- The questionnaires used to collect the data included questions that were not precise and operational enough, so they led to different interpretations by the State reporters. Some questions referred too closely to the framework of reference of the country of origin of the person who wrote them, so they were not clear or sometimes not even understandable in other countries' procedures and situations. A second phase with an actual conversation could have helped to clarify the questions and the corresponding answers, but this was not possible.
- In some cases information was not available, in other it was insufficient. Moreover, when looking at the answers given to the same questions, it can be noticed that there is a general absence of uniformity in the information delivered by State reporters.
- Several States didn't answer to the questionnaire and the reason for this could not be investigated. In some cases this may be due to a lack of time or interest, but in other cases it might be linked to a lack of information to communicate about this subject.

Nevertheless, some interesting information and trends could be highlighted during the analysis and discussion of results.

The analysis was originally supposed to take into consideration only the 2004-2008 period. Nonetheless, given the fact that the work would have been concluded in May 2011, in January 2011 the ChildONEurope Assembly decided to take into consideration also any changes in policies and legislation which may have taken place in the analysed countries in the period from 2009 to the beginning of 2011, and which may have

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<sup>1</sup> Istituto degli Innocenti, 2009.

had an impact on demand's management. Therefore, a further request of integration on this specific point was sent to the surveyed countries and the information collected in this way was integrated into the text, mainly through the use of footnotes. Furthermore, given the availability of official statistics issued by the CAs of the receiving States that are part of the HC, including submissions to the Hague Special Commission of June 2010, it was decided to add an update on 2009 concerning the number of intercountry adoptions in the top receiving countries (see Table 2/f in the annex).

The survey is divided into 5 chapters: a general, introductory one describes the framework of intercountry adoption at international level; the second one focuses on the models of cooperation between countries of origin and receiving countries; the third and the fourth ones analyse which strategies have been adopted - respectively in receiving countries and in countries of origin - to manage demand all along the adoption procedure; the conclusive chapter highlights the main points which emerged during the analysis. The last section includes some statistical annexes which were produced using the data collected through the questionnaires.

Some chapters are introduced by a specific presentation that highlights and summarizes the most interesting points according to international standards.

In carrying out the research, the working group made constant reference to the main international instruments on children's rights, which set a framework of fundamental principles regulating international adoption.

These legal instruments include the 1989 UN CRC and other regional and supra-national instruments, among which, the HC on Protection of Children and Co-operation in respect of Intercountry Adoption is of particular importance.

Concerning the key principles enshrined in these instruments, reference should be made to the following ones:

- **The Child's Best Interest:** when deciding about the different possibilities to support a child deprived of his/her family, priority should be given to measures that best respond to the child's best interest. In addition, the CRC establishes that the best interest of the child is the primary consideration with regard to adoption (art. 21).
- **The Principle of Subsidiarity,** whose respect - descending directly from the child's best interest - should drive any choice concerning the future life of children deprived of their families. According to this principle, priority should be given to supporting the family of origin to ensure that the child remains in its care. In case the child has been separated from his/her family of birth, priority should be given to reuniting and reintegrating him/her in the family or, secondarily, in his/her extended family. If this is not possible, the aim should be to find a permanent family solution that suits the need of the child in his/her country of origin, for example through national adoption. Finally, if a suitable permanent family cannot be found in the child's State of origin, intercountry adoption may offer the advantage of a permanent family to that particular child. Therefore, according to this principle, preference should be given to permanent family-based care, while institutional care should only be an exceptional solution, used in a temporary way to solve an urgent situation or for specific children for whom a family solution is not suitable. The application of subsidiarity implies that receiving countries and countries of origin should operate with co-responsibility.
- **The Principle of Co-responsibility** of both, receiving countries and countries of origin, in the adoption process: the necessity to co-ordinate and to co-operate from both sides is the heart of the HC of 1993. Over the years, through daily experience on the field and international dialogue held in The Hague during the Special Commissions on good practices, the concept of co-operation turned into a co-responsibility one (see § 94 to 96 of the Guide to Good Practice no. 1). It became obvious that it was necessary to change the interpretation of the initial terms of the Convention. One cannot consider the tasks of States of origin and of receiving States separately, since it is now clear that what receiving States allow their citizens and accredited bodies to do in States of origin may lead either to constructive or to disastrous consequences. In the first case, it can support the efforts of the States of origin for a better child protection system. In the second case, on the contrary, it may impair these efforts, thwart the actual implementation of the subsidiarity principle and disrupt the adoption and child protection system, as has already been mentioned.

- **The Child's rights to participate and to be heard:** this principle, laid down in Article 12 of the CRC, applied to adoption, implies that, as much as possible and compatibly with the age and maturity of the child, it is desirable to listen to his/her opinion and to take his/her view into consideration when deciding about future life plans.<sup>2</sup> In particular, Article 12, paragraph 2, specifies that opportunities to be heard have to be provided in particular "*in any judicial and administrative proceedings affecting the child*" and, as indicated by General Comment n. 12,<sup>3</sup> adoption is one of them. Hearing the child's opinion is necessary to correctly define his/her best interest and it is important also in intra-family adoption.
- **The interdisciplinary principle:** although this has not been defined as a specific principle, this point is intended to stress that the adoption process is an interdisciplinary one. Legal, social, psychological and medical aspects need to be addressed and considered together in a coherent way.

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<sup>2</sup> In certain countries a proper right to give consent to adoption is established by law for children of a certain age and maturity.

<sup>3</sup> Committee on the Rights of the Child, General Comment no. 12, "The right of the child to be heard" [CRC/C/GC/12, 20 July 2009].

# 1. The international framework

## 1.1 The social framework

The analysis of the phenomenon of intercountry adoption highlighted some interesting general trends.

In the 2000's, the growing demands for international adoptions had to face the fall in the number of adoptions - both at an international and at a European level.

At an international level, as shown by a recent research led by the European Parliament,<sup>4</sup> there was an initial rise (1998-2004), which was then followed by a fall (2004-2007) in the total number of intercountry adoptions. In particular, it could be underlined that the number of intercountry adoptions worldwide grew substantially from the mid-fifties, reaching a peak of more than 45,000 in 2004. In the following three years the number fell to 37,000, similar to the level of 2001. Three EU States - France, Spain and Italy, have been among the top 5 receiving States for the last 15 years.

In particular - from a statistical point of view - the same research clearly highlighted that EU Member States receive considerably more children through intercountry adoption than the ones they entrust abroad. As a matter of fact, EU receiving States accounted for over 40% of the total intercountry adoptions worldwide in 2004, while in the same year the 9 EU States of origin (mainly Eastern European) entrusted 3.3% of the children sent for international adoption. All the States of origin, excluding Estonia, send children primarily to other EU countries, while most EU receiving States adopt children mainly from non-European countries, as shown from the data collected by ChildONEurope.<sup>5</sup> Only in Cyprus, Malta and Italy, more than 10% of the adopted children come from the EU.<sup>6</sup>

Although the United States continues to be the main receiver of children in absolute numbers, the countries with the highest rate of international adoption standardised against population, i.e. Spain, Malta and the three major Scandinavian countries, are all from Western Europe. Amongst EU members only Germany, the UK and Portugal have a rate of less than one intercountry adoption per 100,000 inhabitants. In recent years, in some States, such as the UK, in which the number of intercountry adoptions has been (and still is) very low, there has been a growing interest in policies to encourage domestic adoption as a solution to the failure of the care system, a policy also adopted by the United States, but which cannot be found in any other European country. Another clear trend, with regards to European receiving countries, is that domestic adoption remains very low in most of them.<sup>7</sup>

The lower number of intercountry adoptions corresponds to a fall in the numbers of healthy young adoptable children (or, better said, of healthy young children in need of intercountry adoption).<sup>8</sup> This phenomenon is due to different reasons, from the introduction of adequate legislative instruments (the ratification of or accession to the HC and the implementation of the subsidiarity principle)<sup>9</sup> and the development of internal systems of the protection of children in need, which in many countries led to a decrease in the causes of abandonment, to reinforced social policies in favour of families, to the gradual disappearance of the stigmatization of unmarried mothers, as well as to the development of national

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<sup>4</sup> Istituto degli Innocenti, 2009.

<sup>5</sup> See Annexes, table no. 2.

<sup>6</sup> See the research mentioned above.

<sup>7</sup> The impact of intercountry adoption varies from one country to the other but many European countries are now reviewing their policies on the domestic adoption of children with special needs and this could have an impact on general trends.

<sup>8</sup> N. Cantwell, "Inter-country adoption. Commentary on the number of adoptable children and the number of people seeking adoption internationally", *International child protection. The judges' Newsletter published by the Hague Conference on International Private Law*, Vol. V, Spring 2003, pp. 69-73, [http://hcch.evision.nl/index\\_en.php?act=publications.details&pid=2799](http://hcch.evision.nl/index_en.php?act=publications.details&pid=2799). See also the Report on the Recommendations of the Parliamentary Assembly of the CoE 1443 (2000), no. 10, December 1999.

<sup>9</sup> See Introduction and para. 1.2.

adoption. Besides these reasons linked to the evolution of the social, economic and human context of the States of origin, some other reasons may appear more questionable, such as the concerns of some States of origin for their international image...

On the other hand, the recent fall in the number of healthy young adoptable children does not correspond to an equivalent decrease in the families' demand for the adoption of these children. There are still many children with special needs (older children, siblings, children with health problems) who need adoption, but it is difficult to find families willing and suitable to care for them.

As underlined in the introduction, this situation may lead to abuse and pressures on the countries of origin, at several levels. One of the most explicit channels to make pressure is at the financial level: for example, the excessive costs charged by some adoption agencies, bribery, corruption of different authorities and bodies. The HC specifically States that "only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid" but "no one shall derive improper financial or other gain from an activity related to intercountry adoption".<sup>10</sup> CAs "shall take, directly or through public authorities"<sup>11</sup> all appropriate measures to prevent this practice.<sup>12</sup> The task of preventing improper financial gain is a difficult one because it is often not easy to distinguish between dues and reasonable expenses and unnecessary or excessive payments. Nor is it simple to identify who is primarily liable for violations of legal rules, when the intercountry adoption chain is very long, as is often the case. Although there were real cases of child trafficking, in other, more frequent situations it is not possible to draw a clear dividing line between lawful actions and illegal behaviour. Drafting official standard-price lists can be extremely useful. Some EU countries have good practices in this area and they be good models for other States in which similar forms of monitoring are still lacking.<sup>13</sup>

### 1.1.1 Specific areas of abuse

In addition to the financial issues, there are many different areas of abuse which can be mentioned.

First of all, the incorrect application of the subsidiarity principle<sup>14</sup> can be an area of abuse. In many States the subsidiarity principle,<sup>15</sup> established in the HC, is generally adhered to and recognized by many national legal instruments. However, its implementation is difficult because the child protection system is weak. One tool to help to implement this principle is the creation of different registers of children deprived of parental care in order to better assess their needs, their situation and possible solutions. Specific registers for adoptable children are also very frequent. However, although some legal instruments establish specific timeframes for measures that should be taken for children in registers (e.g., children can be adopted only after a minimum period of time, during which a permanent family solution in their State is being sought), some local services are still not adequately prepared to handle this situation and many children remain institutionalized. For this reason, a set of detailed guidelines for the enactment of the subsidiarity principle could be helpful.

Furthermore, countries should be given support to organize their own local foster care and adoption programs, for example by providing good-practice manuals and protocols to the local social welfare services. At the same time, programs to support caregivers in institutions should be developed and implemented, to provide better care for those children for whom it is not possible to find a place in a family or for those children for whom, considering their special situation, care in an institution represents the best solution.

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<sup>10</sup> Art. 32(1) and (2).

<sup>11</sup> Art. 8.

<sup>12</sup> *The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention: Guide to Good Practice*, Guide no. 1", Hague Conference on Private International Law, Family Law, 2008. Available on the Hague Conference website [www.hcch.net](http://www.hcch.net) under "Intercountry Adoption Section" and "Guides to Good Practice" (hereinafter Guide to Good Practice no. 1), para. 89.

<sup>13</sup> See Istituto degli Innocenti, 2009.

<sup>14</sup> See better principle of double subsidiarity: priority to the family of origin or to national adoption if the family of origin is not available.

<sup>15</sup> See Introduction, page 11.

Furthermore, it should be underlined that in those countries that still permit independent and/or private adoptions, the problem of monitoring financial transparency is even higher.

**Private adoptions** refer to adoptions in which arrangements are made without the intermediation of an AB. This type of adoption is contrary to the HC and, as underlined by several experts,<sup>16</sup> this kind of procedure provides the potential ground for the worst cases of abuse in intercountry adoption, such as the selection of children by the prospective adopters (which is psychologically problematical), pressure exerted on the biological parents, corruption, false documents, illegal procedures or the kidnapping of children. Besides those specific risks, there is also the fact that private adoptions are not generally recorded. To avoid these kinds of risks, the authorities of the receiving countries and of the countries of origin must themselves guarantee the services that they offer, as well as the ones offered by ABs, provide psychological support to the child, the prospective parents and the biological parents throughout the procedure and verify the professionalism of the local partner in the country of origin.<sup>17</sup>

**Independent adoptions** also represent a risk for the child, the biological family and the PAPs'. Independent adoptions are carried out through the intermediation of CAs, but without the intermediation of an AB. This practice can lead to abuses if the CAs of countries of origin are not prepared to handle these applications, thus becoming subject to pressures.

Another relevant risky practice which has often been reported by many experts is **respite care abroad**. This occurs when children from East-European countries (Lithuania, Belarus, Ukraine) are temporarily hosted (generally during the summer) by families residing in the receiving countries through the intermediation of private agencies and associations. It has been noticed that in many cases these families have also submitted a request for adoption. However, they hope that they will be able to adopt the child that they are hosting more quickly, without following the procedures established by the law and despite the existing waiting lists. This phenomenon may clearly lead to abuse because it potentially develops a sort of preferential channel for adoption, which does not take the normative framework<sup>18</sup> into consideration.

Due to the difficulty which some PAPs have to adopt a child, some of them decide to resort to **international surrogacy arrangements**. This practice is increasing rapidly and it raises obvious and real international child protection concerns.<sup>19</sup> In particular, there are many concerns about the status of the child, the safety and well-being of natural mothers and children, especially where mothers live in a condition of poverty. In these circumstances, concerns have arisen that women may be coerced, or even forced, into becoming surrogate mothers. The use of the HC in surrogacy arrangements has been considered inappropriate.<sup>20</sup>

Receiving and sending countries are both responsible for compliance with the principles of the child's best interest and of double subsidiarity. In fact, if on the one hand the countries of origin are far from bearing the sole responsibility for child trafficking and other practices which do not respect the minimal ethical and legal

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<sup>16</sup> See I. Lammerant, M. Hofstetter, 2007.

<sup>17</sup> See also the HC Recommendation on abduction, sale and traffic in children and their illicit procurement in the context of intercountry adoption, adopted during the 2010 Special Commission.

<sup>18</sup> See Guide to Good Practice no. 1, paras. 561 to 563.

<sup>19</sup> The 2010 Special Commission noted that "the number of international surrogacy arrangements is increasing rapidly. It expressed concern over the uncertainty surrounding the status of many of the children who are born as a result of these arrangements. It viewed as inappropriate the use of the Convention in cases of international surrogacy", Recommendation 25 of the "Report and Conclusions of the Special Commission on the practical operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (17 - 25 June 2011)", drawn up by the Permanent Bureau, Hague Conference on Private International Law, March 2011. Available on the website of the Hague Conference at [www.hcch.net](http://www.hcch.net) under "Intercountry Adoption Section" and "Special Commissions".

<sup>20</sup> See "Private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements" drawn by the Permanent Bureau, Hague Conference on Private International Law, March 2011. Available on the website of the Hague Conference at [www.hcch.net](http://www.hcch.net) under "Work in progress", "General Affairs" and "Prel. Doc. No 11 of March 2011".

rules, on the other hand, the receiving countries have to take responsibility for the behaviour of the PAPs, ABs and other entities involved in the procedures.

With respect to the current types of abuse and pressure within the intercountry adoption system, experts have recently underlined a serious and recurrent phenomenon, named **child laundering**.<sup>21</sup> This phenomenon consists in the use of illicit behaviours (kidnapping, buying) in order to adopt a child.

Child laundering typically involves:

1. obtaining children illicitly through purchase or abduction;
2. falsifying the child's paperwork to hide both the illicit conduct and the child's history and origins;
3. processing the child through the intercountry adoption system as an adoptable child and then adopting him/her.

Child laundering gathered evidence indicating that a significant percentage of children from some sending countries, and a significant number of children overall, have been strongly affected by such practices.

To fight against these practices, both sending and receiving countries need to reinforce the internal normative system, paying specific attention to the collection and reconstruction of the documentation concerning the children.

## 1.2 The legal framework

The two fundamental international legal instruments concerning adoptions are represented by the CRC and the 93 THC.

The fundamental principles envisaged by these two normative instruments are the following:

- the principle of pursuing the best interest of the child, and
- the principle of subsidiarity.

In particular, with respect to the CRC, article 21 underlines that "States Parties to the Convention that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary". Moreover, the States Parties to the Convention "recognize that intercountry adoption may be considered as an alternative means of child care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin".

Article 21 contains as well guarantees and safeguards aimed at ensuring that the adoption is declared in the best interest of the child and to avoid violations of his/her specific rights.

In particular, art. 21 [d] States that intercountry adoption should not result in improper financial gain. Indeed, while payments by PAPs may be made in good faith, a system that puts "*a price on a child's head*" is likely to encourage criminality, bribery, sale and abduction of children, coercion of parents of origin and exploitation. Moreover, it affects the humanity of children. In this respect, it is necessary to consider that also art. 35 of the CRC requires States parties to take measures to prevent the sale of children for any purpose.

Finally, although article 21 does not explicitly mention the consideration of the child's views in the requirements relating to consent, a proper consideration of it is certainly to be regarded as implicit and in accordance with article 12 of the CRC.<sup>22</sup>

As regards the subsidiarity principle, the CRC and the HC emphasize that the State should primarily take appropriate measures in order for a child to remain in the care of his/her original family and to reunite and reintegrate him or her in his or her family if it is deemed appropriate. If these supporting measures do not

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<sup>21</sup> Smolin, 2006.

<sup>22</sup> Within the framework of the CRC, in relation to the specific focus of the survey, it is necessary to mention also the Optional Protocol of 2000 on the sale of children, child prostitution and child pornography adopted on the 25th of May 2000. This Protocol condemns any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.

succeed, the aim should be to find a permanent family solution in the country of origin of the child. Finally, if no family in the country of origin is available to adopt the child, he/she can be placed in a suitable permanent alternative family abroad. This approach confirms that the absolute preference is given to family-based care, while institutional care is regarded only as an exception to resolve urgent situations or the child's specific problems (health, dependency) for a limited time and for some exceptional cases of children for whom a family solution is not the best alternative.

The other relevant international instrument concerning adoption, the HC, contains a comprehensive set of provisions aimed at reaching some fundamental guarantees throughout adoption proceedings, from the declaration of adoptability to the recognition of adoption orders.

The original set of safeguards and guarantees were better interpreted and implemented following the three Special Commissions of the Conference that took place in 2000, 2005 and 2010.<sup>23</sup>

In particular, with respect to the specific risk of abuse in the adoption proceedings, the Permanent Bureau of the HCCH published in 2008 a Guide of Good Practice on the implementation and operation of the HC (hereinafter Guide to Good Practice no. 1)<sup>24</sup> aimed at favouring a unified and proper implementation of the Convention. This Guide contains some fundamental recommendations aimed at avoiding direct or indirect abuse and pressure on the countries of origin. In regard to the necessity "to establish a system of co-operation amongst contracting States, to ensure that safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children"<sup>25</sup> and the consequent requirement to take "all appropriate measures to prevent improper financial or other gain in connection with an adoption" established in the HC,<sup>26</sup> the Guide gives relevant recommendations to protect biological families from subtle forms of abduction and to prevent undue pressure on, or coercion, inducement or solicitation of the same to relinquish a child. Moreover, the Guide underlines the importance to ensure that proper consent is given, especially in those sending countries which lack the resources for this responsibility.

Finally, as regards the prevention of improper financial gain and corruption, the Guide underlines that it is impossible to evaluate financial considerations alone. Each stage of the process, from before the child's entry into the child care and protection system, to the finalization of the adoption, may be affected by this issue. Therefore, questions and policies regarding the payments of fees and contributions, both proper and improper, should be considered throughout the development of a national child protection strategy. Consequently States should take care to ensure that each step of the process is both adequately funded and appropriately structured to prevent both improper financial gain and corruption.

The Hague Conference published a Draft Guide to Good Practice no. 2 on accreditation and adoption Abs, which also includes strategies to control potential pressure and abuse towards sending countries (this Draft Guide was discussed in the 2010 Special Session of the Hague Conference). This Draft Guide mentions the importance of obtaining "information regarding the State of origin's actual needs for intercountry adoption as well as its legal requirements, to work within those parameters and when necessary, to limit the number of bodies accredited and authorised to work in the selected State of origin".<sup>27</sup> This limitation would of course prevent undue pressure on the States of origin.

With respect in particular to the **European level**, the Parliamentary Assembly of the CoE has recently issued two key Recommendations on adoption. The first one was the **Recommendation 1828 (2008) on Disappearance of new born babies for illegal adoption in Europe**,<sup>28</sup> which restates the importance of

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<sup>23</sup> The Reports, including the Conclusions and Recommendations, of the 2000, 2005 and 2010 Special Commissions on the practical operation of the HC, are available on the website of the Hague Conference at [www.hcch.net](http://www.hcch.net) under "Intercountry Adoption Section" and "Special Commissions".

<sup>24</sup> See Guide to Good Practice no. 1.

<sup>25</sup> Art. 1 b).

<sup>26</sup> Art. 8.

<sup>27</sup> Draft Guide to Good Practice no. 2 under the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption: Accreditation and Adoption Accredited Bodies, drawn up by the Permanent Bureau, May 2010. Available on the website of the Hague Conference at [www.hcch.net](http://www.hcch.net) under "Intercountry Adoption Section" and "Special Commissions", para. 124.

<sup>28</sup> <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta08/erec1828.htm>

combating trafficking of children and of contemplating and inflicting severe condemnations for the authors of abuse in this field. In particular the Assembly notably reiterates that “international adoption should enable children to find a mother and father ... and not enable foreign parents to satisfy their desire for a child at any price. The Assembly thus restates the principle that there should be no right to parenthood. The Assembly nevertheless notes that countries still have different constraints and laws relating to adoption and that children are increasingly traded on a real marketplace governed by money, to the detriment of poorer countries. The Assembly condemns the increasingly prevalent practice of using parallel circuits and trafficking, as well as all the ensuing dealings and psychological and economic pressures. Such practices became easier when eastern borders were opened up, with pregnant women from east-European countries travelling west in order to give birth and then put their children up for adoption...”.

In the **Recommendation 1443 (2000) on International adoption: respecting children’s rights**,<sup>29</sup> the Parliamentary Assembly of the European Council already insisted that “there can be no right to a child”. In particular, it generally condemns all crimes committed in order to facilitate adoption, as well as the commercial tendencies and practices that include the use of psychological or financial pressure on vulnerable families, the arranging of adoptions directly with families, the conceiving of children for adoption, the falsification of paternity documents and adoption via Internet.

However, the most relevant instruments directly related to adoption are undoubtedly the two Conventions drafted by the CoE: the first one (CETS no. 058), signed on April 24th, 1967 (1967 CoEAdC), in force since April 26th, 1968, ratified by 18 States and signed by 3, is destined to be superseded by a more recent one (CETS no. 202), opened to signature on November 27th, 2008 (2008 CoEAdC), and not yet entered into force. The 2008 Convention updates the 1967 Convention on adoption paying particular attention to the principles and safeguards in the meantime expressed in the meantime in other supranational instruments, namely the CRC and the HC. It specifically takes into consideration the relevance of the mother’s consent to adoption.

In recent years, also the **EctHR** has played an important role in the building of the international adoption system: the Court has progressively defined a new set of guarantees which have outdated the traditional vision which had characterised a large part of legal systems in the CoE in past decades. This has led to a general and fundamental restatement of principles and rules in this area.

The EctHR treated several adoption and placement cases, mainly in the light of article 8 of the European Convention on Human Rights, that is to say the right to respect for family life.<sup>30</sup>

The right to respect for family life implies procedural guarantees concerning the placement and adoption of the child. It supposes a right of the parents of origin and of the child to be informed, to be heard, to participate (including by being legally represented) in the decisional process and to appeal against any decision. The concerned persons must be given the possibility and time to play an adequate role in the decisional process in order to be granted the protection of their interests. Furthermore, it is their right that a decision be taken in a reasonable interval, to avoid that the de facto situation and the mere passage of time, and not the debates, are decisive.

### 1.3 The position of international governmental and non-governmental organizations

UNICEF has lately reinforced the principles and safeguards established by international legal instruments in a document<sup>31</sup> that shares the visions expressed both by the CRC and by the HC. Among other things, UNICEF clearly states the principle of subsidiarity and mentions that the HC “provides the framework for the practical application of the principles regarding intercountry adoption contained in the Convention on the Rights of the Child. These include ensuring that adoptions are authorised only by competent authorities,

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<sup>29</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta00/EREC1443.htm>

<sup>30</sup> Briefly, this article imposes on States not only negative, but also positive obligations concerning the respect for everybody’s family life. States must thus not only restrain from direct arbitrary interference with family life, but also take all the useful steps to allow everybody to enjoy effective family life, in relations with the State and with other individuals.

<sup>31</sup> UNICEF’s position on Intercountry adoption, 22 July 2010, available on UNICEF website at: [http://www.unicef.org/media/media\\_41918.html](http://www.unicef.org/media/media_41918.html).

guided by informed consent of all concerned, that intercountry adoption enjoys the same safeguards and standards which apply in national adoptions, and that intercountry adoption does not result in improper financial gain for those involved in it. These provisions are meant first and foremost to protect children, but also have the positive effect of safeguarding the rights of their birth parents and providing assurance to prospective adoptive parents that their child has not been the subject of illegal practices”.

Moreover, the awareness that abuse can (and often does) occur, sometimes as a consequence of deplorable practices, and in other cases as a result of tragic forms of children’s trafficking, has led UNICEF to reaffirm one of the core points contained in the Preamble of the Hague Conference on international adoption, i.e. “the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children”. For the establishment of the necessary “safeguards to ensure that intercountry adoptions take place”, a “system of cooperation amongst Contracting States” was deemed to be decisive, to “prevent the abduction, the sale of, or traffic in children”. Mutual trust, which is indispensable to “secure the recognition in Contracting States of adoptions made in accordance with the Convention”, presupposes a common concern and involvement in concrete actions aimed at combating “sale and abduction of children, coercion of parents and bribery”.

As stated in the CRC, UNICEF believes that in the adoption procedure the best interests of the child must be “the paramount” consideration (art. 21 CRC), rather than simply “a primary” consideration. The relevant principle should be clearly stated by law and, in all countries where adoption is permitted, it should be regulated by legislation regarding both domestic and intercountry adoption. The concept of the child’s best interest should also include the principle of giving due consideration to the child’s view.

The position of the HCCH is well reflected by the different Special Commissions on the practical operation of the HC and in the two Guides to Good Practice mentioned in the previous chapter.

Recently, also some non-governmental organizations have taken position against the phenomenon of abuse and pressure within the adoption system. In particular, in its publication *Adoption: at what cost?*<sup>32</sup> Terre des Hommes states that “there is considerable growing concern about the number of practices which do not respect the interests of the children, child trafficking being the more alarming”. Such practices include the buying and selling of children and other illegal practices, such as faked documents, failure to comply with laws and regulations, pressure put upon parents and authorities in the country of origin, corruption, child abduction etc. Terre des Hommes underlines that “besides the ethical objections to such practices, the consequence is that, on a worldwide scale, children are being adopted who are not necessarily in need of adoption, in violation of their rights”. For this reason the non-governmental organisation calls for specific political measures in this field and for the drafting of common standards in adoption proceedings

Finally, the ISS has frequently underlined the risks and forms of abuse that may arise if the aforementioned fundamental principles (the principle of the best interest of the child and the principle of subsidiarity) are not properly respected. This respect must be reflected into the adoption proceedings. Furthermore, regarding the recent phenomenon of abuse linked to the general decreasing number of adoptions, the ISS has noted that it is becoming urgent for receiving countries to take measures to manage the flow of adoption applicants and to better monitor the costs of adoption, as well as to verify the general transparency of the procedures.

The practice called “reverse the flow of files”<sup>33</sup> means that a State of origin should ask the receiving States to look for PAPs who have the ability and are suited to care for particular children, usually with special needs. This implies the promotion of cooperation between sending and receiving countries, both at a global level and to this specific aim in particular. This also implies the need to further develop the shared system of safeguards and guarantees implemented by the Hague Conference, taking into consideration the specific new areas of risk throughout adoption proceedings.

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<sup>32</sup> I. Lammerant, M. Hofstetter, 2007.

<sup>33</sup> See Guide to Good Practice no. 1, para. 394.



## 2 Co-operation between countries of origin and receiving countries

### Cooperation and the management of the demand

*To manage the demand for intercountry adoption:*

Cooperation between receiving countries and countries of origin should be fully implemented, according to the recommendations of Guide to Good Practice no. 1, section 2.3. In particular:

- When passing adoption regulations, each State should take into consideration their potential consequences on other States (GGPI, §94).
- Each State should put in place some mechanisms for the collection and dissemination of information regarding children in need of adoption and PAPs (GGPI, § 94).
- To safeguard the interests of children involved in intercountry adoption, both receiving countries and countries of origin must develop a strict legal regime and enhance communication and the exchange of information between them.

First of all, it should be specified that the word co-operation has to be considered within the context of the evolution of the interpretation of the HC of 1993. According to the Convention's Explanatory Report,<sup>34</sup> establishing a system of co-operation to ensure the observance of the safeguards set up by the Convention is one of the aims of the Convention itself. Indeed, the Convention does not intend to solve all problems related to children's intercountry adoption, but it rather aims at dealing with them indirectly, through the establishment of a system of co-operation between the States parties. This basically meant a distribution of responsibilities between the two categories of countries involved in the adoption process: the States of origin and the receiving States. In particular, the Convention on intercountry adoption intends to be an instrument for co-operation between the judicial and administrative authorities of the Contracting States.<sup>35</sup> Therefore, co-operation can be described using the wording of point 7.d of the already mentioned Explanatory Report: "[...] an effective working relationship, based on mutual respect and on the observance of high professional and ethical standards, that would help to promote confidence between such countries". Based on the more recent discussions held in the framework of the three Special Commissions, the concept of co-operation now has to be interpreted in a larger scope as co-responsibility of the two States involved in international adoption. In the spirit of the Convention, the receiving States, which usually have more social resources than the States of origin, are responsible for the actions taken by "their" PAPs and by accredited bodies in the States of origin. So they must make sure that these actions respect children's rights and that they are in accordance with the child adoption system and policies of the State of origin.

According to Article 5 of HC of 1993, the authorities of the receiving State have to determine that the PAPs are eligible and suited to adopt, but also to counsel them as may be necessary. This implies that PAPs have to receive information about the children (in terms of their number and profile) in need of international adoption and that they should be guided in the process of developing a realistic adoption project, according to their possibility of opening their initial desires and of evolving towards the children's needs necessities. This can only be done on the basis of the exchange of precise data between both States involved in the process.

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<sup>34</sup> See "Explanatory Report to the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption" drawn up by G. Parra-Aranguren, Hague Conference on Private International Law. Available on the website of the Hague Conference at [www.hcch.net](http://www.hcch.net) under "Intercountry Adoption Section" and "Explanatory documents".

<sup>35</sup> *Ibid.*, para. 192.

## 2.1 Data collection

### Data collection and the management of the demand

To manage the demand for intercountry adoption:

- Data from both countries of origin and receiving countries is a key tool to manage all the aspects of the demand for intercountry adoption (assessment and preparation of PAPs, limitation of the number of files, sending of files to the countries of origin, etc.). The more precise and detailed the data is, the most useful it is to assess the needs for adoption and to take the appropriate decisions to manage the demand in order to respond to these needs.
- Each country of origin should collect detailed data on children in need of adoption, disaggregated by age, sex, medical status, etc.).
- Each receiving country should collect detailed data on prospective adoptive parents. This should include numbers as well as analytical information on their profile (age, civil status, psychosocial skills in relation to the profiles of children, etc.).

### 2.1.1 Numbers of intercountry adoptions between the selected 13 EU receiving States and worldwide States of origin

Table 1: Number of intercountry adoptions by year in the selected 13 EU States of origin (2004-2008)

Year	Total number of adoptions
2004	17 400
2005	16 533
2006	14 842
2007	13 300
2008	13 346
2009	13 410

As Table 1 shows, the number of intercountry adoptions has gradually decreased since 2004. While in 2004 the total number of intercountry adoptions was 17,400, in 2008/2009 it decreased by almost a third.

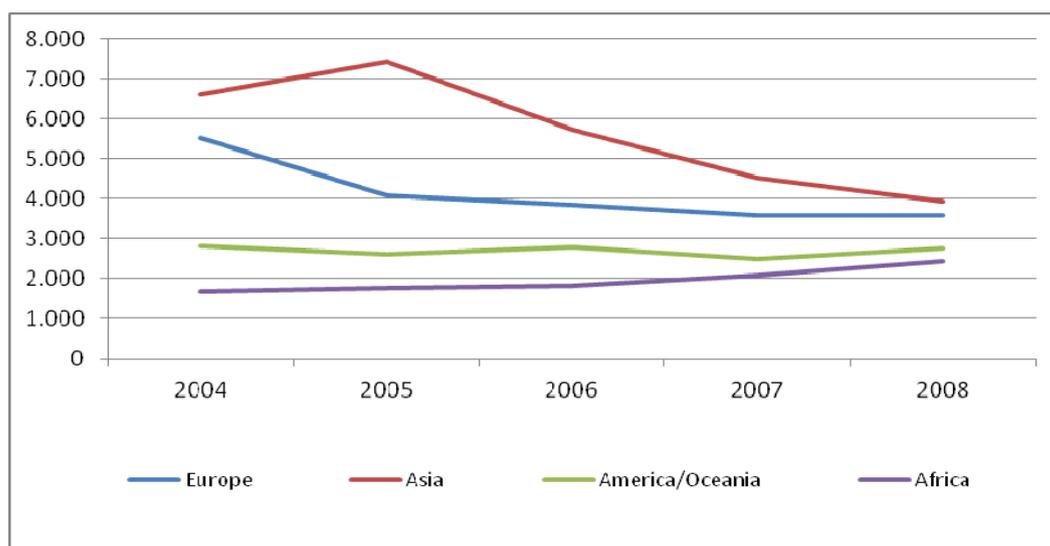
Table 2: Number of adoptions by continent of origin (2004-2008)

Country/Year	2004	2005	2006	2007	2008	Total
Africa	1667	1739	659	2098	2430	8593
America/Oceania	2808	2621	2763	2584	2813	13589
Asia	6620	7408	5738	4452	3837	28055
Europe	5517	4067	3848	3544	3593	20569

The highest proportion of children adopted in the selected EU receiving States came from Asian and European countries. However, as shown in Figure 1, the number of intercountry adoptions is on a downward trend in Asian and European countries of origin, whereas it is increasing in the case of African countries of origin. However, the number of adoptions from American and African countries has long been relatively small and it exceeded the average level only in 2008 in the case of American countries of origin.

While in 2004 there were relatively significant differences among continents in the numbers of adoptions, in 2008 the number of adoptions from European and Asian countries of origin became almost equal; indeed, the number of adoptions from European countries fell by one third in comparison to 2004 and the number of adoptions from Asian countries fell by almost a half in comparison to 2004. Similarly, the number of adoptions from American and African countries became almost the same due to the gradual increase in the numbers of adoptions from African countries.

Figure 1: Trends in the number of intercountry adoptions in the EU selected States by continents of origin



Looking closer at a country level, the major countries of origin for the selected EU receiving States are China, Russia, Ukraine, Colombia, Ethiopia, Vietnam and Haiti - with China and Russia being by far the most important ones. This is still the case, although the share of these two countries on the total number of adopted children decreased from approximately one half in 2004 to one fourth in 2008.

Table 3: Number of intercountry adoptions from selected countries of origin (2004-2008) to selected EU receiving States

Country/Year	2004	2005	2006	2007	2008
China	4906	5100	3222	2282	1467
Colombia	1256	1054	1145	1144	1119
Ethiopia	1027	1087	1171	1451	1798
Haiti	596	563	630	457	850
Russia	3102	2459	2650	2038	1847
Ukraine	1155	985	485	820	983
Vietnam	391	1100	1115	715	829

On the other hand, Spain, France and Italy are the countries which receive the highest proportion of adopted children, as the Table 4 shows.

Table 4: Number of adoptions in selected EU receiving countries by year (2004-2008)

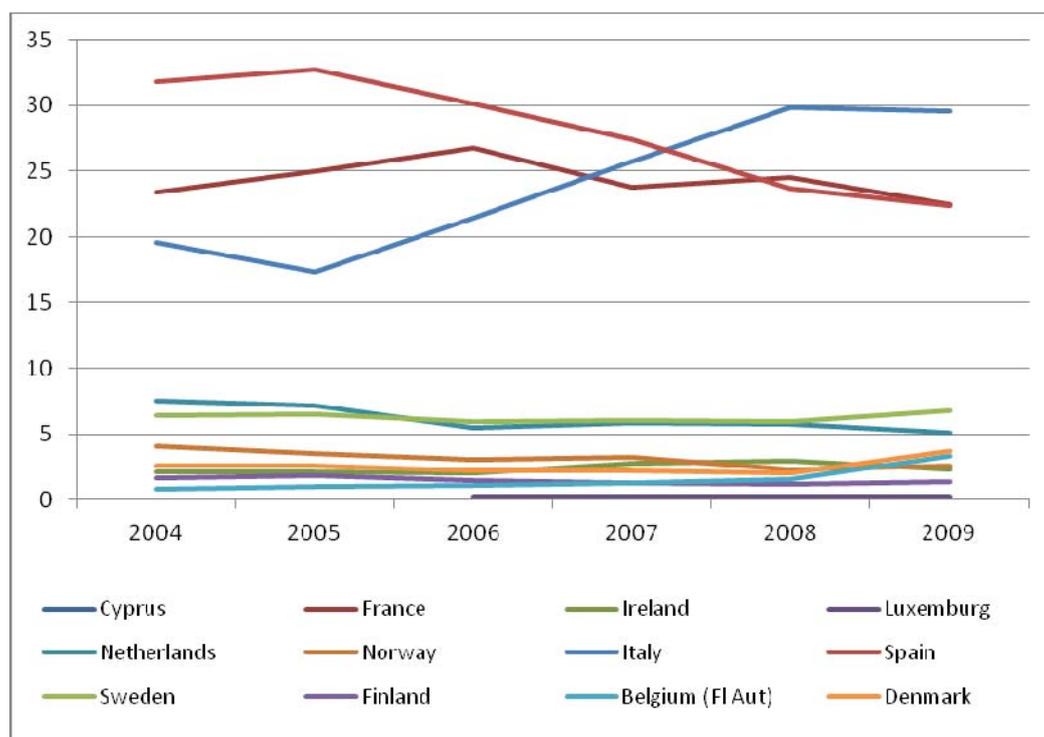
Country/Year	2004	2005	2006	2007	2008	2009
Belgium (Flemish Community)	143	172	162	176	210	441 <sup>(a)</sup>
Cyprus	n/a	n/a	n/a	n/a	n/a	12
Denmark	451	436	333	293	265	496
Finland	287	308	218	176	157	187
France	4079	4136	3977	3162	3271	3017
Ireland	375	347	298	374	397	307
Italy	3402	2874	3188	3420	3977	3964
Luxembourg	n/a	n/a	43	31	36	31
The Netherlands	1307	1183	816	782	767	682
Norway	706	582	448	426	304	347
Spain	5541	5423	4472	3648	3156	3006
Sweden	1109	1083	879	800	793	912
<b>Total</b>	<b>17402</b>	<b>16559</b>	<b>14842</b>	<b>13300</b>	<b>13346</b>	<b>13410</b>

<sup>(a)</sup> This data refers to Belgium considered as a whole (all the three Regions)

Table 5: Share of adoptions in selected EU receiving countries by year (2004-2008)

Country/Year	2004	2005	2006	2007	2008
Belgium	0.8	1.0	1.1	1.3	1.6
Cyprus	n/a	n/a	n/a	n/a	n/a
Denmark	2.6	2.6	2.2	2.2	2.0
Finland	1.6	1.9	1.5	1.3	1.2
France	23.4	25.0	26.8	23.8	24.5
Ireland	2.2	2.1	2.0	2.8	3.0
Italy	19.5	17.2	21.5	25.7	29.8
Luxembourg	0.0	0.0	0.3	0.2	0.3
The Netherlands	7.5	7.2	5.5	5.9	5.7
Norway	4.1	3.5	3.0	3.2	2.3
Spain	31.8	32.8	30.1	27.4	23.6
Sweden	6.4	6.6	5.9	6.0	5.9
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

Figure 2: Trends in the number of intercountry adoptions in EU receiving States by year (2004-2008)



As regards the share on the total amount of adopted children, there are significant differences between Spain, France and Italy on the one hand and the rest of the receiving countries on the other. The share of these three countries on the total number of adopted children is approximately three quarters in any given year. Although initially being the country with the highest proportion of received children, the share on the total number of adoptions has decreased gradually in Spain, while the opposite trend can be observed in the case of Italy. Since 2008 Italy has replaced Spain as the country with the highest proportion of received children. The share of France and of other receiving countries has remained relatively stable.

## 2.1.2 Data regarding the cooperation of the 13 European receiving States with all States of origin

### A. From the point of view of receiving States

Table 6: Number of countries of origin the selected 13 EU receiving countries declared to cooperate with<sup>(a)</sup>

Receiving country	Number of countries of origin
Belgium - Flemish Community	11
Cyprus	7
Denmark	25
Finland	10
France	22
Ireland	5
Italy	82
Luxembourg	7
The Netherlands	16
Norway	17
Portugal	7
Spain	42
Sweden	34

<sup>(a)</sup> The data was obtained from the list of countries of origin which the selected receiving countries declared to cooperate with in question no. 1 of the questionnaire

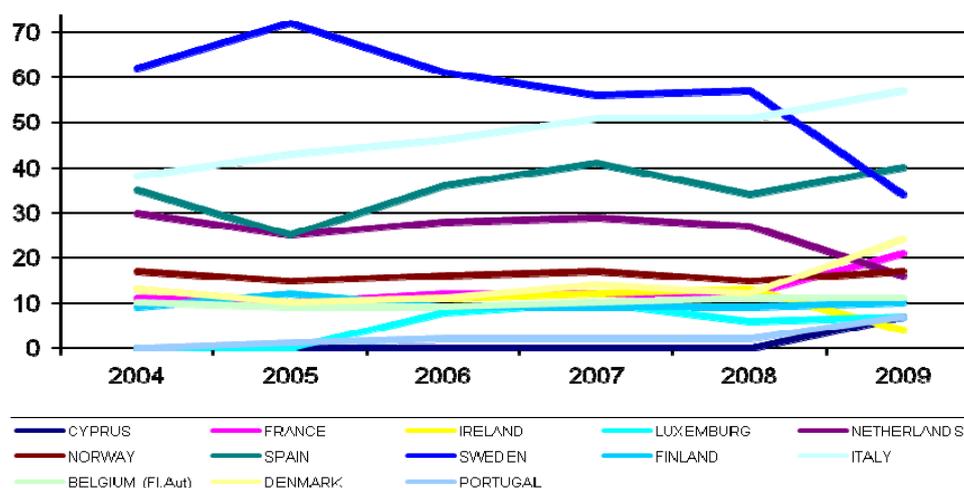
As the Table 6 shows, the amount of countries of origin varies widely - from 5 countries of origin in the case of Ireland to 82 countries of origin in Italy.

Table 7: Selected EU receiving countries and the geographical distribution of the countries of origin they declared to cooperate with

Receiving country	Asia	Africa	America	Europe
Belgium (Flemish Community)	6	2	1	2
Cyprus	3	0	1	3
Denmark	9	8	5	3
Finland	4	3	1	2
France	7	8	3	4
Ireland	4	0	0	1
Italy	18	26	18	20
Luxembourg	2	1	2	2
The Netherlands	4	4	4	4
Norway	7	3	5	2
Portugal	2	4	1	0
Spain	6	9	14	13
Sweden	9	5	5	15

This table shows that the selected receiving countries declared cooperation mostly with African and Asian countries of origin. However, the differences between the particular groups (countries of origin) are not very significant.

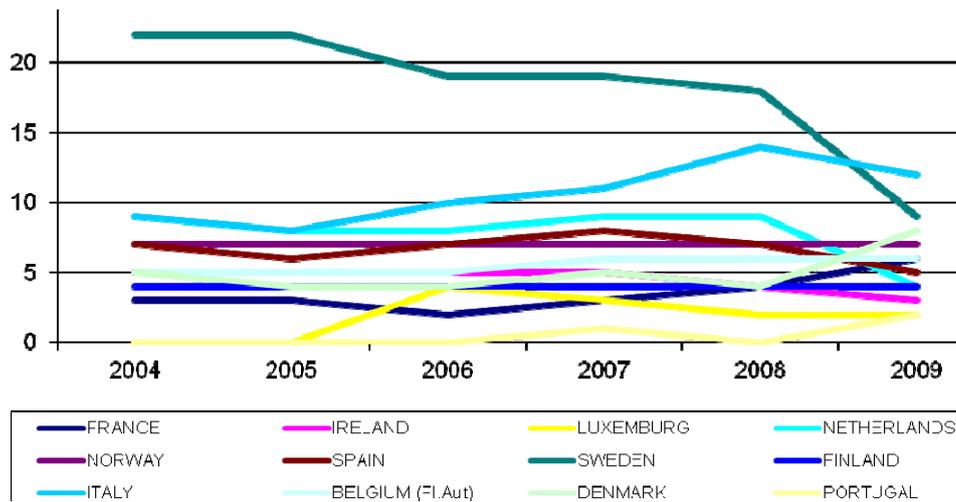
Figure 3: Trends in the number of countries of origin the selected 13 EU receiving countries cooperated with<sup>(a)</sup> (2004-2009)



<sup>(a)</sup> Extracted from the data on the number of intercountry adoptions (question no. 3 in the questionnaire)

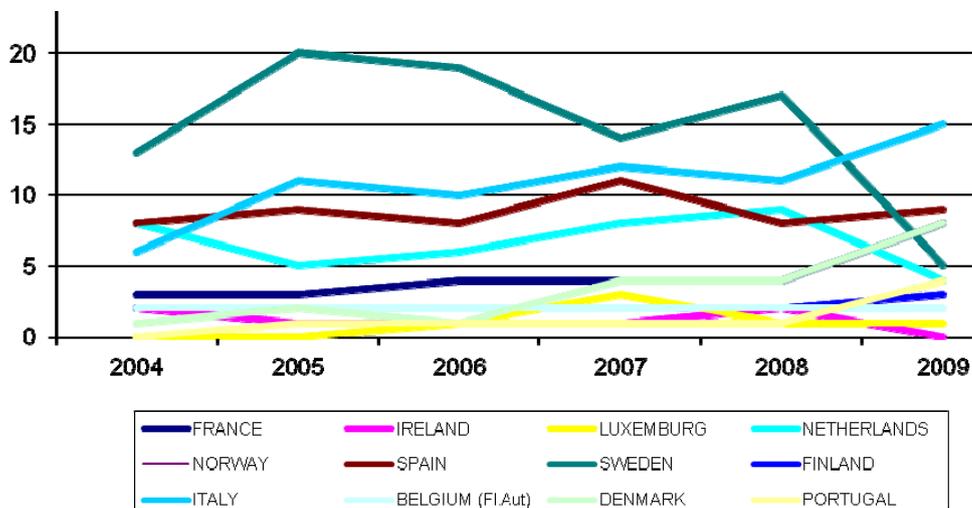
As the figure 3 shows, most of the selected EU receiving countries cooperated with a relatively stable number of countries of origin. However, there are a few exceptions. The number of countries of origin which Italy cooperates with increased gradually from 42 countries of origin in 2004 to 78 in 2009. In the case of Sweden, the number of countries of origin fluctuated over time between a peak of 62 in 2004 and a minimum of 34 in 2009. In the case of Luxembourg, the number of countries of origin rose from 0 to 10 in 2005 and levelled off from then onwards.

Figure 4: Cooperation of selected EU receiving countries with Asian countries of origin (2004-2009)



As illustrated by the graph in the Figure 4, as regards the number of Asian countries of origin they cooperated with, there are two main “groups” of receiving countries - Sweden and the rest of the countries. During the period taken into consideration, Sweden cooperated with a variable number of countries, from 22 (2004) to 9 (2009), while the rest of the receiving countries cooperated with no more than 8 (with the exception of Italy, which cooperated with 16 countries of origin in 2009). All of the receiving countries cooperated with a relatively stable number of countries of origin, without major fluctuations.

Figure 5: Trends in cooperation of the selected EU receiving countries with African countries of origin (2004-2009)



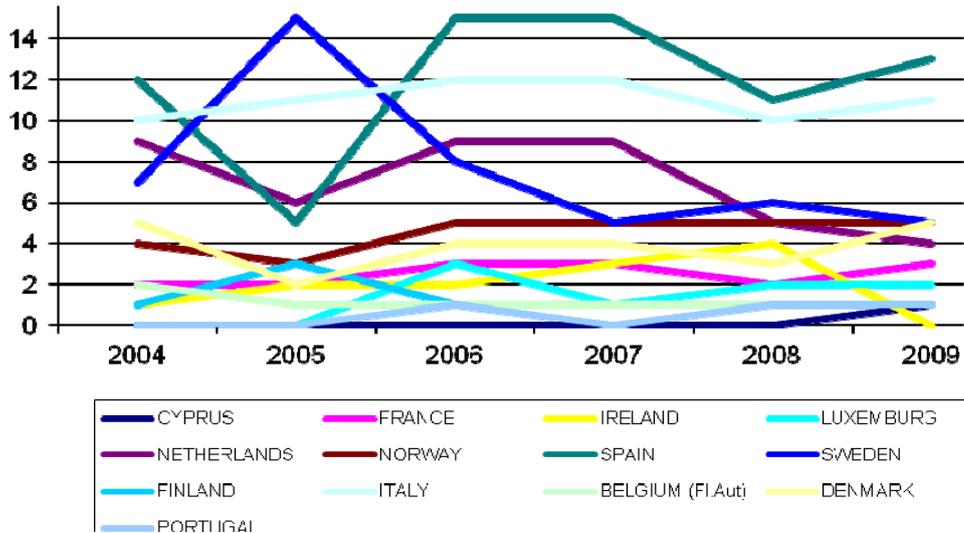
With respect to the cooperation with African countries of origin, the numbers also fluctuated considerably in some cases (Sweden, Belgium, Italy), while in most of the selected EU receiving countries the numbers remained stable or fluctuated only moderately.

Sweden, despite a steep decrease in 2005, and Italy more and more are the leaders in the cooperation with African countries of origin. Sweden recorded its peak in 2005, cooperating with 20 countries of origin, while Italy’s peak came in 2009 with 26 countries of origin.

The Netherlands and Spain are, with some minor fluctuations, somewhere in the middle of the whole group of receiving countries, cooperating with an average of 8 countries of origin.

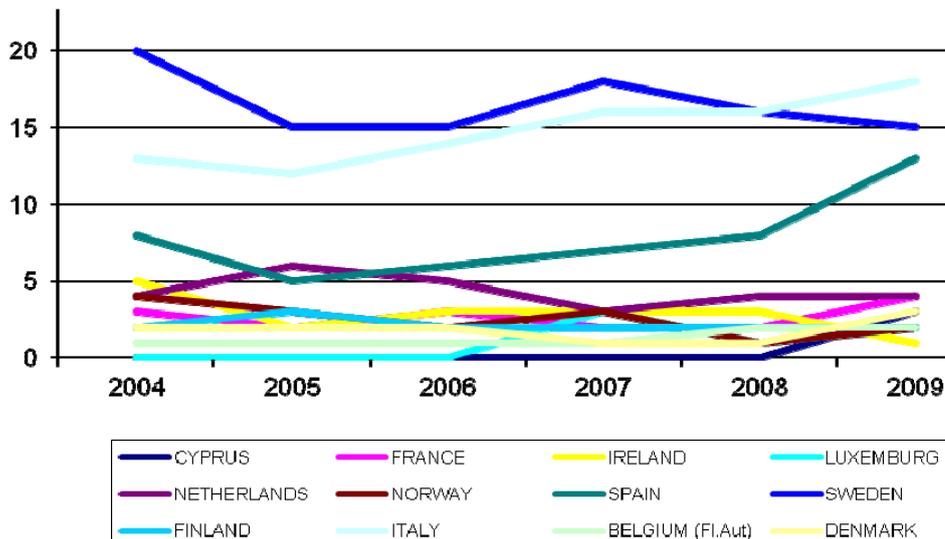
The rest of the receiving countries cooperated stably with no more than 8 African countries of origin.

Figure 6: Trends in cooperation of the 13 selected EU receiving countries with American countries of origin (2004-2009)



With respect to the cooperation with American countries of origin, Spain and Italy are the longstanding leaders. Spain cooperated alternately with 12 to 15 American countries of origin from 2004 to 2009, when the number began to fall. On the other hand, in 2005 Italy reached a number of 12 countries of origin and maintained it until 2009, when it reached 16. The number of cooperating American countries of origin decreased gradually in the case of the Netherlands (from 9 in 2004 to 4 in 2009), while it increased slightly in the case of Luxembourg (from 0 in 2004-2005 to 2 in 2009). The rest of the countries cooperated with a relatively stable number of countries of origin, Sweden being the only exception with a fluctuation between a minimum of 5 countries of origin and a maximum of 15.

Figure 7: Trends of the cooperation between the selected EU receiving countries and European countries of origin (2004-2009)



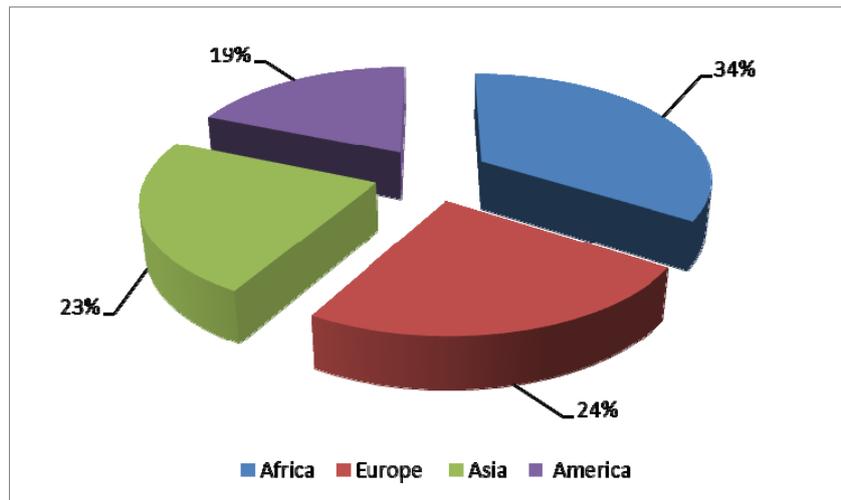
In the case of Europe, Sweden and Italy play the most important role among receiving countries. Both countries recorded a coincidental increase in the number of countries of origin, except for a temporary decrease recorded in Sweden in 2005. In 2009, Sweden cooperated with 15 European countries of origin and Italy with 20. Only in the case of Norway has the number decreased gradually, from 4 countries of origin in 2004 to 2 in 2009. As regards the remaining receiving countries, the number of European countries of origin they cooperated with was - except for some sporadic jumps (e.g. Belgium and Denmark in 2005) - relatively stable, generally between 2 and 5.

## B. From the point of view of States of origin

Cooperation between sending and receiving countries can be analysed from various perspectives. Let us now focus on the overview of the characteristics of the countries of origin in the entire World with which the selected 13 EU receiving States cooperate.

As shown by the data collected through the questionnaires, the selected EU receiving countries (Belgium (Flemish community) Cyprus, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain and Sweden) declared to cooperate with a total of 91 countries of origin. The largest proportion of countries of origin is in Africa (31 countries), followed by countries in Europe (22). Asia is represented by 21 countries of origin and America by 18.

Figure 8: Proportions of worldwide countries of origin (categorized by continents) with which the 13 EU receiving States cooperate (2004-2008)



The data presented in Figure 8 was taken from the list of countries of origin which the selected EU receiving countries declared in the questionnaire (question no. 1 in the questionnaire). However, after analysing the data on the *numbers of intercountry adoptions* (question no. 3 in the questionnaire), it can be stated that the number of countries of origin with which the selected EU receiving countries cooperate differs from this statement and that it varies from year to year.

At this point, it is important to mention that there is a discrepancy within the collected data on the number of countries of origin which the selected receiving countries cooperate/cooperated with. Specifically, there is a discrepancy between the “soft data” represented by the list of countries which the selected receiving countries declared to cooperate with (question no. 1 of the questionnaire) and the “hard data”, i.e. the number of intercountry adoptions from/to a particular country of origin/receiving country (question no. 3 of the questionnaire).<sup>36</sup>

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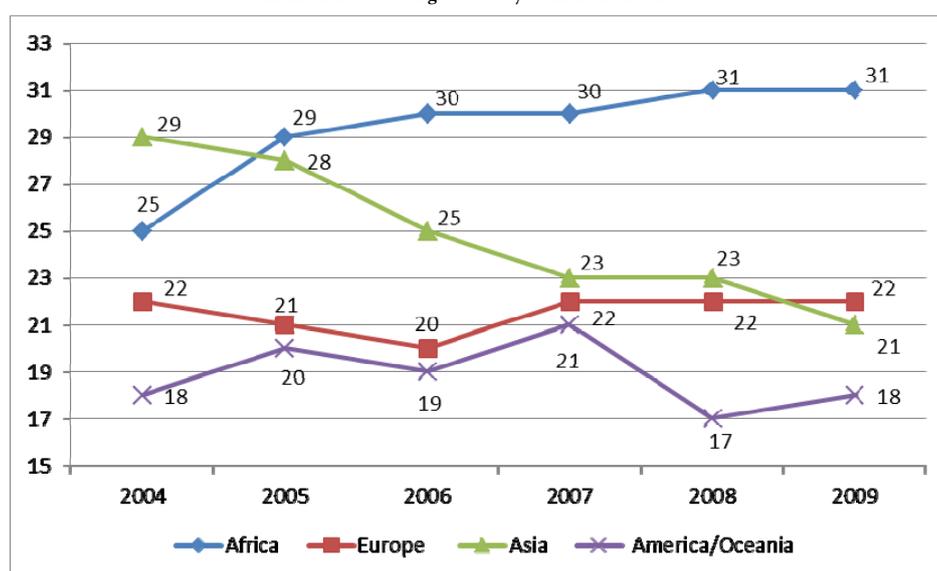
<sup>36</sup> This is probably due to the fact that question no. 1 of the questionnaire (“With which countries of origin does your country work and on which criteria are they chosen?”) might be interpreted in different ways. In particular, the understanding of the very concept of cooperation (“working with”) is in question. Cooperation could be understood in the way of having signed an agreement regarding the mutual cooperation in intercountry adoptions with a country of origin (but not necessarily carrying out the adoptions every single year) or actually carrying out (i.e. “receiving”) the adoptions. Therefore, a country of origin with a signed agreement, but with no adoptions carried out in a given year/period could be considered as a “cooperating country”, but not necessarily. Despite these facts, we decided to present this data, mainly because of the lack of information on intercountry adoptions from the point of view of countries of origin, which was caused by a very low response/return rate from the countries of origin.

Table 8: Number of countries of origin cooperating with the selected 13 EU receiving countries 2004-2009 (total)

Year	Number of countries of origin
2004	94
2005	99
2006	96
2007	96
2008	94
2009	92

As shown in Table 8, based on the concerning the *number of intercountry adoptions*, the number of countries of origin fluctuated only very slightly, reaching its peak in 2005 with 99 countries of origin.

Figure 9: Number of countries of origin which cooperate with the EU receiving States by continent 2005-2009



Looking at figure 9, it can be seen that, since 2004, the majority of the countries of origin cooperating with the EU receiving States has been from Africa and Asia. This is still the case, although since 2006 the number of Asian countries has gradually decreased almost to the same level of European countries.

To go back to the list of cooperating countries (question no. 1 in the questionnaire), it can be concluded that more than half of the countries of origin cooperate with no more than 2 of the selected 13 EU receiving countries. Slightly less than one third of the countries of origin cooperate with 3-5 selected EU receiving countries, one tenth of the countries of origin cooperate with 6-9 selected EU receiving countries, while only one twentieth cooperates with more than 10 selected EU receiving countries. This is shown in Table 9.

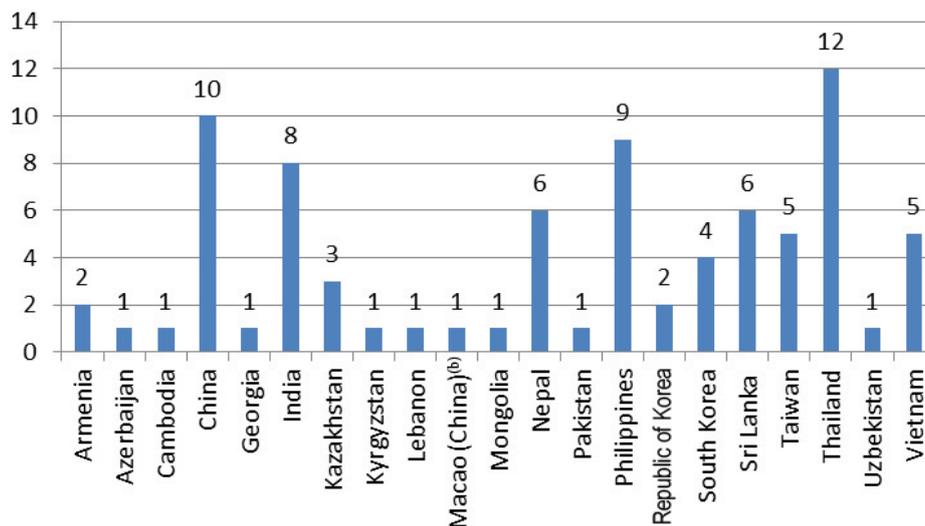
Table 9: Distribution of countries of origin by number of selected EU receiving countries they cooperate with

Number of receiving countries they cooperate with	Number of countries of origin	% of total
10 and more	2	2.2
6-9	10	10.9
3-5	28	30.4
2 and less	52	56.5

On average, countries of origin cooperate with 3 (exactly 3.2) selected EU receiving countries. The median value concerning cooperation with the selected EU receiving countries (value above and below which half of the cases falls) is 2 and the mode value (the most frequent value) is 1.

Looking closer at a country level, the leading countries of origin - with respect to the number of selected EU receiving countries they cooperate with - are Thailand (cooperation with 12 selected EU receiving countries), Ethiopia, China, the Philippines and Colombia (10 selected EU receiving countries).

Figure 10: Asian countries of origin (2004-2008) – number of selected EU receiving countries they cooperate with<sup>(a)</sup>

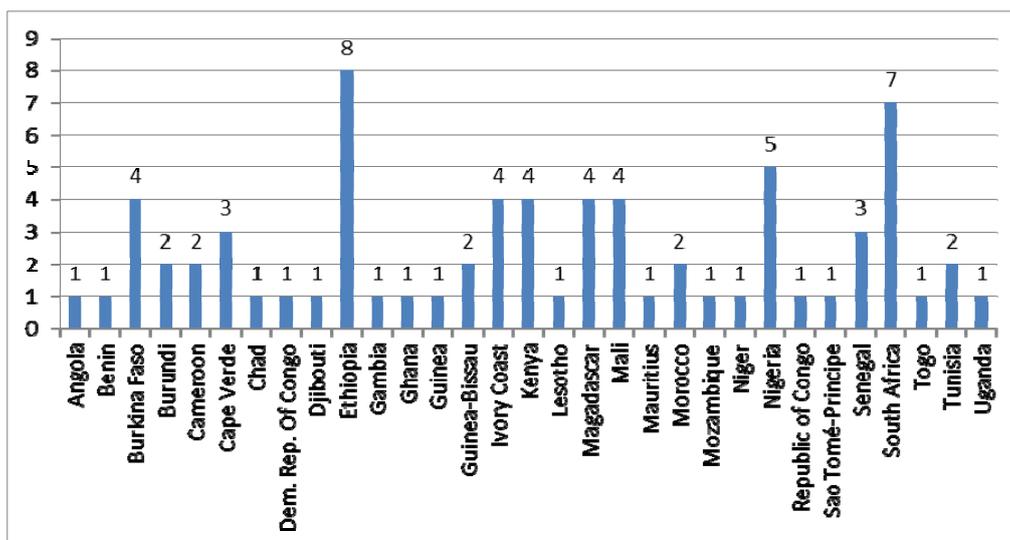


<sup>(a)</sup> See footnote n. 36

<sup>(b)</sup> For its particular situation (it was a Portuguese colony until 1999, then it passed to China), Macao has been put in a separate place in the list, but when calculating the quotas by Continent it is considered as part of China

As the figure 10 shows, the number of selected EU receiving countries which Asian countries of origin cooperate with varies widely. Thailand (with 12 selected EU receiving countries), China (10 selected EU receiving countries), the Philippines (9 selected EU receiving countries) and India (8 selected EU receiving countries) are the countries with the highest number of selected EU receiving countries. On the other hand, more than a third of Asian countries of origin cooperate with only 1 selected EU receiving country. On average, Asian countries of origin cooperate with 3.9 selected EU receiving countries and the median value of the number of selected EU receiving countries is 2.

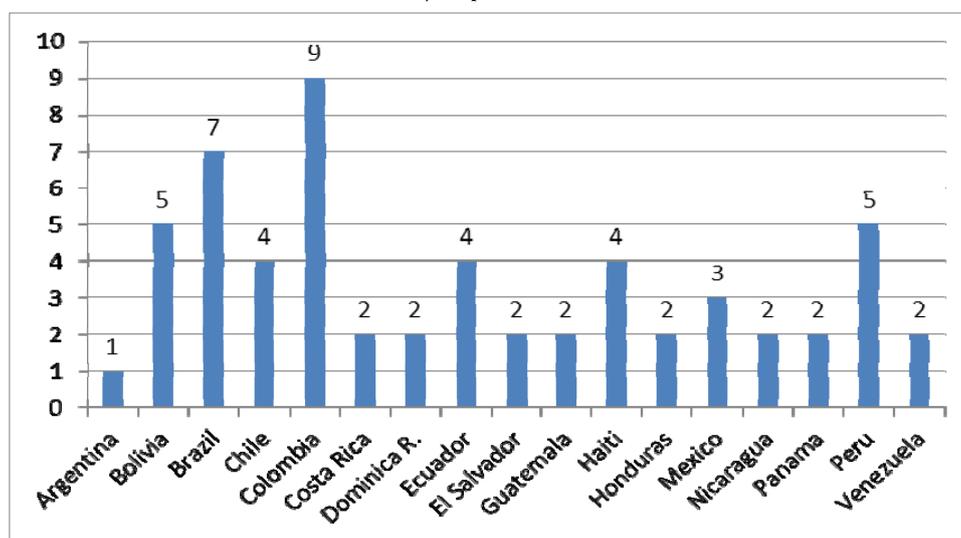
Figure 11: African countries of origin (2004-2008) – number of selected EU receiving countries they cooperate with<sup>(a)</sup>



<sup>(a)</sup> See footnote n. 36

The African countries of origin which cooperate with the highest number of selected EU receiving countries are Ethiopia (with 8 selected EU receiving countries) and South Africa (7 selected EU receiving countries). Most of the African countries of origin cooperate with up to 4 selected EU receiving countries, and almost half of them cooperate with only one selected EU receiving country. The average number of selected EU receiving countries that African countries cooperate with is 2.3 and the median value is 1.

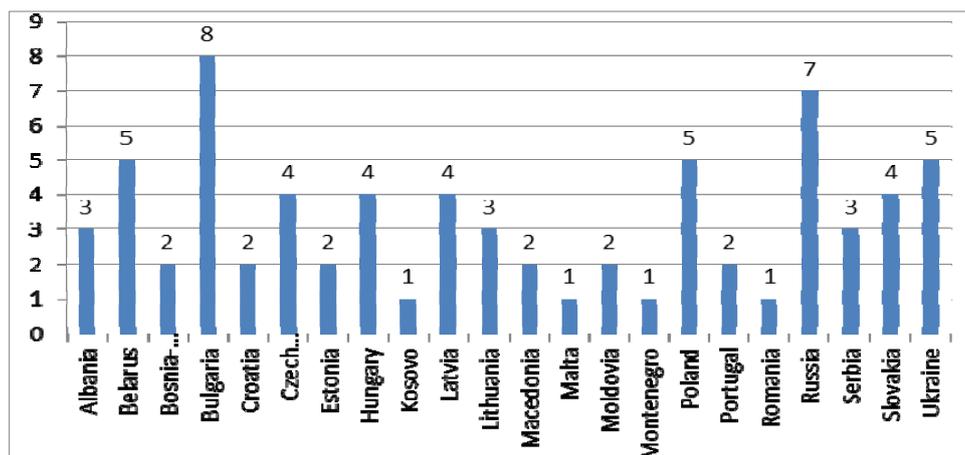
Figure 12: American countries of origin (2004-2008) – number of selected EU receiving countries they cooperate with<sup>(a)</sup>



<sup>(a)</sup> See footnote n. 36

As regards the number of selected EU receiving countries which American countries of origin cooperate with, the leaders are Colombia (9 selected EU receiving countries) and Brazil (7 selected EU receiving countries). They are followed by Bolivia and Peru (5 selected EU receiving countries). Almost two thirds of all the American countries of origin cooperate with a maximum of 3 selected EU receiving countries, 2 or 3 selected EU countries being the most frequent case. The average number of selected EU receiving countries which cooperate with American countries of origin is 3.4 and the median value is 2.

Figure 13: European countries of origin (2004-2008) – number of selected EU receiving countries they cooperate with <sup>(a)</sup>



<sup>(a)</sup> See footnote n. 36

Similarly to Asian and to American countries of origin, there is a relatively wide variance in the number of selected EU receiving countries also in the case of European countries of origin. The leading countries are Bulgaria (cooperating with 8 selected EU receiving countries), Russia (7 selected EU receiving countries) and Ukraine, Belarus, Poland (5 selected EU receiving countries).

More than half of the European countries of origin cooperate with 2-4 selected EU receiving countries, the average being 3.2 and the median value 3.

## 2.2 Number and profile of children in need of adoption in States of origin in general terms

### Profile of children in need of adoption and the management of the demand

*To manage the demand for intercountry adoption:*

- Precise and detailed profiles of children in need of intercountry adoption should be elaborated by countries of origin by collecting comprehensive data (see above).
- Data should help to evaluate the effective needs for intercountry adoption and it should be the starting point for all policies on intercountry adoption.
- Children's profile should be communicated to receiving countries with clear indications on their needs and on the expectations of the country of origin.

Obtaining information about the number and profiles of children who are in need of adoption seems to be a rather difficult task for receiving countries. However, there are several ways receiving countries try to cope with this problem. Most of the receiving countries acquire the information from CAs or ABs which operate in the country of origin, although the reliability of the data is questionable.

Moreover, various authorities and organizations from the receiving countries such as CAs, adoption ABs, embassies or other representatives are involved in gathering information which could help to develop a good understanding of the situation in a country of origin. Finally, receiving countries gather the information through international organizations such as the ISS and its International Reference Centre for the Right of Children Deprived of their Family.

Because of the lack of relevant statistical data about intercountry adoptions, or difficulties in obtaining it (mainly due to issues related to the protection of privacy), various methods of qualitative research and in-depth analysis could be used to identify the profile of adopted children. For example, this kind of analysis was carried out by the Slovak National Centre for Human Rights in Slovakia (2006). The results of the study showed that nearly all of the Slovak children adopted by foreign families had one or both parents of Roma origin and that the vast majority of them were not orphans. This shows that children are adopted mainly due to poor economic conditions in their natural families, which is a condition no longer applicable under the HC

nor under the Slovak legislation. This kind of analysis is very important to create on the one hand policies based on children's rights in the countries of origin and, on the other hand, to create a relevant mechanism of adoption in the receiving countries.

## **2.3 Criteria for selecting countries for cooperation in regard to intercountry adoption**

### **2.3.1 Criteria used by the selected EU receiving countries**

There are several criteria which the EU receiving countries take into consideration when selecting a country of origin to cooperate with. Some of the receiving countries apply more than one criterion or a mix of different criteria.

The most common criterion for choosing to cooperate with a specific State of origin is if that State is party to the HC, or at least if it observes its principles (without the need to be a contracting state). This condition is usually accompanied by criteria concerning the quality of the adoption system, transparency and ethics, although in most cases they are described only in general terms such as: qualified authorities in the adoption field in the country of origin (Spain); good transparency in the administrative and judicial processes; acceptable fees required for the adoption; existence of a well-functioning adoption system (Norway); observance to high ethical standards while carrying out the adoption (Denmark). France also takes the healthcare and social condition of the country into consideration and, like Spain and Portugal, the historical links with the countries of origin. In certain cases, CAs (Belgium, the Flemish community) or ABs (Denmark, Finland, Sweden) play the key role in selecting the countries of origin and in investigating on the aforementioned criteria. In Cyprus, PAPs select the countries of origin. Only in one case there are no specific criteria for the selection of the countries of origin (the Netherlands).

### **2.3.2 Criteria used by the selected EU countries of origin**

According to the questionnaires filled in by the countries of origin, the criteria for the selection of receiving countries differ from one case to the other. In Slovakia, the Centre for the International Legal Protection of Children and Youth - being the CA working inside the Ministry of Labour, Social Affairs and Family - approved the procedure concerning the administrative cooperation between competent authorities in charge of adoption procedure on the basis of legal and administrative criteria. In Estonia, the cooperation is based on contacts with CAs and ABs in the receiving countries. Finally, Hungary applies no specific criteria in selecting receiving countries. However, in 2008 a decision not to extend the list of receiving countries came into effect due to the disproportion between the demand of PAPs and the number of children available for adoption.

## **2.4 Conclusions**

The collected data show that the number of intercountry adoptions is continually decreasing in the selected 13 EU receiving States (with the exception of Italy). One could look for various explanations to this trend. At least one explanation can be certainly excluded - the one regarding the possible decrease in the number of countries of origin. The number of countries of origin was actually at its peak when the number of intercountry adoptions had already decreased. The gradual decrease in the number of intercountry adoptions is rather a consequence of the interplay of various political and demographical factors in the receiving countries as well as in the countries of origin. In addition, there are factors which are at least of equal importance, such as the gradual implementation of the rules and the spirit of the HC in the legislation and praxis of EU countries and, from the point of view of the countries of origin, a more intense work with biological families, the transition from institutional to family-based care for children, the increase in the number of preventive activities at a State, regional and community level before the placement of the child in institutional care.

As regards the patterns of cooperation between countries of origin and receiving countries, it can also be concluded that the vast majority of countries of origin (especially the African ones) generally cooperate with a relatively small number of the 13 selected EU receiving States studied. However, some States, such as Brazil, Colombia, Thailand, China, the Philippines, Russia, Ukraine and Bulgaria have a long tradition of intercountry adoptions and they entrust the highest numbers of children for intercountry adoption (in total, but not if one takes into account the ratio (per 1,000 births) in a given year). In some of these countries, one of the reasons for the high number of intercountry adoptions is the high level of children cared for in institutions. This is due to the fact that in the past the only available and known solution was residential care. In recent years there has been a change in policies and many of these countries are aware of the bad consequences of institutionalization on children and they have approved de-institutionalization plans. However, there are still a lot of children in institutions due to the difficult implementation of child protection family-alternative measures. Various projects aimed at strengthening alternative family-based care, have been launched with international support in some member countries of the European Council (Russia, Ukraine, some Balkan countries). This is also accompanied by the passing of new legislation in this field, by the implementation of "Quality 4 children" standards etc. In some developing countries, the situation is very different, as institutional care is often the only possible solution for children deprived of parental care and living in extreme poverty. However, many countries of origin are trying to develop the projects of alternative care in cooperation with some receiving countries (for example Brazil, Burkina Faso, Sri Lanka and Indonesia). Last but not least, all countries are strongly recommended to develop all the forms of family-based care by CRC in the country reports recommendations, as well as to ratify the HC.

Looking at cooperation from the point of view of the 13 EU receiving countries, it can be concluded that, despite significant differences regarding the number of countries of origin they cooperate with, there are two obvious leaders, Sweden and Italy - followed by Spain and the Netherlands at some distance. The rest of the countries cooperate with a relatively small number of countries of origin. Despite sporadic fluctuations, all receiving countries have cooperated with a relatively stable number of countries of origin. Only in the case of Italy, the number of cooperating countries of origin has gradually increased.

While Russia, China, Ethiopia, Colombia and Haiti are the countries that provide the largest share of children for intercountry adoption, Spain, Italy and France are the most distinguished receiving countries. Our analysis has also highlighted some interesting facts: despite being the largest share of countries of origin from Africa, their proportion on the total number of adoptions is the lowest. Furthermore, the data shows that there is no continued proportion relationship between the number of countries of origin that a receiving country cooperates with and its share on the total amount of adopted children. The cases of France and Sweden are good examples for this argument: France cooperates with only 12 countries of origin each year and receives approximately 20% of all the adopted children, while Sweden cooperates with 37 to 64 countries of origin but its share on the total amount of adopted children does not exceed 10%.

It can be concluded that the HC will apparently play a more significant role in the procedures of intercountry adoptions for both parties - receiving countries and countries of origin.

On the one hand, all (major) receiving countries have already ratified the HC and developed higher standards for accredited organizations, monitoring and controlling mechanisms, as well as new procedures in the follow-up period of intercountry adoption.

On the other hand, the Committee on the Rights of the Child has recommended to many countries of origin to fully implement the HC with preference to the principle of subsidiarity, and giving the priority to all forms of national, family-based support. The Committee on the Rights of the Child has also strongly recommended the countries of origin which have not yet ratified the HC to start this process with the aim to fully enact articles 20 and 21 of the CRC.

It is also important to stress that more attention should be paid to the analysis of children's profile and family background in intercountry adoption. There are some indications that intercountry adoption is seen in some countries of origin as a solution to the problematic situation of abandoned children belonging to ethnic minorities (for example Roma children in Central Europe and in Balkan countries, Black children or children of Indian origin in some countries of Latin and Central America). The limited interest of the majority of the population, to adopt or to take care of these children and many prejudices play a negative role in this regard. There is a lot of important work to be done in this field, maintaining the spirit of the CRC and the HC, especially the principle of acting in the best interest of the child.



### 3. Strategies put in place by the selected European receiving countries to manage demand

This chapter will analyse some of the instruments put in place by the authorities which are in charge of managing the flow of intercountry adoption the receiving countries. These strategies are first of all designed to investigate flows and, consequently, to give an overview of the type and characteristics of prospective adoptive parents (PAPs). This information is essential to develop a global, comprehensive system of services and social interventions. Furthermore, the strategies are aimed at channelling adoption demand in more effective way, based on the different needs and requirements of the countries of origin with which cooperation is in place, and on the ability of the system of national services to meet this demand

#### 3.1 Information sessions and training courses

##### **Information sessions and training courses and the management of demand**

*To manage demand for intercountry adoption:*

Information and training sessions of people interested in adoption should be aimed at raising awareness on the following aspects:

- updated national and worldwide situation of demand for adoption (from adults) and needs of adoption (from children) and subsequent realistic adoption possibilities in terms of number and profile of children in need of adoption, legal and administrative selection criteria settled by both countries of origin and receiving, waiting periods, costs...
- specific issues and challenges of adoptive parenthood in order to fulfil the specific needs of children in need of adoption, in particular special availability and skills that are required from adoptive parents to help children overcome probable repercussion of neglect and suffering in their early life experience.

This awareness should help PAPs in orienting their choices and taking responsible decisions. It should facilitate a self-evaluation process and tend to be a filter of the demand, i.e. the number and the profile of adoption applications.

##### 3.1.1 Preliminary considerations and overview

When discussing how receiving countries manage the demand for intercountry adoption, it is essential to make an in-depth analysis on the preliminary phases of adoption.

The principle of the Best Interest of the Child is at the centre of the main international conventions on childhood. This principle requires receiving countries to pay specific attention to PAPs, since they are the adults who will personally be responsible for the development of the future adoptive family.

Furthermore, all the competent authorities working with professionals in the adoption field - where they exist - have the duty, rather than the task, to facilitate and support the whole adoption process.

Particular attention should be dedicated to the preliminary informative phases (information sessions) guiding PAPs on adoption, and to the following phases, which can be more accurately defined as training sessions. In the majority of cases, these phases come before the approval/refusal of the declaration of eligibility and suitability of the PAPs.

In fact, provided that they are well organized, directed and supported, these are the phases which could make it possible to manage the demand for intercountry adoptions and the increase elements of complexity in the profile of children in need of adoption in the countries of origin (more children with special needs).

With respect to **information sessions** on intercountry adoption, the collected data<sup>37</sup> seems to indicate that, in general, the trend is to have public information sessions organized by ABs (alone or in co-operation with the competent public authorities) several times a year and free of charge for the participants. Attendance of these sessions is voluntary. The only exception to this general rule is Luxembourg. Moreover,

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<sup>37</sup> Question no. 14.: Does your country have public information sessions on intercountry adoption as well as preparation and training sessions for PAPs? Are these sessions mandatory or voluntary? How many sessions are required for each couple? Do you charge a fee to attend the sessions?

many CAs collect, systematize and often publish data and statistics where it is possible to find specific information and to identify the main trends of adoption courses and processes. Also other methods, such as mass media, publications and personal interviews can be used to disseminate information about intercountry adoption.

An interesting case that deserves to be described is the one of the Netherlands: here public information sessions for PAPs who were in the waiting list for adoption have been suspended since 2008. Instead, the sessions are now dedicated to specific adoption themes, such as “Adopting a Special Need child”, “Adopting an older child”, “Adopting a child with HIV/Hepatitis”. This change was a consequence of the sudden shift in the profile of adoptable children which has taken place since 2006. Like in other European receiving countries, it was progressively noticed that the adopted children coming to the Netherlands were older and that they had more special needs. The sessions were organized to inform the PAP’s that the profiles of adoptable children were changing. Most PAP’s had applied for adoption when it was still realistic to expect to adopt a healthy baby, but since 2006 this has become more and more rare. After two years of these sessions, the knowledge of PAP’s had adapted to the new situation, so they were no longer necessary.

On the other hand, with respect to training sessions, the following table gives an overview of the compulsory/voluntary character of these sessions in the various countries, as well as of their cost.

Table 10: Training activities organization in the 13 EU selected receiving countries

	Mandatory training sessions provided by the authorities	Voluntary training sessions provided by the authorities	Payment charged to PAPs
Belgium (Flemish Community)	X		Yes
Cyprus	X		Free
Denmark	X		Yes
Finland	X		No Information
France		X	No Information
Ireland	X		Free
Italy	X		Regional differences
Luxembourg	X		Yes
The Netherlands	X		Free
Norway		X	Free
Portugal	X		Free
Spain	X		Regional differences
Sweden	X		Regional differences

This overview on training sessions highlights a series of quantitative and qualitative aspects, on the basis of which, however, it is not possible to make any in-depth examinations. Indeed, for this kind of analysis further research instruments would be necessary.

Nonetheless, it is important to observe that, even if the psychological, sociological and educational skills, together with the clinical-therapeutic sensitivity, are mostly needed for post-adoption support, they also contribute to the successful implementation of the preliminary training phases (which also contain various informative elements).

In the same way, with respect to training, it is necessary to consider the opportunity of a more methodological type of counselling, promoting self-training, which can help develop completely the “natural educational skills” of the prospective adoptive parents. Furthermore, someone may give up continuing the adoption process after preliminary training. This is not a sign of the training has failed. On the contrary, it is an important factor of protection from and of prevention of any future adoption failures.

To summarize, these preliminary training sessions are compulsory in the large majority of the countries which took part in the survey (11 out of 13); of the remaining 2 countries, only one of them explicitly provides for non-mandatory sessions, i.e. Norway. In this country, the CA took over the responsibility for preparatory courses in autumn 2006. The courses are voluntary, but most of the applicants want to participate in them. Furthermore, for applicants to certain countries (especially in South America) which require a course certificate, the course is in practice mandatory.

Finally, with respect to the payment of the training, this is explicitly free in only five countries: in two of them training is compulsory, while in the others it is compulsory only if requested as a prerequisite by the country of origin. PAPs must pay for the training in four countries, all of which provide for compulsory sessions. In two countries which have particular regional autonomies, training can be free or not, depending on the region. Information is not sufficient for the remaining two countries.

### **3.1.2 Some specificities concerning the individual countries**

The following observations concern some data coming from different countries, starting from the ones where the attendance of training sessions is mandatory (9 countries), then focusing on the countries where courses are mandatory or voluntary (Norway and France).

#### **Belgium (Flemish Community)**

All applicants must participate in five preparatory sessions (for a total of twenty hours). A fee is charged.

#### **Cyprus**

Preparation sessions are provided to the PAPs by Social Welfare Officers at a District level during the procedure of evaluation of their suitability and eligibility to adopt.

#### **Denmark**

Preparatory courses are held for all the applicants who have not previously adopted a child. The courses are made of two sessions, each of which lasts two consecutive days. A fee is charged.

#### **Finland**

Adoption counselling is mandatory for all applicants. Counselling includes evaluation, training and preparation of the applicants.

#### **France**

PAPs are invited by the regional authorities to participate in information meetings, but participation of the PAPs is not compulsory; no training or preparatory sessions are explicitly organized.

#### **Ireland**

Each preparatory course consists of six 3-hour lessons. It is mandatory to attend such a course in order to be approved as a PAP.

#### **Italy**

The situation varies depending on the region. To summarize, there are three possibilities: in some cases, training is free for PAPs because the regional social services are in charge of it. In others, PAPs receive from the regional social services a certain amount (which is not the same for every region), through which they can pay for the training which can also be provided by ABs. Thirdly, there are cases in which the social services are not in charge of training courses, but ABs organize them, so PAPs have to pay a fee to attend them.

#### **Lithuania**

Training courses are organised in 10 sessions of 3 hours each.

## Luxembourg

Since 2007 it is mandatory for all PAPs to participate in a pre-adoption preparatory session of eight hours and since 2010 it is also mandatory to take part in an information session on intercountry adoption, which is arranged by the CA in co-operation with ABs. A fee is charged.

## The Netherlands

At the beginning of the application process, the applicants take part in a public information session. Later, the applicants receive a pre-adoption counselling in six sessions which are all mandatory and for which a fee is charged.

## Norway

The Norwegian CA is responsible for the preparatory courses. They are voluntary, but most applicants choose to participate. Certain countries of origin require that the PAPs have participated in such courses, so the applicants who wish to adopt from one of these countries must of course participate. The course consists of two weekend sessions. No fee is charged.

## Portugal

Training courses consist of 9 sessions for a total of 22 hours. Specific sessions are organised for applicants who are in waiting lists.

## Spain

Training courses are mandatory. Normally no fee is charged, with the exception of some individual autonomous communities.

## Sweden

Training courses are mandatory for all PAPs. The courses are twenty-one hours long and they last either seven days or two weekends. The cost varies and the courses are free of charge in some regions.

## 3.2 Waiting lists of prospective adoptive parents

### **Waiting lists of prospective adoptive parents and the management of the demand**

*To manage the demand for intercountry adoption:*

- Precise and detailed waiting lists of prospective adoptive parents should be elaborated and regularly updated. This task should be the responsibility of the central authority of the receiving country and its aim must be to get a global overview of the situation.
- This list should indicate the number of PAPs, the children's profile they are authorised to adopt and, when appropriate, the country of origin they have chosen.
- Receiving countries should put in place mechanisms to keep waiting lists at a reasonable level, in line with the effective needs and possibilities for intercountry adoption in the countries of origin.

The HC states that individuals wanting to adopt must apply to the CA of their country. The CA must assess their suitability and eligibility to adopt and prepare a report to be submitted by its intermediary to the country of origin.<sup>38</sup> These tasks can be delegated to ABs.<sup>39</sup>

The main reason for creating registers of children and waiting lists of PAPs both in receiving countries and in countries of origin is to better monitor developments in intercountry adoption. The key factors in this area have been for several years the following:

- the regulation of procedures inherent to the preparation and ratification of a growing number of countries of the HC;
- an increase in the number of people wanting to adopt and a change in the number of children awaiting adoption.

<sup>38</sup> HC, Articles 14 and 15.

<sup>39</sup> HC, Article 22.

The latter phenomenon is particularly on the rise in intercountry adoption, because many countries of origin have developed their own national adoption system, thus clearly placing intercountry adoption in the category of subsidiarity. Indeed, in 2007 the ISS noted that “intercountry adoption is a constantly evolving situation. Somewhat rare even some 40 years ago, it has become increasingly common to the extent that it is now a very widespread practice”. It also observed “a glaring imbalance between the needs of children and the wishes of adoptive applicants”, who want to “adopt a very young and healthy baby or child” even though “these children are increasingly less adoptable at an international level”.<sup>40</sup>

As such, waiting lists for PAPs and registers of adoptable children are an integral part of adoption systems in countries of origin and in receiving countries, concerning both applicants and children.

Waiting lists help to collect and classify the applications of PAPs declared suitable and eligible to adopt a foreign child, using in general a chronological order.

All the selected EU receiving countries use waiting lists to manage applications by PAPs.

In practice, the terms governing the management of waiting lists vary a lot from one country to the other. However, two main organisational characteristics can be identified: first of all, waiting lists can be managed either by the CA or by ABs. Some countries where the CA manages lists are the Netherlands, Spain and France (in the latter, they are managed by the French Adoption Agency, a public-law entity controlled by the CA). On the other hand, in the Northern countries (Denmark, Sweden, Norway, Finland) and in Italy, lists are managed by the ABs.

Secondly, with regard to the step of the adoption procedure in which waiting lists are used, there are two main trends as well. The PAPs can be registered in a waiting list either during the process of selection of applicants or when the case is being processed by the CA or AB. Generally there are different waiting lists at different stages of the adoption process and, in several cases, no standardized criteria to manage them.

In the majority of receiving countries, the existence of these lists is more the result of the practices of ABs, rather than of a clear-cut strategy put in place to respond to a precise problem, i.e. to have a good knowledge of the number and profile of applicants and, consequently, to find a more efficient way to manage their demand for intercountry adoption towards countries of origin

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### **Waiting lists of PAPs in the Netherlands**

In this respect, the Netherlands stands out from other receiving countries, having introduced a global, pro-active and coherent system of two types of waiting lists:

- The first is virtual: it concerns PAPs prior to the mandatory training sessions. All PAPs are put on a waiting list. Each year the government decides the number of approvals to be given over the course of the year; this number is based on the number of adoptions in the year before. That number of PAPs is then allowed to follow the training sessions in order of registration. The aim of this list is to make sure that the time between training, the report by the social services and the matching by the ABs is as short as possible.
- The second list is specific to each AB and it includes all PAPs, once they have completed training and once they have been given the approval, listed by country they have requested a child from.

This system provides a framework for the upstream and downstream regulation of adoption requests in the light of needs identified by the AB, which is in contact with the authorities in the country of origin and in a better position to know their needs and expectations.

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The benefit of these waiting lists is the resulting knowledge which receiving countries acquire on the number and profile of their adoption applicants. This knowledge can prove useful to the countries of origin, when they search for an adoptive family for children awaiting adoption and listed in their territory (see below, para. 3.2.1).

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<sup>40</sup> Thematic Fact Sheet no. 33, ISS/IRC, March 2007.

### 3.2.1 Separate waiting lists of PAPs who would like to adopt children with special needs and for intra-family adoptions

Separate waiting lists for PAPs wanting to adopt **special needs children** (disabled children, older children or siblings) may be used by receiving country to better manage and classify the demand for adoption and, practically speaking, the applications submitted by PAPs.

The only cases in which separate waiting lists are used are in the Flemish Community of Belgium, where every adoption service has different waiting lists per country for these specific adoptions, and in Finland, in the city of Helsinki, limited to disabled and older children (not for the adoptions of siblings).

In general, States try to answer to the special needs of these children by focusing on the selection of PAPs and on the matching phase. This implies that the body which is in charge of examining the PAPs - whatever the level - establishes, when making the selection, if a certain couple is suitable to adopt a special needs child, provided that the PAPs themselves are available to do so. In the majority of cases this information is included in the normal (standard) selection and examination process (Sweden, Ireland, Norway, Denmark, Spain): when assessing the eligibility of a couple to adopt, the psycho-social report also evaluates the suitability of that couple to adopt a special needs child. On the other hand, in some cases a special procedure applies. This is the case of Norway, where families can get an advance approval to adopt a special needs child, but when a possible match is suggested, they have to undergo a further step requiring an additional approval by a Professional Board.

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#### Special needs adoptions in Denmark: an example of co-operation with countries of origin

Another interesting practice concerning special needs adoption is the one developed by Denmark, which relies on cooperation between countries to find a family for the child. This search is carried upon request of the country of origin to the Danish ABs, which may be asked to look for a family for a special needs child. This practical measure is generally known as “reversal of the flow of files” and it is used to adapt to the special needs of the children. In this case, the States of origin would directly ask the receiving States to look for PAPs capable of caring for particular children with special needs.<sup>41</sup>

In the case of Denmark, the AB can therefore look for PAPs in all the waiting lists and see if a match is possible. If this is not the case, the AB will try to give some general information about the child’s profile anonymously on its website and see if there is any response. Everybody can respond to such an announcement, but the PAPs who have already received an approval have the priority over the others. Nevertheless, those who do not yet have an approval can apply for an extension of the approval to the Joint Council.

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In the receiving countries involved in the survey, it is uncommon to have separated registers for **intra-family adoptions**. Different trends in managing this kind of adoptions seem to emerge. In certain cases the same procedure applies, in conformity with the non-discrimination principle and this is clearly stated by Law. This is the case, for example, of Cyprus and France.

In Italy, in the case of parents who reside in Italy and want to adopt a relative living abroad, the same procedure applies notwithstanding the possible familial link between the child and the family. The same occurs in Spain, where this particular type of adoption is processed in the same way as standard intercountry adoption and the PAPs have to go through the same assessment process.

In countries such as Sweden and Denmark, more attention seems to be paid to the familial link existing between the PAPs and the child. In Sweden, the PAPs who wish to adopt related children are usually considered to have special reasons for adopting without the intermediation of an authorized organization. In these cases, it is the Swedish Intercountry Adoptions Authority (MIA) which decides whether the procedure is acceptable.

In Denmark an approval is not required for intra-family adoptions, which are handled by the Regional State Administration Office, given that it is not necessary to receive assistance through an adoption agency.

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<sup>41</sup> A description of the practice can be found in Guide to Good Practice no. 1, *supra* note 12, para. 316.

Finally, it must be underlined that intra-family intercountry adoptions fall under the scope of the HC. Therefore, its provisions must always apply to this type of adoptions.<sup>42</sup>

### 3.3 Selection of the countries of origin to work with in intercountry adoption

#### Criteria for selecting the countries of origin and the management of demand

*To manage the demand for intercountry adoption:*

- The receiving countries should keep a permanent survey on the situations prevailing in the countries of origin they are cooperating with. A check-list of necessary guarantees and indicators could be helpful in the evaluation process.
- When criteria are no longer respected and/or the guarantees for safe adoptions are no longer fulfilled, the receiving countries should take appropriate measures either to try to fill the gap, or to put an end to the cooperation with the country of origin concerned.
- In order to avoid putting undue pressure on the countries of origin, the receiving countries should not send them more files of PAPs than the former need or ask for.
- In case of war or natural disaster in a country of origin, the receiving countries should immediately take appropriate measures to suspend adoption procedures and discuss with the given country of origin the kind of support it may need.

The reasons why a receiving State decides to cooperate with a specific State of origin vary considerably.<sup>43</sup> In most cases the chosen countries of origin are countries which have ratified the HC, or countries with which there are bilateral agreements. In some cases historical ties with the country are also important. This is the case of many receiving countries which cooperate with countries of origin that were former colonies, such as Spain with some South American countries, Portugal and Brazil, France and Haiti.

In other cases, adoptions are accepted for processing in the countries of origin once it has been shown that certain requirements or guarantees have been met. These requirements vary under the laws of each receiving country, and include, among others:

- adoption legislation in the country of origin;
- transparency of the process;
- acceptable fees;
- existence of acceptable ethical standards in accordance with the principles of the HC;
- the existence and proper functioning of adoption authorities and ABs.

These verifications can be started in the receiving countries when required by the accredited agencies, from the moment they seek authorization to work in a certain country of origin or in other cases, starting from the moment when some PAPs want to apply in a certain country.

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#### Example of situations in which intercountry adoptions are not processed with certain States of origin - Spain

As for the criteria which are assessed in each country at the time of starting the process, the requirements adopted in Spain are a good example. Article 4 of Law 54/2007, concerning International Adoption, establishes the circumstances which impede or condition adoption. According to this article, applications for adoption will not be processed in the following cases:

- 1) When the country of habitual residence of the adopted child is at war or it has been hit by a natural disaster.
- 2) If there is no specific authority to monitor and ensure adoption in the country.
- 3) When there are no adequate guarantees for adoption in the country and the practices and procedures for adoption do not respect the child's best interest or do not comply with the international ethical and legal principles established in the CRC and in the HC.

In Spain, when there is a proposal to assess the feasibility of processing adoptions in a new country, information about the country is obtained by using Spanish diplomatic representations, international organizations working on

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<sup>42</sup> See Guide to Good Practice no. 1, *supra* note 12, paras. 511 to 518.

<sup>43</sup> On this issue, more information is available in chapter 2, page 21 which is specifically dedicated to cooperation between countries of origin and receiving countries.

International Adoption and other CAs as sources of information. After obtaining this information, compliance with the requirements laid down in the previous article is checked before the processing of adoptions in the country starts. The rules and policies of the countries of international adoption are also taken into account.

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### 3.3.1 Limitation of the number of applications which can be sent

With respect to the number of applications which can be sent to each State or the limitations of the number of adoptions, most receiving States do not initially set a fixed number and they send all the records of applicants who are considered suitable for adoption. However, States have lately States tried to limit the number of applications they send to States of origin, upon request of the country of origin, e.g. in cases of quotas being set by the country of origin.

The setting of quotas is a common practice in countries of origin and it is generally due to the internal need to control and drive the flow of requests for adoptions coming from abroad. For this specific purpose, the countries of origin establish the number of applicants' files that can be sent each year. Consequently, the receiving countries, through their CAs, fix the number of files which the ABs are allowed to send to each country of origin. The number of files which can be sent is generally higher than the number of potential adoptions.<sup>44</sup>

In some receiving countries, quotas are set even before entering the adoption procedure. As explained above, in the Netherlands,<sup>45</sup> each year the CA decides, after consulting with the ABs and other public authorities involved, the number of applicants who will be allowed into the procedure to obtain consent to adopt. This decision is made on the basis of the number of children to be expected in the same year. The number of applications is obviously higher than the number which will be allowed into the procedure.

Finally, in some countries, the ABs working in a certain State decide the number of requests sent to each country on the basis of different factors: among others, the ability of the State of origin to receive applications and to process them, the experience and the number of adoptions made in previous years, the possibility of carrying out follow-ups, etc.

Sometimes other restrictions are established to control the flow of adoption applications. In the Netherlands, for each country of origin only one AB is authorized to operate. However, some exceptions to this rule are possible: in case two or more ABs have a long standing relationship in the country (for instance due to existing practices prior to the establishment of this principle), when the Country is a federal State, with autonomous territorial units, and finally in case there is clearly room for more than one AB.

### 3.3.2 Cases of adoption limitation or suspension established by receiving countries

Receiving countries may limit or suspend adoptions mainly **in order to better control the procedures and to guarantee that they respect all laws and regulations**. Rather than limiting the demand for adoption, these measures are aimed at channeling it, in particular to avoid risks to the child and to his/her safety. There are several ways to do this: to select only some countries to cooperate with in intercountry adoption, to set specific routes for processing - either between CAs or through an AB - and to limit the number of applications which can be sent to every country of origin.

Other forms of limitations may be decided by the countries of origin: for instance applicants may not be free to adopt in the country they wish or to choose the procedure or children's characteristics. Other possibilities are to only admit applicants for children with a specific profile and to set general limitations on the number of requests which can be admitted. These forms of limitations will be analysed in chapter 4, as they represents ways through which the countries of origin control the demand for intercountry adoption.

Finally, even if it cannot be considered a case of adoption suspension or limitation, it is important to mention the possibility for States parties to the HC to raise an objection to the accession of a new State within six months if they think that the new State does not meet the necessary requirements to correctly

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<sup>44</sup>For example, for the countries of origin Luxembourg is mostly working with (South Korea, South Africa, Peru, and India), the CA fixes the number of files which the ABs are allowed to send to the countries of origin: 2 times the average number of attributions received over the last three years.

<sup>45</sup> See page 41 on the waiting lists of PAPs.

implement the Convention. As established by art. 44 (3) of the Convention, the new accession shall have effect only with respect to the relations between the acceding State and the Contracting States which have not objected to its accession in the established time.

Following the earthquake in Haiti in January 2010, it is interesting to make reference to the **exceptional cases of suspension or limitation of adoption**. These cases are linked to large-scale natural and/or humanitarian disasters which paralyse the entire operation of a country. In these cases it is necessary for receiving States to unanimously follow the recommendations of relevant international organizations such as UNICEF, the Committee on the Rights of the Child, UNHCR, the HCCH and ISS/IRC. These organizations are unanimous in stressing that a natural disaster “should not be the reason for by-passing essential safeguards for safe adoption” as underlined in the Information note to States and CAs on “Haiti earthquake and intercountry adoption of children” formulated by the Secretariat of the HCCH, on 20 January 2010. On the contrary, the presence of different risk factors in a similar situation puts children and their families in a situation of heightened vulnerability and it can represent the ideal ground for the development of forms of abuse and malpractice in intercountry adoption (from illegal adoption to child abduction, sale and trafficking). In particular, the situation of children in those contexts is so complex that in many cases intercountry adoption is to be avoided. Therefore, the emphasis should first be on child protection, rather than on adoption. In many cases, following a natural disaster or a war, children may be internally displaced and separated from their families. Efforts should go in the direction of reuniting a displaced child with his/her family or family members, rather than on premature and unregulated attempts to organise the adoption abroad. In its 2010 statement on intercountry adoption,<sup>46</sup> UNICEF underlines that in these cases family tracing should be the first priority and intercountry adoption should only be envisaged once these tracing efforts have proved fruitless, and stable in-country solutions are not available.

Only in a few cases it could be advisable to proceed and to expedite intercountry adoption. In particular, this is the case of pending adoptions for which the local Court has already completed the adoption procedure and all safeguards have been applied. If only some administrative procedures remain to be completed, it is therefore justifiable to accelerate the transfer of the child to the already selected adoptive parents in the receiving country.

In similar cases, the receiving States should unanimously follow these recommendations. Unfortunately the recent experience of Haiti clearly showed that not all countries followed the guidelines issued by international organizations. This is even more critical when considering the importance that a common and unitary approach can have in emergency situations.

### 3.4 Role and functions of Central Authorities and accredited bodies in adoption procedures in the selected EU receiving States

#### **Role of Central Authorities and accredited bodies in the receiving country and the management of demand**

*To manage the demand for intercountry adoption:*

- The CA is responsible for managing the demand for intercountry adoption and it should take appropriate measures to make the demand correspond to the needs of the countries of origin. Among them, it should limit the number of PAPs and of accredited bodies according to the actual need for adoption of each specific country of origin. In the end, it can be considered that the responsibility of the CA is engaged for every adoption procedure undertaken by PAPs depending of its competence and authority.
- Adoption accredited bodies should relay the decisions of the central authorities and commit themselves to limiting the number of files sent to the country of origin they are cooperating with, in accordance with the identified needs.

As regards the channeling and processing of adoption applications, the situation varies considerably from one receiving country to the other. The HC provides for two possibilities on how to process adoptions: between the CAs of both States or through accredited agencies. In this way, by setting specific processing routes, applicants always have to follow the established procedures, thereby avoiding cases of forbidden

<sup>46</sup> UNICEF position on intercountry adoption, 22 July 2010, available on UNICEF website at: [http://www.unicef.org/media/media\\_41918.html](http://www.unicef.org/media/media_41918.html)

procedures in which there is no guarantee for the child's interest and for the legality of adoption (i.e. private and independent adoptions, see para. 1.1.1).

In the majority of the receiving countries which participated in the survey, the most common practice is for the CAs not engage to in concrete international adoptions. In most receiving States, almost all international adoptions are processed by an AB or, more seldom, independently by the PAPs.

However, Cyprus and Portugal do not operate with the concept of ABs and all the international adoptions are facilitated by the CA. In these two States the CA handles the entire process in the country of origin.<sup>47</sup> Also Spain differs from the majority of countries, since the CA facilitated 31% of international adoptions in 2006. The remaining 69% were processed by an AB.

In Finland, ABs facilitate all international adoptions. In Luxembourg, the Netherlands, Norway, Sweden, Italy, Denmark and the Flemish Community of Belgium, the ABs are involved in almost all international adoptions. However, in these 7 countries it is also possible to process an international adoption without the assistance of an AB. This requires permission by the CA and/or that the CA is involved in the adoption process. In Italy, the CA can only facilitate a concrete adoption if an AB is deprived of its accreditation after the matching of the child with the PAPs. A very low percentage of adoptions is processed in this way. In the Flemish Community of Belgium less than 2% of all the international adoptions were carried out by the CA in 2008, in Italy less than 1% and in Luxembourg, Norway, the Netherlands and Denmark the CAs only assist PAPs in very special cases.

In Ireland and France a more significant number of international adoptions are processed by PAPs. In Ireland 40% of adoptions are facilitated through independent arrangements and the corresponding percentage in France is 37%.

France operates both with private ABs and with a semi-public body, the "*Agence Française de l'Adoption*" (AFA). The AFA was established in 2006 as a public law entity under government supervision. Its aim is to provide information and consultancy services for PAPs in the French territory. The AFA is also accredited by the French authorities to serve as an AB. While the French ABs facilitate 43% of international adoptions in France, the AFA is in charge of 20%. This constellation is unique to France. The French CA does not process any international adoptions. Adoptions are carried by either ABs, the AFA or independently by the PAPs.

In Ireland the CA is in charge of issuing the declarations of suitability and eligibility to adopt internationally. The CA is also responsible for entering adoptions into the national register of Foreign Adoptions in Ireland. In Ireland most of the adoptions that are not mediated by either an AB or by the CA, are facilitated by the PAPs in collaboration with third country agencies or individual mediators. When adoptions from China, the Philippines or Thailand are processed, the Irish CA sends the applications of the PAPs to the CA of the country of origin.

### **3.4.1 Management of adoption accredited bodies in the selected EU receiving States authorised to work in the States of origin, and criteria for authorisation**

As illustrated in table 11, Spain, Italy and France accounted for 77% of all the international adoptions processed in the selected 13 EU receiving countries in 2008. Spain, Italy and France also have the highest number of ABs and the largest quantity of collaborating countries of origin.

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<sup>47</sup> Since 2009 this has no longer been the case in Portugal, where the CA has started to cooperate with two ABs on intercountry adoption: "Emergência Social" and "Bem Me Queres". The latter is already operating and it sent an application to Bulgaria in 2010.

Table 11: ABs areas of intervention in the 13 selected EU receiving countries

	Number of ABs	Number of countries of origin the children come from	Total number of international adoptions in 2008
Belgium (Flemish Community)	5	11	210
Cyprus	0	7	n/a
Denmark	2	25	395
Finland	3	10	157
France	41	67	3,271
Ireland	1	2	397
Italy	65	83	3,978
Luxembourg	5	8	36
The Netherlands	7	27	767
Norway	3	17	304
Portugal	0 <sup>(a)</sup>	8	12
Spain	41	41	3,156
Sweden	6	35	793

<sup>(a)</sup> 2 ABs from 2009

Luxembourg only permits one AB per country of origin. The Flemish Community of Belgium, Norway, Denmark, Sweden, France, Italy, Finland and Spain allow more ABs to operate in the same country of origin, while the Netherlands allow more than one AB in the same country of origin only in exceptional cases. In Ireland it seems that there are no regulations on this matter and there is only one AB.

In general terms, it can be said that in Northern Countries (i.e.: Denmark, Finland, the Netherlands, Norway and Sweden) the proportion between the number of collaborating countries of origin and the number of ABs tends to be higher in comparison to the other countries, in particular the Mediterranean ones, which account for the highest numbers of adoptions in Europe. As regards the accreditation of organizations in charge of mediating intercountry adoptions, the French CA seems to focus on the ability of the ABs to handle the adoption process. Other receiving States, i.e. Italy and Norway, seem to focus more on the judicial, administrative and socio-political requirements which the organization must meet in the specific country of origin.

The French CA has a total of 41 Abs, which must be able to “determine, in cooperation with the relevant authorities in the origin country, the methods on how to choose an adoptive family”.<sup>48</sup> This possibly refers to the matching process and the requirements the PAPs must meet before they can expect to be matched with a child. The French ABs are also responsible for sending the PAP files to the country of origin and it is their duty to check that the follow up procedure develops in accordance with the process established by the relevant authorities of the country of origin.

When the Spanish CA accredits ABs to work in a specific country of origin, it takes into account how many Spanish ABs are already accredited in that specific country, how many intercountry adoptions are organised in that country and which restrictions the country of origin applies on the number of ABs.

The Norwegian CA allows an organisation to mediate international adoptions from a specific country of origin if the administrative and judicial procedures in the country of origin are transparent, if the fees required for adoption services are acceptable and if the country has a well-functioning adoption system. The Italian CA requires the AB to prove its ability to establish good relationships with its counterparts in the specific country of origin, to have good cooperative skills and a solid and adequate organization and knowledge of the legal framework and of the general life conditions of children in the country of origin.

<sup>48</sup> Extract from the answer given by France to the question no. 4 in the questionnaire.

### 3.5 Ways of managing applications for intercountry adoption in receiving countries

One of the first aspects to analyse when discussing the way receiving countries manage the applications of PAPs is if they are sent by the CA, through the ABs or directly by the PAPs.

In this respect, 6 countries (Luxembourg, the Netherlands, Sweden, Denmark, Finland and Italy) stated that they send documents through ABs, 2 countries through their CAs (Cyprus and Portugal), 3 countries both through their CAs and ABs (Belgium, Norway and Spain), and in 2 countries all the parties involved, including the PAPs, can send applications (France and Ireland).

In the case of Ireland, the decision on which organization has to send the documents abroad depends on the country of origin. Documents to China, the Philippines and Thailand are sent directly by the CA; to Vietnam by the ABs and to other countries directly by the PAPs.

Furthermore, Norway reported that in the rare and special cases in which adoptions are made without the intermediation of an AB, it is the CA that takes care of this task, subject to agreement with the country of origin.

Not in all the receiving countries the CAs allow all the applications received for a certain country to be sent to it. Usually, when the countries of origin set annual quotas, the CAs of the receiving countries try to monitor the applications sent abroad following the indications received by the countries of origin, according to their needs, their ability to handle applications or their choice to limit the number of applications submitted by single parents.

If the receiving country does not allow all applications to be sent, the remaining applications are put on a waiting list.

Another aspect that can be investigated is whether in receiving countries there is a minimum mandatory time interval between 2 adoption procedures by the same PAPs, how long it is and if it has been established by law or by practice. The answers indicate that only 3 countries have a legal provision which establishes a minimum time interval before a second adoption application: 1 year for the Netherlands and Norway and from 6 months to 2 years for Spain. For the other countries, this time interval may vary from 6 months (Denmark) to more than 1 year, taking into consideration the progress of the first adoption.

The CA of Cyprus suggests that the revised laws should include a minimum waiting time between two adoptions by the same PAPs.

With respect to differences in the waiting time between a first and a second adoption, in the majority of the cases the time interval is similar. Only Ireland provides for a shorter waiting time in case of second adoptions.

Another relevant point regards the possibility for PAPs to submit an adoption application in 2 or more countries of origin at the same time. In 9 Countries out of 13, the PAPs cannot submit an adoption application in multiple countries at the same time. Only in France applications can be accepted for multiple countries with no restrictions, whereas in Spain the situation differs regionally. In fact, this is not possible in the majority of Regions, but it is allowed, with some restrictions, in few of them. Finally, Cyprus allows this practice but it advises PAPs to apply in only one country.

As regards the number of PAPs approved over the last 5 years, the number of PAPs application files sent to the countries of origin and the total number of PAPs still waiting for adoption in the various receiving countries, the data collected through the questionnaires have been summarised in the following tables:

Table 12: Approved PAPs

	2004	2005	2006	2007	2008	2009
Belgium	265	233	297	428	422	
Cyprus	41	79	93	99	100	
Denmark	688	674	665	510	448	
Finland	369	219	348	323	350	
France			8783	8475	7027	
Ireland	461	403	400	452	494	
Italy		6,243	6,237	5,635	5,045	5100
Luxembourg			70	67	71	39 (Jan-Jul)
The Netherlands	1,431	1,446	1,644	1,546	1,047	
Norway		850			470	
Spain	7,718	9,074	8,981	7,642	6,501	
Sweden	n/a	n/a	n/a	n/a	n/a	n/a

Table 13: Applications sent to countries of origin

	2004	2005	2006	2007	2008	2009
Belgium	no info					
Cyprus	27	62	64	71	76	
Denmark	520	610	800	550	500	
Finland	no info					
France	no info					
Ireland	no info					
Italy	no info					
Luxembourg			56	49	57	40 (Jan-Jul)
The Netherlands	no info					
Norway		850			470	
Portugal	12	29	8	31	12	33
Spain	no info					
Sweden	no info					

Table 14: Total number of PAPs who are waiting for an adoption<sup>(a)</sup>

		Population (millions)
Belgium	400	10.4
Cyprus	186	1,1
Denmark	1,020	5.5
Finland	574	5.2
France	26,651	65.4
Ireland	350	4.7
Italy	9,095	60.0
Luxembourg	86	0.5
The Netherlands	2,329	16.7
Norway	1,950	4.7
Portugal	72	10.8
Spain	n/a	45.1
Sweden	n/a	9.1

<sup>(a)</sup> All data refer to the second semester of the year 2009, with the exception of Italy and Portugal, whose data refer to January 2010

### 3.6 Conclusions

The demand is not an invariant and definitive data linked with fatality. It has to be processed, screened, valuated, channelled and transformed. There are different ways and tools to achieve this (information, awareness raising sessions, training and preparation courses, assessment, waiting lists...). Persons interested in adoption and PAPs should be supported and trained in order to allow them to evolve, to adjust their project as far as possible to realistic possibilities or, for some of them, to renounce to it. Both quantitative and qualitative evolution should be measured by CA.

This process needs to remain respectful of the concerned persons and in particular waiting lists should be handled in a transparent and responsible way and keep humanly acceptable length and proportions.

The volume and the profile of the demand need to be managed first in the receiving countries and not transferred to the countries of origin in a kind of “hot potato” exchange; the consequences of such a behaviour from the receiving countries are, as already noticed, the high risk of saturating the capacity of the countries of origin and of paralysing them.

The number of Abs should also be limited to allow an effective control by CA and synergy between both of them. The authorisation given to work with specific countries of origin should be essentially based on effective needs of children and realistic possibilities in the country of origin.

The answers given to all the questions examined are not always clear because the questions are sometimes too wide, not enough precise and refer to concepts that differ from one country to another. Nevertheless, the answers allow putting into evidence some trends, initiatives, good practices at several stages of the process of managing the demand. But in many cases those good practices seem to be incomplete, not enough coordinated and integrated in a global, coherent and valiant policy, promoted and supported by the CA.<sup>49</sup> The answers obtained also show how desirable it is to develop an ever increasing cooperation with the countries of origin, so that the applications submitted in the receiving countries may be handled in a way that takes into account the existing needs of children in the different States of origin, avoiding sending indistinctly all applications to the countries of origin.

Because of the on-going modifications that may intervene in the profiles of children in need of adoption, the cooperation between receiving and sending countries must be permanently open in order to manage the

<sup>49</sup> One of the most coherent policies given through this inquiry is the one of the Netherlands.

flow of applications in due time and also to meet the specific profile requested by PAPs. The exchange of information on the children in need of intercountry adoption can be an excellent tool to manage demand.

Another tool to manage demand is to sign agreements with a view to improving the application of the HC (art. 39.2 of the HC). These agreements may help to reinforce the relationships within the framework of the "Hague system", in order to improve the exchange of practices and information, both at a European and at an international level.

Waiting lists of PAPs help receiving countries to know the applicants' profiles. In a moment in which the trends of intercountry adoption are rapidly changing, especially in relation to the profile of adoptable children, the use of waiting lists can be of particular importance to know which PAPs are available and suitable to adopt special needs children, in order to help the matching. Not all the surveyed States are currently using this function at its best and, in general, there is still room for improvement. Moreover, to apply the knowledge acquired through waiting lists to manage the matching phase, information about PAPs must probably be better connected - both by CAs and ABs, based on their respective functions - with information about adoptable children in each country of origin. The sharing of information on PAPs with countries of origin will help to assist the matching with a child. On the whole, this may help to reduce the pressure put by demand on the countries of origin.



## 4. Strategies put in place by the selected European countries of origin to manage demand

### 4.1 Registers of children in need of adoption

#### Register of children in need of adoption and the management of the demand

*To manage the demand for intercountry adoption :*

- A precise and detailed register of children in need of intercountry adoption should be elaborated and regularly updated. This register should be kept by the central authority of the country of origin, it should give a global overview of the situation, ensure that intercountry adoption is subsidiary to others child protection measures and that it responds to the real needs of children.
- This register should indicate the number of children in need of adoption and their profiles. When possible and/or appropriate, a separate list should be elaborated for children with special needs, and a specific procedure should be put in place for their adoption.
- This list should be an important tool to find the most appropriate family for each child and to identify any future need for support by the adoptive families. For example, the list may be used in the framework of the so called « reversing flow » matching procedure (see below for further details on this).

One of the first aspects which can be evaluated with respect to the management of the demand by the countries of origin, is their current level of knowledge of the profile of adoptable children. This knowledge is generally acquired through the creation and management of databases containing information on adoptable children. This function can often be played by waiting lists of adoptable children: making a good and strategic use of the information contained in these lists can really give an added value to the matching phase.

In **Slovakia**, the Centre for the International Legal Protection of Children and Youth - which acts as CA, according to Article 6 of the Convention - is the Authority that keeps a database of all children who are in need of intercountry adoption. The Centre receives files from regional social offices containing information on children in need of adoption. The documentation files contain medical, social and legal records.

Also in **Hungary** a database has been created in order to record the number of children in need of intercountry adoption. The CA manages this database so that, when it receives information about an adoptable child, it starts an adoption procedure, thus avoiding generating long waiting lists.

In **Estonia** too the authorities know the cases of adoptable children. If a child is waiting for an adopting family and no match can be found in the 15 counties of Estonia, the child records are submitted to the Ministry of Social Affairs with a request to find an adoptive family abroad.

**Lithuania** as well reports that the number and profile of adoptable children is well known, the latter including age, health condition and other relevant information.

In **Bulgaria**, the children in need of adoption (both domestic and intercountry) are those who are abandoned by their parents, either with consent for adoption or not. The institutions in charge for caring for both groups of children are the Child Protection Departments. According to the Child Protection Act, every decision to place a child outside his/her family of origin is the result of a uniform procedure carried out by a social worker. All statistical information is collected through the social system and it is posted on the website of the Ministry of Justice, which thus has a precise picture of the adoptable children in the Country. The Agency for Social Assistance reports that a large number of those children are disabled.

In **Poland**, statistical information about the number of children who can be adopted is very difficult to collect and to summarise, because it is kept by different institutional bodies (voivodeship's adoption and custody centres, due to the fact that Poland is a federal Country). Furthermore, very often this kind of data is only available in Polish.

The countries of origin are obliged to prepare a report on the adoptable child and they are in charge of the matching. Article 16 of the HC States that:

*If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall*

*a) prepare a report including information about his or her identity, adoptability, background, social environment, family history, medical history including that of the child's family, and any special needs of the child;*

*[...]*

*d) determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.*

This provision implies that the CA of the country of origin knows of the situation of the child awaiting adoption, as well as of the profile of the PAPs. It also implies compliance with the principle of subsidiarity. As such, a child can only be declared adoptable if no solution can be found to keep him/her within his/her immediate or extended family and if the adoption is in his or her best interests.

In order to better monitor which children are declared adoptable, many States of origin create registers of children cared for by the child protection system, and of adoptable children.

For example, in Bulgaria the PAPs must obtain an approval valid for two years. After obtaining this approval they are put on a register or waiting list. Meanwhile, a multidisciplinary team assesses the adoptability of a child. If the outcome is positive, the child is put onto the register. The regional authority is authorised to look for a Bulgarian family for a child using the register of waiting applicants. If no match is made after six months, the child can then be put up for intercountry adoption, in compliance with the principle of subsidiarity. A child is matched with PAPs according to his/her needs and to the profile of applicants; no selection criteria, even of a chronological nature, are defined.

The time it takes to put a child onto the register can vary depending on the conditions under which he/she was abandoned. If the parents did not consent to adoption, the child only becomes adoptable after a court ruling. In this case, the processing time is the time necessary to complete legal proceedings, to provide care for the child through the social services and to establish that the child cannot return to his/her family.

The creation of registers is recommended by the Guide to Good Practice No 1, which states that “a central registry or office should maintain a list of adoptable children”. The document also says that “the length of time that the child is on the list or the register should be monitored carefully. Priority in finding a permanent family should be given to children who have been on the list for long periods of time”.<sup>50</sup>

As such, the centralised child register achieves two main objectives:

- Knowledge of the situation of children awaiting adoption: this is a tool to prevent direct adoptions;
- Matching a child with an adoptive family: this also implies knowledge of the number and profile of PAPs.

The search for a family that best meets a child's needs is a common factor in all countries. Nevertheless, some countries carry out this search based on the date of entry on the waiting list. However, the more specific a child's needs are, the more difficult the search for adoptive parents becomes. As such, because of their age or health problems, some children may remain on waiting lists longer than others despite the recommendations of the Guide to Good Practice no. 1.

#### **4.1.1 Registers of special needs children and intra-family adoptions**

Registers for special adoptions respond to the objective of identifying more quickly applicants who are suitable to adopt a child with special needs. In practice, this kind of registers was mostly developed due to changes in the profile of children awaiting an intercountry adoption. The difficulty finding families for special needs children justifies the existence of these lists. If, over time, applicants' plans shift more towards adopting children with special needs, it is conceivable that only one list will remain and that these special lists will no longer be needed. Among the countries of origin, Lithuania is the only one having a special register of children with special needs. In fact, it has by law a separate registers for special needs adoptions, which

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<sup>50</sup> See Guide to Good Practice no. 1, para. 330.

account for the large majority of the international adoptions carried out in the country (nearly 80%). This was established in 2007 by an Act issued by the Ministry of Social Security and Labour. The objective of this specification is to ensure - in compliance with the HC (*Official Gazette*, 1997, no. 101-2550) - the right of every child to be raised in a family irrespective of his/her age, health or social origin by allowing authorised foreign institutions to search for families ready to adopt special needs children in the waiting list.

In addition to the register, Lithuania also applies a particular pre-trial procedure in case of special needs adoptions, which is described in detail in the following section.

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### **Pre-trial procedure for special needs children in Lithuania**

As a first step, the adoptable special needs children shall be entered into the waiting list of adoptable children. The child must belong to at least one of the following categories:

1. children with serious or incurable medical conditions, certified by a health certificate issued by a medical institution and a certificate filled in by the child's guardian;
2. children older than 10 years;
3. a sibling group of at least three children who are referred for adoption together;
4. children close to their siblings who do not agree to be adopted or who cannot be adopted together.

The mandatory conditions of the pre-trial procedure regarding the adoption of special needs children are the following:

1. adoptable special needs children may be referred for adoption according to this Specification only if such children cannot be placed under guardianship or adopted in the Republic of Lithuania;
2. information about adoptable special needs children may be provided only to authorized foreign ABs;
3. decisions on entering a specific child into the waiting list of adoptable special needs children, the suitability of a family to adopt a child with special needs and the termination of the pre-trial procedure shall be made by the Director of the Adoption Service.

The Adoption Service shall provide the waiting list of special needs children to the representatives of the authorized foreign ABs and shall state a deadline for submitting information about families ready to adopt a particular child.

Having received the waiting list of special needs children, authorized foreign ABs shall search for a family ready to adopt a particular child.

Having found a family ready to adopt a child with special needs, the authorized foreign AB shall provide the Adoption Service with information about how this family will meet the special needs of that child, and about measures intended to help the child adapting to the new environment. If the family is not entered into the waiting list of foreign nationals or of Lithuanian nationals residing abroad, the authorized foreign AB shall also provide the Adoption Service with family identifying information consisting of information about the family, the social environment, the ability to raise a child and reasons for adoption, and a copy of an adoption permit issued by competent authorities.

After having being informed on all these aspects and after having assessed the family's ability, the Adoption Service shall make the decision regarding the family's suitability to adopt the particular special needs child within seven calendar days from the deadline established above.

If the Adoption Service receives information about several families ready to adopt the same child with special needs before the deadline, the Adoption Service shall consider them and select the family best suited to meet the best interest of the child. Information about the family ready to adopt a particular child with special needs should be provided within six months from the date of sending the waiting list of special needs children by the Adoption Service.

The authorized foreign AB representing the family shall have the right to receive the identifying information, included information about the child's social origin, health and development, and to meet the child. The authorized foreign AB shall notify the Adoption Service about the family's decision to adopt the particular child within 14 calendar days from the receipt of the information. In exceptional cases the Adoption Service may extend this deadline.

When several families wish to adopt a sibling group or when a family wishes to adopt a child with special needs who is close to his/her siblings who do not agree to be adopted or who cannot be adopted, the authorized foreign institution shall undertake to ensure that the siblings keep in touch and communicate in the future.

The pre-trial procedure regarding the adoption of the special needs child shall be terminated and the child shall be excluded from the waiting list of adoptable special needs children, if:

1. the adoption is not to the best interests of the child because of his/her age, health or any other reason and the child's guardian proposes to terminate the adoption procedure;
2. the child refuses to be adopted;
3. the reasons for which the child was entered into the waiting list of special needs children do no longer exist;
4. the child becomes ineligible for adoption.

In **Slovakia**, in cases of adoption of children older than 6 years, children with special needs or larger groups of siblings (three or more children), the Centre seeks suitable PAPs in cooperation with the competent Authorities of the receiving countries. The administrative procedure is similar to the ordinary intercountry procedure, but there is more emphasis on an individualised approach aimed at finding the most suitable PAPs for every child.

In **Hungary** there are no different registers, but the PAPs available to adopt children with health problems get earlier consideration. It is also important to note that in cases concerning children aged 11-12 or older, or children with serious health problems, the adoptive procedure can be faster. The same adoption procedures apply to all receiving countries.

Also in **Bulgaria** there are no different registers. Children with special needs, suitable for adoption, are the focus of some public awareness raising campaigns implemented by NGOs and other bodies addressing the stigmatisation they may suffer and their equal rights in adoption and other care solutions.

Finally, no special register can be found in **Estonia**.

In the last few years the countries of origin have invested on the exchange of information about adoptable children at an international level. This information has helped receiving countries to provide both better guidance to PAPs and a more appropriate response to children who are in need in countries of origin.

In general, school-age children, siblings and children with special needs are considered a priority. Intercountry adoption applications excluding these conditions are often rejected, because in the vast majority of cases healthy children in their early childhood can easily find an adoptive family in their countries of origin.

The comparison between countries of origin shows that the situation varies from one country to the other. In particular, in Hungary many couples are now ready to adopt school-age children and therefore resort to intercountry adoption only in a very limited number of cases. Although Slovakia is not planning to stop intercountry adoption, the number of adoptable children is decreasing rapidly. Estonia reported that social policies are currently being implemented to provide care and protection for neglected children. When these policies are fully and more effectively implemented it will be possible to reduce intercountry adoption.

With regard to intra-family adoption, only Estonia has separate waiting lists, in order to speed up the procedure in these particular cases.

## 4.2 Waiting lists of PAPs who have submitted an application to adopt

### Waiting list of PAPs in the country of origin and the management of the demand

*To manage the demand for intercountry adoption :*

- A precise and detailed waiting list of prospective adoptive parents who have submitted an application for adoption should be elaborated and regularly updated in each country of origin. This list should be kept by the central authority and give a global overview of the situation.
- This register should indicate the number of PAPs and the children's profile they are authorised to adopt. The receiving countries should put in place mechanisms to keep the waiting list at a reasonable level, in line with the effective needs for and possibilities of intercountry adoption.
- Based on this register, the receiving countries should coordinate the exchange of information with the countries of origin to match the demand for adoption and the actual possibilities to adopt (see the box on page 60 for further details).

To manage the flow of requests from the various receiving countries, the countries of origin have also introduced waiting lists of PAPs when they receive files submitted either by the CA or by an AB.

In Slovakia, the CA examines foreign applicants' cases in order of arrival. After being examined they are put on a waiting list held by the CA, which thus has an overview of the number of foreign applicants wanting to adopt, as well as of their profiles. To better regulate the flow of requests, this country has also created a quota system for each receiving country, which can therefore send only a limited number of cases. When the assigned quota is reached, cases are sent back to the receiving country.

Here again, there is a common element across countries: the CA is in charge of filtering applicants' files before they are put on the waiting list and of managing this list.

This system can be seen as a form of implementation of the HC, which provides a strict framework for adoption procedures and prohibits any direct link between those wanting to adopt and the institutions caring for children.<sup>51</sup> The centralisation of cases through waiting lists responds to this objective; it is also essential to handle the influx of foreign applications. In 2007, the ISS noted in its April bulletin that “intercountry adoption will only achieve a balance if countries of origin and receiving countries take the necessary measures” and that it was becoming “urgent for receiving countries to take measures to manage the flow of adoption applicants”.<sup>52</sup> Although, as far as receiving countries are concerned, waiting lists seem not to be a tool for managing the flow of applicants - unlike the more detailed applicant selection system - they actually are so for the countries of origin, when they are used alongside the quota system developed by some of them.

### 4.3 Selection of receiving countries to work with concerning intercountry adoption

In general, it can be noted that at first the countries of origin - at least the ones considered in this study - did not follow any specific criteria to select the receiving countries to work with regarding procedures of intercountry adoptions. After 2005, when the number of intercountry adoptions started to decrease, the States’ approach to the selection of receiving countries began to change as well, as they became more aware of the importance to set limits and to define guarantees in external cooperation.

For example in 2008 Hungary decided not to accept new countries because the number of adoptable children started to decrease while in the meantime the numbers of PAPs was increasing every year.

In the Slovak Republic, in 2007 the Ministry of Labour, Social Affairs and Family approved new procedures concerning the administrative cooperation between competent authorities on intercountry adoptions, laying down legal and administrative criteria.

Other countries, such as Estonia, prefer to limit the number of countries to work with and choose to cooperate with few of them, which are generally selected for the existence of long-term relations.

**Selection of receiving countries to work with and the management of demand**  
*To manage the demand for intercountry adoption:*  
 Countries of origin should:

- Limit the number of receiving countries (as well as ABs and PAPs) to work with according to the number of children in need of intercountry adoption they have.
- Implement ways of establishing mutual knowledge and confidence with those countries.
- Define a high level of professional requirements from these partners (in terms of selective and multidisciplinary management of the demand, long term professional support of adoptive families...) according to the profile of children in need of intercountry adoption they have (specially long and specific experience of managing adoptions for special needs children if needed).
- Define a high level of ethical requirements from these partners (in terms of supporting and promoting the child protection system of the State of origin).
- Sign bilateral agreements in order to develop shared procedure and practices, able to monitor and evaluate the on-going level of cooperation.

#### 4.3.1 Cases of adoption limitation or suspension established by countries of origin

When the country of origin decides to limit or to stop adoptions, this can be due to different reasons. The most common cause is the **existence of a more restrictive policy on international adoptions**, giving priority to maintaining children in their own families and to domestic adoption. In these cases, the number of international adoptions is reduced and the principle of subsidiarity set up in the HC is safeguarded. This has been a major trend of Europe in the last few years, as the majority of the East European countries - which were among the first suppliers for Western Europe until 2003/2004 - began to promote domestic adoption

<sup>51</sup> This principle directly results from the aforementioned articles 14 and 15 of the HC.

<sup>52</sup> *Monthly Bulletin* no. 4/2007, ISS/IRC.

policies.<sup>53</sup> The result has been a reversal of the former situation: countries like Romania and Bulgaria are the most evident examples of this, as the composition of their adoptions has changed suddenly, with a strong prevalence of domestic adoptions. The same phenomenon, even if more blurred, has occurred in almost all the Eastern European countries: Slovakia, Hungary and - as revealed by the results of this survey - a similar change is now being planned in Estonia, where the priority principle in childcare policy seems to be that every child should be able to find a home in his/her country.

Some countries have decided that international adoptions should be carried out **only with children of a certain profile**, usually children with some kind of disability or older children, the so-called “*special needs children*”. The countries of origin, in order to promote the adoption of children with these characteristics, inform the receiving country about children eligible for international adoption and only accept applications for this kind of children.

Similarly, some countries of origin have communicated to receiving countries the approval of applications for International Adoption for children of a certain age, sibling groups or other children with special needs. This is the case of Hungary.

If in the country of origin the number of adoptions has decreased, some of these countries inform the receiving countries, so that they can in turn transmit the information to adoption applicants, either directly or through accredited agencies, thus adjusting demand to the profile of children available for International Adoption.

In some cases, the countries of origin control the demand for adoption by setting an **annual quota of applications for international adoption**, based on the number of children who at the time subject to being internationally adopted. These quotas can lead to different actions in the receiving countries. If the number of applications accepted for the country exceeds the quota, the receiving countries will try to redirect these requests to other countries, or in some cases, waiting lists are drawn up and usually handled by the CAs.

However, there are **other cases** which go beyond limitation and which consist in the **temporary or permanent suspension** of international adoptions. These suspensions are typically caused by political changes or by emergencies affecting the organisation and functioning of the country, although there may also be other reasons.

When something similar occurs in countries of origin, the reactions of receiving countries may vary, although most react in a similar way; they try to redirect applicants to other countries of origin. In other cases, if the country of origin has not established any transitional measures, negotiations are carried out to try and look through files which have been paralysed at an intermediate or advanced stage of proceedings, e.g. files in which a child has already been assigned and there is an agreement to this assignment. This is the case, for example, of Ireland, where transnational arrangements have been made in case termination is notified in advance. Normally, the PAPs who are at an advanced stage of the process are allowed to proceed to conclusion. Negotiations may differ and lead to different solutions, depending on what stage of the procedure has been reached and on the response of the countries of origin.

In other cases, it is the accredited agencies themselves that reach a solution with the applicants concerning the option to apply for another waiting list.

Depending on the situation in the country of origin, the suspension may be temporary or permanent. If the suspension is expected to be temporary, applicants may choose not to discontinue their application in this country but they are given the opportunity to open a file for another country.

In all the cases of suspension (both permanent and temporary), steps can vary depending on each case, since one is dealing with exceptional situations determined by the country of origin. In fact the circumstances in which these cases occur are not always the same, neither are the conditions established by the countries of origin.

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<sup>53</sup> Selman, Moretti, Brogi, in Istituto degli Innocenti, 2009, 43-44.

## 4.4 Respective roles and functions of Central Authorities and accredited bodies in the selected EU countries of origin

### Role of Central Authorities and of foreign accredited bodies in the country of origin and the management of demand

*To manage the demand for intercountry adoption:*

- The Central authority of the country of origin is responsible for collecting data on the number and profile of children in need of adoption, elaborating a waiting list and register of these children and communicating its needs to receiving countries. It also has the task to take the appropriate measures to limit the number of PAPs' files it wants to receive, based on its needs (see the box on page 60 for further details).
- Foreign adoption accredited bodies have the responsibility to acquire information on the situation in the country of origin they are working with, to exchange it with their home country authorities and to select and prepare their candidates according to the situation and context of the country of origin.

In the large majority of the countries of origin, the only authority in charge of processing intercountry adoption is the CA. In fact, in the 6 surveyed countries, only Poland and Bulgaria have ABs. In particular, the former has three ABs which have been delegated a certain amount of functions by the Polish CA. In Bulgaria, on the other hand, the law establishes that a non-profit organisation can mediate in intercountry adoption, provided that it has been registered in the Central Register and that it has obtained permission by the Ministry of Justice. Whereas Polish ABs have quite an important set of functions, i.e. they are responsible for preparing a family for the adoption of a Polish child and for the matching process, in Bulgaria, on the contrary, they have more limited functions.

In nearly all countries, the CA is part of the Ministry of Social Policies/Social Welfare (depending on the different national names). The exceptions to this are Bulgaria, whose CA is the Ministry of Justice, and Slovakia, where the Authority in charge of international adoptions is the Centre for International Legal Protection of Children and Youth.

The following is a brief description providing further details on the procedure adopted in every surveyed country is provided, giving further details.

### Hungary

In Hungary all international adoptions are processed by the CA and there is no national ABs assisting the PAPs. A total of 13 foreign ABs mediate adoptions from Hungary. Since these ABs are accredited by the CAs in their home States, the Hungarian CA has not accredited or authorized any foreign ABs. When a child is to be adopted internationally, the Hungarian CA matches the child with specific PAPs. The CA forwards information about the child to the AB where the PAPs are registered. If the CA is in doubt whether the PAPs will accept the child due for instance to health issues, the CA asks the AB which PAPs would be most likely to accept the child.

### Slovakia

Also in Slovakia the CA processes all intercountry adoptions. The Slovakian CA only cooperates with foreign CAs. No foreign ABs are accredited to mediate intercountry adoptions from Slovakia. The Slovakian CA matches the concrete child with concrete PAPs. After the matching, all the information about the child is forwarded to the CA in the receiving State, which gives the information to the PAPs.

### Estonia

Intercountry adoptions are processed by the CA. No foreign ABs are authorized to mediate adoptions from Estonia. The Estonian CA only communicates with CAs in the receiving States.

### Bulgaria

The law establishes that some functions concerning mediation in intercountry adoption can be carried out by a non-profit organisation which has been authorised by the CA and which has consequently been registered in a specific Central Register. Nonetheless, the functions are quite limited: the AB can neither identify children for intercountry adoption nor can it match children with their own applicant adopters.

## Lithuania

The CA performs the functions under chapter IV of the HC: it is responsible for the organisation and management of the adoption procedures, ensures the fulfilment of the requirements set forth in the Convention and controls the activities of other Lithuanian institutions related to adoption. Furthermore, it evaluates the compliance of documents submitted by a competent authority from the receiving foreign country and the conformity of candidates to the legal requirements for adopting. In Lithuania, the adoption procedure does not involve any national ABs.<sup>54</sup>

## Poland

The Polish CA is the ultimate institution in charge of managing intercountry adoption in the country. It provides information on, facilitates, follows and guarantees the adoption procedures. It issues the declaration that the adoption can proceed. It is also responsible for granting accreditation to foreign adoption agencies. The role of foreign agencies is to mediate between the PAPs, CAs of receiving States and the Polish relevant institutions and to cooperate with relevant Adoption and Custody Centres (ACCs) in relation to the matching process.

Some functions have been delegated by the CA to Polish ABs, i.e. the already mentioned ACCs. Amongst the 90 ACCs in Poland, only three of them, based in Warsaw, are entitled to run intercountry adoption procedures.

### 4.4.1 Management of foreign accredited bodies and criteria for authorisation

Four countries of origin out of the six which took part in the survey have foreign ABs working in their territories: Hungary, Bulgaria, Lithuania and Poland. However, only Hungary seems to know exactly how many they are and where they come from.

With respect to the authorisation to operate, only in Hungary it is enough for the foreign body to have been authorised in its own country. In all the other countries of origin, the foreign body must apply for authorisation. The ultimate institution in charge of the authorisation is always the CA, but procedures are slightly different from one country to another.

All countries as to check all the documents of the organisation and sometimes (in Bulgaria, for example) interviews and visits to the offices are carried out as well.

## 4.5 Ways of managing PAPs' applications in countries of origin

### Ways of managing PAPs' applications in countries of origin and management of the demand

*To manage the demand for intercountry adoption:*

Each country of origin should take appropriate measures to receive a number of applications corresponding to its needs. This can be done by:

- Setting limitations such as quotas on the number of receiving countries and/or the number of adoption accredited bodies (globally and/or for each receiving country).
- Limiting intercountry adoption to certain groups of children (e.g. children with special needs).
- Adopting the “reversing flow” process (see para. 4.1)

Another important point for the management of the demand for intercountry adoption is to know the number of PAPs' application files which every country of origin accepts every year from a receiving country and if and how this number is set.

In this regard, **Slovakia** and **Hungary** have decided to reduce the number of PAPs' applications. For example, in Slovakia the Ministry of Labour, Social and Family Affairs has approved restrictions on the number of PAPs' applications received from each country it currently cooperates with. The following table summarizes relevant data:

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<sup>54</sup> Quoted from the Lithuanian country profile for intercountry adoption, HCCH's website: [http://www.hcch.net/upload/ado\\_cp\\_lt.pdf](http://www.hcch.net/upload/ado_cp_lt.pdf)

Table 15: Number of PAPs' applications arrived in Slovakia from each receiving country

Andorra	5
Austria	15
Italy	40
Malta	7
Monaco	5
The Netherlands	10
Sweden	10

Since 2008, the competent Hungarian Authority sends a letter to all receiving countries in order to manage the number of applications. This strategy has proved to be very effective, as shown in 2009 by the number of applications received until 1st August, which seems to confirm a remarkable reduction compared to the previous years.

Table 16: Number of PAPs' applications received by Hungary

2006	191
2007	204
2008	214
2009 <sup>(a)</sup>	19

<sup>(a)</sup> Till 1st of August

Another way of managing the application is the one adopted in **Estonia**. As stated in the answers to the questionnaire, the number of PAPs' applications has to match the number of adoptable children. The figures are defined together by the Estonian CA - the Ministry of Social Affairs - and the authorities of the receiving country.

Unfortunately, no further information is available on the other countries involved in our survey.

This analysis also takes into consideration another fundamental aspect concerning the phases of adoption procedure: the questionnaire asked the countries of origin to clarify at which stage the PAPs are put on a waiting list (question no. 8).

In **Slovakia** the competent authorities of the receiving States send adoption applications to the Centre for the International Legal Protection of Children and Youth. The Centre keeps a list of foreign applicants who apply for the adoption of a child who is habitually resident in Slovakia. Applicants are put on the list after assessing if their documentation is complete and up-to-date, in a consecutive order, according to the date of delivery of their applications to the Centre. The Centre sends back all the applications exceeding the number established for each receiving State. Each adoption application file must contain the requested documents providing information about the social background, health conditions, conduct and financial situation of the applicants. Each adoption application file also contains confirmation that the applicants are eligible and suited to adopt a child in accordance with Article 14 of the Adoption Convention. Once the Centre approves the application, the PAPs are put on a waiting list.

In **Hungary** the situation is quite similar, the PAPs' applications are registered when they arrive and the Competent Authority issues a letter informing them about their registration number.

The situation is different in **Estonia**, where there is no specific phase in the procedure when PAPs are put on a waiting list. According to the answers given to the questionnaire, the information about children who can be adopted is sent by the counties to the Ministry of Social Affairs, which then forwards it to receiving countries.

In **Bulgaria**, PAPs have to apply for registration at the Ministry of Justice. Couples that are suitable for adoption are put on a list at the International Adoption Centre (IAC).

PAPs wanting to adopt a child in the Republic of **Lithuania**, have to submit all necessary documents through their CA or through an AB. The Lithuanian CA verifies whether the PAPs meet all the requirements, and if this is the case, they are added to the waiting list of PAPs. The Lithuanian CA is in

charge of matching of the child with the PAPs, whereas the court takes the final decision on the adoption. The Lithuanian CA chooses a family that can best satisfy the needs of the child in terms of age, health and living conditions. Children eligible for adoption are matched with a family according to the family's position on the waiting list and considering the family's requests regarding the age, sex and health of the child.

## 4.6 Conclusions

As well as addressing changes in the context of intercountry adoption, the registers of adoptable children in the countries of origin respond to several objectives. First of all, they foster knowledge of the number and profile of children awaiting adoption; as such, they help to provide a framework for adoption procedures and to prevent direct adoptions. Furthermore, as noted by the ISS/IRC in 2007,<sup>55</sup> they may help to determine which children are truly in need of intercountry adoption depending on their age, state of health and social background.

Another important effect of having a better knowledge of the situation of children is that it makes it possible to prevent children from remaining needlessly in institutional care. It is indeed widely acknowledged that this may have a prejudicial effect on the child's psychosocial development.

Lastly, thanks to this better knowledge, it is possible to adjust the demand for adoptions coming from foreign PAPs and to adapt it to children's needs and characteristics. The length of the waiting list of foreign PAPs authorized in the country of origin and the profile of these PAPs should be adapted to the number and profile of children in the register. CAs in the countries of origin should not accept to receive any PAPs file out of this frame.

Whenever possible, countries of origin should adopt the "reversing flow" process, especially countries of origin which have an important national adoption system and where only special needs children are in need of intercountry adoption.

In general, children's registers help the regulation of domestic and intercountry adoption procedures. However, the challenge remains to ensure the adoption of these children who remain all too often on the registers. The inscription of a particular child on a register should never be an automatic administrative procedure and should only be made when there is a real chance for the child to find an adoptive family. National and intercountry adoption registers should be constantly updated, and moving children from the first to the second one should be done carefully and regularly. The subsidiarity principle has to be considered together with the interest of the child and its right to a family.

Registers of children in need of (intercountry) adoption should be the starting point of the whole adoption system implemented by countries of origin. Statistics on the need for intercountry adoption in the countries of origin should be communicated in a transparent way to receiving countries and constitute the base of their management of the demand.

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<sup>55</sup> Thematic Fact Sheet no. 33, ISS/IRC, March 2007.

## Concluding remarks

The approach followed in this study is that of a kind of survey on the different practices within EU countries and their way of cooperating in intercountry adoption and of managing the demand of their residents. The lack of precision in the questions asked and the answers received from the central authorities, together with the number of non-responses and the limited operational possibilities of analysis do not allow formal and detailed conclusions. Nevertheless, some interesting trends and ideas can be highlighted.

Some brief recommendations may be formulated with the aim of developing a comprehensive system to ensure respect and protection of the best interest of the child and of guaranteeing the required transparency. The recommendations, which are not meant to be exhaustive, are the result of the analysis made on the various chapters of the publication, thanks to the contribution of the different professionals and experts who participated in this study.

Despite more and more frequent opportunities of dialogue among countries, investigating and questioning some approaches remains difficult. Procedures, concepts and vocabularies differ from one country to another. This makes dialogue sometimes difficult or even impossible. A lot of efforts still have to be made in that direction.

Whatever might be the most recent trends, the volume of the demand for intercountry adoptions remains out of proportion compared to realistic possibilities based on children's needs in the countries of origin. The demand continues to be the main reason for receiving countries to implement policies, while the international legal instruments they ratify specify that things should go the opposite way, which means starting from the needs of the countries of origin. The recent interpretation of the concept of "cooperation" between countries of origin and receiving countries implies co-responsibility, which means among other things a responsible management of the demand by receiving countries. Receiving countries should be encouraged to implement more selective and supervised practices in order to manage, filter, channel and reduce this demand, thus letting it evolve towards more realistic possibilities. Some of the EU receiving countries present an efficient policy in that sense, but they appear to be a minority.

### **Cooperation and exchange of information on the number and profiles of children in need of adoption**

Strengthening the co-operation between countries of origin and receiving countries is very important in order to better define working methods in respect of intercountry adoptions. In particular, it is a vital tool to manage the demand for intercountry adoptions.

It is well known that the profile and number of children in need of adoption is changing constantly. Therefore the cooperation between receiving countries and countries of origin should be permanently open to the exchange of information. This will allow first of all making possible to better manage the applications of PAPs. In addition, it will help to better respond to the needs of children and to look for a family that would respond to them..

In order to achieve this aim, it is fundamental to develop agreements and/or operational protocols between the various countries involved in the adoption process and to reiterate and reinforce relations within the context of the "Hague system", in order to improve the exchange of practices and information, both at a European and at an international level.

Sometimes drafting of bilateral agreements may be difficult, due to the high degree of bureaucratisation that this kind of agreements normally implies. In these cases the best solution can be to draw up and implement operational protocols to improve cooperation between countries of origin and receiving countries. On the other hand, it is recommended that receiving countries take into account the information sent by the countries of origin, and submit only a limited number of applications of PAPs which meet the needs and number of adoptable children (see below). The experience of some countries of origin that already inform receiving countries about the number of profile of children in need of intercountry adoption and that

establish quotas limiting the number of applications have achieved positive results and this approach has proved to be effective in diminishing pressure from receiving States.

Therefore, it is recommended that countries of origin collect proper information on the profile and number of adoptable children, forward it to receiving countries and make it easily available to them. Practically speaking, the creation of a register or a database containing information on adoptable children is a very useful tool for the CAs of both countries of origin and receiving countries.

The responsibility of channelling the flow of applications for intercountry adoptions must be shared by the receiving countries and by the countries of origin, in accordance with the co-responsibility principle. In order to respond to the real needs of children, the nature of intercountry adoption itself requires a high degree of cooperation between the two parties necessarily involved in the process.

### **Limitation of the number of accredited bodies**

Some receiving countries have progressively reduced the number of adoption bodies they accredit and authorise to work in States of origin. This approach is also recommended in the Guide to Good Practice if the limited capacity and scarce resources in a specific country of origin can affect the possibility to follow a well-managed and supervised co-operative agreements.<sup>56</sup> In some countries of origin, the large numbers of ABs may be the cause of pressures on the different national authorities and bodies. This is certainly a situation which must be avoided as it produces negative effects such as a decrease in guarantees in the adoption procedure. For this reason, one of the positive implications of co-operation should be an adjustment, and if necessary a limit, in the number of ABs operating in a certain country of origin.

A good practice would be for countries of origin to define a number of ABs proportionate to the number of intercountry adoptions which they carried in the past and which they need in order to find a suitable family for the adoptable children. In their turn, the receiving countries, at they turn, should not authorize more ABs to operate in a particular country of origins without previously discussing with their competent authorities the actual need for additional adoption ABs operating in their territories, even if the final authorization is always up to the country of origin. Furthermore, countries of origin and receiving countries should share the need to create registers of adoption ABs and constantly monitor them, in order to properly verify if these entities meet all the established requirements. The criteria of eligibility and requirements should be the object of co-operation, like the constant monitoring and control of the activity of adoption ABs.

### **Information and training sessions**

An important tool to manage the demand for intercountry adoption in European receiving countries are the information and training sessions. In fact, provided that they are well organized, directed and supported, information sessions and training courses may represent a first filter of the demand for intercountry adoption. The reason is that in some cases, after attending these sessions, the PAPs abandon the adoption process or change their mind as to which child they wish to adopt, thus redirecting their application. In general, it can be said that in recent years receiving countries have strived to improve the preparation of the PAPs applying for intercountry adoption. What is now necessary is to adapt the contents of the information sessions to the recent shift in the profile of adoptable children, in order to adjust the PAPs' requests to the children's needs.

Sharing official information and statistics on the evolution of the volume and of the profiles of demand, from the moment of registration of the initial application to the pooling of suitable and eligible applications would certainly help move in that direction.

### **Limitation of the number of PAPs' applications which can be sent and establishment of quotas**

Receiving countries are recommended to carefully study the information about the number and profile of children in need of intercountry adoption sent by the countries of origin, and they are recommended to submit only a limited number of PAPs' applications that meet the needs and number of adoptable children (see below). The experience of some countries of origin which already inform receiving countries of the number and profile of children in need of intercountry adoption and which establish quotas limiting the

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<sup>56</sup> See para. 8.2.2 in the Guide.

number of applications have achieved positive results and this approach has proved to be effective in diminishing pressure from receiving States.

At present, only some receiving countries have waiting lists for PAPs and apply limitations to the number and profile of PAPs' applications they send to the countries of origin. Other receiving countries apply limitations only in case the country of origin has established quotas.

According to the co-responsibility principle, which implies a pro-active attitude by both parties, the receiving countries should monitor the number of applications they send to the various countries of origin. In any case, the receiving States should respect the quotas established by the States of origin based on their needs and on their ability to handle applications.

Nonetheless, even in the absence of specific quotas by the countries of origin, it is advisable for receiving States to autonomously limit the number of files they sent on the basis of the indications of the countries of origin and of the data on the previous years they can collect from the authorities of the States of origin, from the adoption ABs operating there, and from other kinds of sources.

Some receiving countries that took part in the survey declared that they authorize the sending all of the eligible application files to the countries of origin. If they reach countries of origin that do not limit this number, the meaning given to the concept of suitability to adopt is put into question. Let us remember the name that the Netherlands and Flemish speaking Dutch give to suitability to adopt - literally "provisional agreement" - which means that this is a necessary condition, but it's not sufficient in itself. One could wonder whether a country which doesn't implement a very selective procedure and allows all of the application files to be sent to the countries of origin actually considers suitability to adopt a kind of "permit" or even a "right to adoption". Such an interpretation would be in contradiction with the spirit of the main international conventions on this subject. This could be a trigger for further investigation, together with the practices of independent and private adoptions.

### **Adoptions of children with special needs**

The use/the introduction by receiving countries of separate waiting list of PAPs for special needs children and the use of a database indicating any special needs of an adoptable children have improved the knowledge of both countries of origin and of receiving countries, thus helping to make the matching phase easier and, in general, more effective. It is therefore important to continue to give proper visibility to the availability of PAPs to adopt children with special needs. This could be done through the use of different instruments by both parties, such as the development of special waiting lists or the use of filters in databases of PAPs.

Another tool that proves to be useful is "reversal of the flow of the files" mentioned above.

### **Channels for intercountry adoption**

The applications for intercountry adoption continue to be managed through different channels across Europe. In many countries the applications continue to be channelled both by CAs and ABs, since no specific model has been chosen. Other countries have clearly opted for a single channel. Consequently, in relations with the same country of origin, some receiving countries act through ABs while others provide for the double option.

In such a varied picture, it is important to underline is that, in general, multiple options of channelling should be avoided when they cannot guarantee the same level of safeguards along the adoption procedure.

Another important consideration concerns private adoptions, i.e. those that are concluded directly by the PAPs and by the biological family. For a number of good reasons which have already been examined and mentioned in this study, in private adoptions there are less transparency and fewer guarantees for the child and for the PAPs as well. Therefore, they must be discouraged and gradually eliminated.

The HC has allowed an important progress thanks to the elaboration of the Good Practice Guides. Some further steps could be made towards an operational implementation of those recommendations. It might be useful for the Permanent Bureau to investigate upon some of the topics discussed in the present paper more deeply through the questionnaire proposed to all countries in preparation for the next encounters. It might also be useful to complete the statistics collected by the Permanent Bureau with data regarding the different receiving countries. Furthermore, it may be interesting to integrate some dimensions in the analysis, like the initial number of registered PAPs' applications, the number and profile of eligible and suitable PAPs' applications after information and training sessions and the evaluation procedure, the length of PAPs' waiting

lists at different levels in the receiving countries and in the countries of origin. On the other hand, similar data could be asked for to the countries of origin (number and profile of children in need of intercountry adoption, length of waiting lists of foreign PAPs...). A transparency within the numbers would certainly help the concrete implementation of good practices.

The implementation of a responsible policy of demand management must be complemented by a policy of post-adoption support. All adoptive parents have a long journey to make, starting from the ideal child they imagine in the beginning of the procedure to the real child, with his or her special needs that derive from difficult early experiences. A lot of PAPs, while getting aware of the challenge, decide to interrupt their journey. This course has to be supported and channelled by the State's policy on demand management and on a global level, and it also needs to take place in a way that is fit to the needs of real children of the countries of origin. The implementation of such a global and coherent adoption system is a real investment for the future. It can prevent major problems and failures in adoptions, which are a huge social and human cost for both receiving countries and the countries of origin.

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## Annexes



## Statistical data

**Table 1 Countries of origin with whom each receiving country cooperates (at the moment of answering the questionnaire)<sup>57</sup>**

	CY	F <sup>(a)</sup>	IE	FL	LU	NL	N	ES	SE	DK	I	BE <sup>(b)</sup>	PT	Tot. per country of origin
<b>Albania</b>								*	*		*			3
<b>Angola</b>											*			1
<b>Argentina</b>											*			1
<b>Armenia</b>		*									*			2
<b>Azerbaijan</b>											*			1
<b>Belarus</b>	*		*						*	*	*			5
<b>Benin</b>											*			1
<b>Bolivia</b>						*	*	*	*	*	*			5
<b>Bosnia-Herzegovina</b>									*		*			2
<b>Brazil</b>		*				*	*	*	*		*		*	7
<b>Bulgaria</b>	*	*			*		*	*	*	*	*			8
<b>Burkina Faso</b>		*						*		*	*			4
<b>Burundi</b>								*			*			2
<b>Cambodia</b>											*			1
<b>Cameroon</b>		*									*			2
<b>Cape Verde</b>								*			*		*	3
<b>Chad</b>											*			1
<b>Chile</b>							*	*	*		*			4
<b>China</b>		*	*	*		*	*	*	*	*	*	*		10
<b>Colombia</b>		*		*		*	*	*	*	*	*	*		9
<b>Costa Rica</b>								*			*			2

	CY	F <sup>(a)</sup>	IE	FL	LU	NL	N	ES	SE	DK	I	BE <sup>(b)</sup>	PT	Tot. per country of origin
Croatia									*		*			2
Czech Republic								*	*	*	*			4
Dem. Rep. of Congo											*			1
Djibouti		*												1
Dominica Republic								*			*			2
Ecuador								*	*	*	*			4
El Salvador								*			*			2
Estonia				*					*					2
Ethiopia		*		*		*	*	*		*	*	*		8
Gambia											*			1
Georgia											*			1
Ghana											*			1
Guatemala										*	*			2
Guinea											*			1
Guinea-Bissau											*		*	2
Haiti		*			*	*					*			4
Honduras								*			*			2
Hungary						*	*	*			*			4
India				*	*		*	*	*	*	*	*		8
Ivory Coast		*						*			*		*	4
Kazakhstan		*									*	*		3
Kenya				*					*	*	*			4
Kosovo											*			1
Kyrgyzstan									*					1
Latvia		*						*	*		*			4
Lebanon	*													1
Lesotho									*					1
Lithuania								*	*		*			3

	CY	F <sup>(a)</sup>	IE	FL	LU	NL	N	ES	SE	DK	I	BE <sup>(b)</sup>	PT	Tot. per country of origin
<b>Macao<sup>(c)</sup> (China)</b>													*	1
<b>Macedonia</b>									*		*			2
<b>Madagascar</b>							*		*	*	*			4
<b>Mali</b>		*						*		*	*			4
<b>Malta</b>											*			1
<b>Mauritius</b>											*			1
<b>Mexico</b>	*							*			*			3
<b>Moldova</b>								*			*			2
<b>Mongolia</b>											*			1
<b>Montenegro</b>									*					1
<b>Morocco</b>								*			*			2
<b>Mozambique</b>											*			1
<b>Nepal</b>		*					*	*	*	*	*			6
<b>Nicaragua</b>								*			*			2
<b>Niger</b>											*			1
<b>Nigeria</b>						*		*	*	*	*			5
<b>Pakistan</b>											*			1
<b>Panama</b>								*			*			2
<b>Peru</b>					*		*	*		*	*			5
<b>Philippines</b>	*		*	*			*	*	*	*	*	*		9
<b>Poland</b>						*		*	*		*	*		5
<b>Portugal</b>								*			*			2
<b>Republic of Korea</b>									*		*			2
<b>Republic of Congo</b>											*			1
<b>Romania</b>											*			1
<b>Russia</b>	*	*		*				*	*		*	*		7
<b>São Tomé-Príncipe</b>													*	1
<b>Senegal</b>		*						*		*	*			3

	CY	F <sup>(a)</sup>	IE	FL	LU	NL	N	ES	SE	DK	I	BE <sup>(b)</sup>	PT	Tot. per country of origin
<b>Serbia</b>								*	*		*			3
<b>Slovakia</b>						*		*	*		*			4
<b>South Africa</b>				*	*	*	*		*	*		*		7
<b>South Korea</b>					*		*			*	*			4
<b>Sri Lanka</b>						*	*		*	*	*	*		6
<b>Taiwan</b>		*				*			*	*	*			5
<b>Thailand</b>	*	*	*	*		*	*	*	*	*	*	*	*	12
<b>Togo</b>											*			1
<b>Tunisia</b>		*				*								2
<b>Uganda</b>											*			1
<b>Ukraine</b>		*			*	*		*			*			5
<b>United States</b>											*			1
<b>Uzbekistan</b>											*			1
<b>Venezuela</b>								*			*			2
<b>Vietnam</b>		*	*					*		*	*			5

<sup>(a)</sup> France declared to cooperate with a total of 67 countries, but the table only includes the main cooperation countries (21).

<sup>(b)</sup> Flemish Community

<sup>(c)</sup> For its particular situation (it was a Portuguese colony until 1999, then it passed to China), Macao has been put in a separate place in the list, but when calculating the quotas by Continent it is considered as part of China.

**Table 2/a a) How many adoption has every receiving country done with each country of origin in the last 5 years? (2004)**

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOTAL
Afghanistan								4						4
Albania								4		8				12
Algeria						1								1
Azerbaijan										1				1
Bangladesh								1						1
Belarus			56					34		226		15		331
Bolivia						2	92	13		95		20		222
Bosnia & Herzegovina			1					2						3
Brazil		92	1		30	16	18	3		217		3		380
Bulgaria					1	1	57	7		113				178
Burkina Faso		85					2			5				92
Burundi						1		4						5
Cambodia						2				43				45
Cameroon							1			1				2
Chile						7	20			43				70
China		491	60		800	308	2,389	497	133		64	164		4,906
Colombia		314			104	120	256	71	22	330	1	38		1,256
Congo								1						1
Costa Rica							10							10

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOTAL
Croatia								3		1				4
Czech Republic								8						8
Dem. Rep. of Congo							7			2				9
Dominican Rep.							24							24
Ecuador					2	2	2	1		10	2	3		22
El Salvador							22			3				25
Eritrea								3		2				5
Estonia								1	4					5
Ethiopia		390	16		72	47	220	26	7	193	17	41		1,029
Germany								2						2
Ghana							3							3
Greece								1						1
Guatemala					4		3			16		2		25
Haiti		507			42		36			9		2		596
Honduras							31	1						32
Hungary					1	13	10	1		26				51
India					29	26	117	46	8	102	13	100		441
Indonesia								1						1
Iran								3						3
Iraqe								10						10

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOTAL
Ivory Coast							1			2				3
Jamaica								1						1
Japan								2						2
Jerusalem							1							1
Jordan								1		1				2
Kazakhstan			9				24	2						35
Kenya						2				10				12
Korea												53		53
Kyrgyzstan														0
Latvia		105					2	1						108
Liberia								1						1
Lithuania								8		34				42
Macedonia										1				1
Madagascar		292					13			8				313
Malawi			1											1
Malaysia								1						1
Mexico			3			2	17			5				27
Moldova							1	1		11				13
Morocco						2	21	1						24
Mozambique								1						1

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOTAL
Nepal					1	5	68	1		54		1		130
Nicaragua							1	1						2
Nigeria					17									17
Pakistan								3						3
Palestine										1				1
Panama					1									1
Peru					1	5	50	1		24		3		84
Philippines					11	22	1	5	12	17	17	5		90
Poland					22	4	2	21		194		1		244
Rep. of Korea														0
Romania			2				48			119				169
Russia		445	189			10	1,618	53	41	738	10			3,104
São Tomé & Príncipe										1				1
Senegal					2									2
Serbia & Montenegro								13		1				14
Slovakia					3			4		63				70
Somalia								13						13
South Africa					51	5		40	24		10			130
South Korea						87		121						208
Sri Lanka					9	3		2		5	3			22

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOTAL
Sudan								1						1
Suriname					10									10
Swaziland								1						1
Syria								1						1
Taiwan			1		54			3						58
Tanzania								1						1
Thailand		87	8		11	23	1	27	36	5	6			204
Tunisia										1				1
Turkey					1			2						3
UK								2						2
Ukraine		126	12				349	13		655				1,155
USA					18			3						21
Vietnam		363	16					6		6				391
Yemen								1						1
Zambia								1						1
<b>Not indicated</b>		782											2	784
<b>TOTAL</b>	<b>n/a</b>	<b>4,079</b>	<b>375</b>	<b>n/a</b>	<b>1,307</b>	<b>706</b>	<b>5,538</b>	<b>1.108</b>	<b>287</b>	<b>3,402</b>	<b>143</b>	<b>451</b>	<b>2</b>	<b>17,397</b>

Table 2/b

a) How many adoption has every receiving country done with each country of origin in the last 5 years? (2005)

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOTAL
Afghanistan								5						5
Albania								3		8				11
Azerbaijan								2						2
Bangladesh								2						2
Belarus			2											2
Bolivia					6		89	9		79		30		213
Bosnia & Herzegovina								2						2
Brazil		98			28	8	26	1		224			7	392
Bulgaria					1	3	21	3		37		4		69
Burkina Faso							3			13				16
Burundi								2						2
Cambodia										78				78
Capo Verde										2			7	9
Central African Rep.										1				1
Chile						4	15	2		59				80
China		458	52		666	299	2,753	462	140		63	207		5,100
Colombia		293			89	72	240	54	20	245	4	37		1,054
Congo										5				5
Costa Rica							6			1				7
Croatia								2		2				4

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOTAL
Czech Republic								5		9				14
Dem. Rep. of Congo							12	1						13
Dominica														0
Dominican Republic					2		20			1				23
Ecuador					1		4			3				8
Egypt								1						1
El Salvador							16			2				18
Eritrea								2		1				3
Estonia								8	3					11
Ethiopia		397	13		72	36	227	37	5	221	59	30		1,097
Gaza								1						1
Germany								1						1
Ghana					1									1
Guatemala					1					13		4		18
Guinea Bissau										1				1
Haiti		475			51		24			13				563
Honduras							21							21
Hungary					4	9	3	1		38				55
India					24	16	43	44	15	136	10	65		353
Indonesia								2						2
Iran								7						7
Iraqe								8						8

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOTAL
Israel								1		1				2
Ivory Coast							1	1		4				6
Japan								1						1
Jordan										1				1
Kazakhstan			16				43			8				67
Kenya					1			4		5				10
Kyrgyzstan								1						1
Latvia		73								14				87
Lebanon								3						3
Liberia								1						1
Lithuania					1			6		40				47
Macedonia										2				2
Madagascar		245					24			9				278
Malawi								1						1
Mali		85					1			2				88
Mauritius										1				1
Mexico			9				33			9				51
Moldova							1			9				10
Mongolia					2									2
Morocco							6	3						9
Mozambique							3							3

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOTAL
Myanmar								1						1
Namibia								1				1		2
Nepal					1	4	43			33				81
The Netherlands								1						1
Nicaragua							1							1
Nigeria					24			1		2				27
Panama							3							3
Peru					2	5	66	1		54		1		129
Philippines					9	11	10	7	19	15	7	7		85
Poland					30			27	2	201		4		264
Rep. of Korea														0
Romenia							3							3
Russia		357	131		3	1	1,262	34	35	629	14			2,466
Rwanda								2						2
Serbia & Montenegro								4						4
Sierra Leone								1						1
Slovakia					2			1		26				29
Somalia								19						19
South Africa					58	15	1	46	27		9			156
South Korea						79		104				46		229
Sri Lanka					9	3		2		5	5			24
Sudan								2						2

Suriname  
 Taiwan  
 Tanzania  
 Thailand  
 Turkey  
 Uganda  
 UK  
 Ukraine  
 Uruguay  
 USA  
 Uzbekystan  
 Vietnam  
 Zambia  
**Not indicated**  
**TOTAL**

CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOTAL
				6									6
		1		44			4						49
							2						2
	84	2		13	17	5	35	42	7	1			206
							2						2
							1						1
							1						1
	94	27				394	9		464				988
									1				1
		2		32			4						38
							1						1
	790	92					80		140				1,102
							1						1
	687											1	688
<b>n/a</b>	<b>4,136</b>	<b>347</b>	<b>n/a</b>	<b>1,183</b>	<b>582</b>	<b>5,423</b>	<b>1,083</b>	<b>308</b>	<b>2,874</b>	<b>172</b>	<b>436</b>	<b>15</b>	<b>16,559</b>

Table 2/c

a) How many adoption has every receiving country done with each country of origin in the last 5 years? (2006)

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Afghanistan								1						1
Africa Central Rep.								2						2
Albania								2		3				5
Algeria								1						1
Armenia										12				12
Australia								2						2
Azerbaijan								1						1
Bangladesh								2						2
Belarus										34				34
Benin										2				2
Bolivia					4	3	21	11		65		22		126
Brazil		95		3	14	6	19	2		290			6	435
Bulgaria					1	2	11			28		1		43
Burkina Faso		89					1			15				105
Burundi								8						8
Cambodia							1			147				148
Cameroon								1						1
Capo Verde													2	2
Chile						7	11			53				71

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
China		314	33	2	362	185	1,759	314	49		47	157		3,222
Colombia		321			80	91	260	47	18	289	3	36		1,145
Congo														0
Costa Rica							1			15				16
Croatia								2						2
Czech Republic								2		5				7
Dem. Rep. of Congo							31	1		10				42
Dominican Republic							9			1				10
Ecuador					1		5			2				8
Egypt								1						1
El Salvador							19			3				22
Eritrea								1						1
Estonia								6	2					8
Ethiopia		408	14		48	27	304	32	15	227	58	38		1,171
Gambia								2						2
Germany								2						2
Guatemala					1		6	1		14		1		23
Guinea								1						1
Haiti		571		1	41		15			2				630
Honduras							5							5

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Hungary					2		7	2		62				73
India				3	15	21	79	38	4	136	15	30		341
Indonesia								1						1
Iran								5						5
Iraqe								1						1
Ivory Coast							4	1		2				7
Jamaica								1						1
Jordan								1						1
Kazakhstan			15				70			11				96
Kenya					1			3		6				10
Kyrgyzstan								5						5
Latvia		79						1		36				116
Lebanon								3		1				4
Lesotho					6									6
Lithuania								6		69		1		76
Macedonia										17				17
Madagascar		117					10			5				132
Mali		109								4				113
Mexico			4				35			17				56
Middle-East					5									5

	<b>CY</b>	<b>F</b>	<b>IE</b>	<b>LU</b>	<b>NL</b>	<b>N</b>	<b>ES</b>	<b>SE</b>	<b>FIN</b>	<b>I</b>	<b>BE (Fl. Comm.)</b>	<b>DK</b>	<b>PT</b>	<b>TOT.</b>
Moldova							7			12				<b>19</b>
Morocco							20							<b>20</b>
Mozambique							1							<b>1</b>
Nepal					1	4	173			90				<b>268</b>
Nicaragua							2							<b>2</b>
Nigeria					28					3				<b>31</b>
Pakistan								1						<b>1</b>
Panama							41							<b>41</b>
Peru				4	4	4	41	2		73		4		<b>132</b>
Philippines				1	10	11	28	10	21	20	10	2		<b>113</b>
Poland					25		1	18		228				<b>272</b>
Portugal														<b>0</b>
Rep. of Korea														<b>0</b>
Romania			1					1						<b>2</b>
Russia		397	143		1	5	1,290	46	50	700	17			<b>2,649</b>
Rwanda								1						<b>1</b>
Senegal										4				<b>4</b>
Serbia & Montenegro								7		1				<b>8</b>
Sierra Leone								1						<b>1</b>
Slovakia					3			2		23				<b>28</b>

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Somalia								21						21
South Africa				5	50	9	3	38	22		8			135
South Korea				24		59		91				41		215
Sri Lanka					10	3		2		6	3			24
Suriname					4									4
Taiwan			1		43			5		1				50
Tanzania								2						2
Thailand			6		16	11	1	30	37	3	1			105
Tunisia										1				1
Turkey								2						2
Uganda								2						2
UK								1						1
Ukraine		88	11				181	4		202				486
USA			2		38			10						50
Vietnam		742	68					67		238				1,115
Zambia					2			2						4
<b>Not indicated</b>		647												647
<b>Total</b>	<b>n/a</b>	<b>3,977</b>	<b>298</b>	<b>43</b>	<b>816</b>	<b>448</b>	<b>4,472</b>	<b>879</b>	<b>218</b>	<b>3,188</b>	<b>162</b>	<b>333</b>	<b>8</b>	<b>14,842</b>

Table 2/d

a) How many adoption has every receiving country done with each country of origin in the last 5 years? (2007)

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (FI. Comm.)	DK	PT	TOT.
Afghanistan								1						1
Albania								1		5				6
Armenia							1			24				25
Bangladesh					1			1						2
Belarus			1						1	12				14
Bolivia					10	6	42	9		55		13		135
Bosnia & Herzegovina								2		2				4
Brazil		66			9	15	1			326				417
Bulgaria						2	11	2		32				47
Burkina Faso		66					4			25		1		96
Burundi				1				4						5
Cambodia							1	1		163				165
Capo Verde													11	11
Chad										2				2
Chile						4	7			60				71
China		176	31		365	156	1,059	280	46		30	139		2,282
Colombia		375			49	84	174	39	14	380	3	26		1,144
Congo							8							8
Costa Rica							3			24				27

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Croatia										1				1
Czech Republic								2		5				7
Dem. Rep. of Congo				5			29	2		17				53
Dominican Republic							19			1				20
Ecuador					1		2			4				7
El Salvador							23	1		4				28
Eritrea								1						1
Estonia								5	3					8
Ethiopia		417	17		68	33	481	39	13	256	88	39		1,451
France				1										1
Gambia								3		3				6
Germany								2						2
Ghana							2							2
Guatemala					3		8			14		1		26
Guinea							3	1						4
Haiti		403		2	28		22			2				457
Honduras							3							3
Hungary					5	13	15			82				115
India				2	16	16	103	56	9	142	5	37		386
Indonesia								1						1

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Iran								2						2
Iraq								18						18
Israel										1				1
Italy								1						1
Ivory Coast							6			3				9
Kazakhstan			6				130	2		12	26			176
Kenya						1		4						5
Kyrgyzstan								10		2				12
Latvia								1		37				38
Lesotho					12									12
Liberia								1						1
Lithuania							4	10		77				91
Macedonia								1		3				4
Madagascar		62					1			2				65
Malawi					2									2
Mali		135								12				147
Mexico			8		1		39			19				67
Middle East					3									3
Moldova							5			32				37
Mongolia										1				1

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Morocco					5			1						6
Mozambique							5					2		7
Nepal					2	2	76	1		70		3		154
Nicaragua							2							2
Nigeria					22					7		2		31
Panama							8							8
Peru						6	21			90		3		120
Philippines					7	13	29	8	19	26	9	6		117
Poland					29			25		200		2		256
Romania								1						1
Russia		402	160			1	955	4	20	492	4			2,038
Samoa								1						1
Saudi Arabia								2						2
Senegal							4			3				7
Serbia & Montenegro				2				4		2				8
Slovakia					7		1	7		29				44
Somalia								25						25
South Africa				4	34	16	2	44	25		7			132
South Korea				12		44		66				19		141
Sri Lanka					7	2	1	1		8	2			21

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Sudan								1						1
Suriname					5									5
Taiwan			1	1	34			6						42
Tanzania										1				1
Thailand		71	9		16	13		35	27	8	2		1	182
Togo										3				3
Tunisia					1					2				3
Turkey								3						3
Uganda								1						1
Ukraine		99	6	1			338	2		374				820
USA			5		39			2						46
Venezuela														0
Vietnam		268	130					54		263				715
Yugoslavia								1						1
Zambia								1						1
<b>Not indicated</b>		622												622
<b>TOTAL</b>	<b>n/a</b>	<b>3,162</b>	<b>374</b>	<b>31</b>	<b>782</b>	<b>426</b>	<b>3,648</b>	<b>800</b>	<b>176</b>	<b>3,420</b>	<b>176</b>	<b>293</b>	<b>12</b>	<b>13,300</b>

Table 2/e

a) How many adoption has every receiving country done with each country of origin in the last 5 years? (2008)

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Afghanistan								5						5
Albania										9				9
Armenia								1		32				33
Bangladesh					1			1						2
Belarus										4				4
Benin					1					3				4
Bolivia					12	4	35	6		43		13		113
Bosnia & Herzegovina								2		1				3
Brazil					4	15	4	2		371			1	397
Bulgaria							20	1		74		1		96
Burkina Faso		47					7			23		3		80
Burundi								7						7
Cambodia							1			188				189
Cameroon								3						3
Capo Verde										1			11	12
Chad										1				1
Chile						6		1		32				39
China		144	19		299	85	619	206	18		8	69		1,467
Colombia		305	1		51	48	189	41	17	434	1	32		1,119

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Congo					2					0				2
Costarica										14				14
Croatia										1				1
Czech R.							2	3		11				16
Dem. Rep. of Congo							5	3		26				34
Dominican Rep.							9							9
Ecuador										4				4
El Salvador							14			9				23
Eritrea								2		2				4
Estonia								10	1					11
Ethiopia		484	26		50	26	629	42	14	338	97	92		1,798
France								1						1
Gambia							1	1						2
Ghana								2		1				3
Guatemala							4			9				13
Guinea Bissau										2				2
Haiti		731		1	91		27							850
Honduras							3							3
Hungary					7	8	5			84				104
India				2	5	12	32	51	2	142	9	16		271

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Indonesia								1						1
Iran								3						3
Iraque								9						9
Israel								1						1
Italy								1						1
Ivory Coast		67					3			2				72
Kazakhstan			4				149			25	58			236
Kenya					17					3				20
Kyrgyzstan								6		1				7
Latvia								3		15				18
Lebanon										1				1
Lithuania							3	6		78				87
Macedonia								2		2				4
Madagascar							2							2
Malawi					2			1						3
Malaysia								1						1
Mali		72								17		1		90
Mauritius										3				3
Mexico			22				14			8				44
Moldova							4			48				52

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Mongolia					2			1		2				5
Morocco					3			2						5
Namibia								1						1
Nepal		58			3	4	184			80		2		331
The Netherlands								1						1
Nicaragua							1			1				2
Nigeria					22		2	10		11		6		51
Panama							4	1		1				6
Peru				4		7	27			68		5		111
Philippines					6	6	29	10	11	30	6			98
Poland					28		4	17		241	4			294
Romania			1											1
Russia		315	117				899	8	34	466	8			1,847
Rwanda								1		1				2
Senegal							7			6				13
Serbia & Montenegro								9		1				10
Slovakia					10			7		29				46
Somalia								59						59
South Africa			1	6	36	21		40	36		10			150
South Korea				21		45						25		91

	CY	F	IE	LU	NL	N	ES	SE	FIN	I	BE (Fl. Comm.)	DK	PT	TOT.
Sri Lanka					7	5		2		12	5			31
Sudan										1				1
Taiwan					40			27						67
Tanzania								1						1
Thailand		48	11		10	12		26	24	9	4			144
Rep. of Korea								79		1				80
Tunisia					1					1				2
Uganda								2						2
UK								4						4
Ukraine		112	9	2	1		218	1		640				983
USA			4		56			7		1				68
Vietnam		284	182					50		313				829
Zambia								1						1
<b>Not indicated</b>		604												604
<b>TOTAL</b>	n/a	3,271	397	36	767	304	3,156	792	157	3,977	210	265	12	13,344

**Table 2/f Number of intercountry adoptions per receiving country (2009)**

COUNTRY	NUMBER OF INTERCOUNTRY ADOPTIONS
CY	12
F	3,017
IE	307
LU	31
NL	682
N	347
ES	3,006
SE	912
FIN	187
I	3,964
BE <sup>(a)</sup>	441
DK	496
PT	8
<b>TOT.</b>	<b>13,410</b>

<sup>(a)</sup> In this table Belgium is considered on the whole, not only with reference to the Flemish Community.  
 Source: Statistics issued by the Central Authorities of the 23 receiving States, including submissions to the Hague Special Commission of June 2010 ([http://www.hcch.net/index\\_en.php?act=conventions.publications&dtid=32&cid=69](http://www.hcch.net/index_en.php?act=conventions.publications&dtid=32&cid=69)).

**Table 3/a How many new PAPs application files did every receiving country accept in the last 5 years?**

	CY	F	IE	LU	NL	N	ES	SE	DK	BE (Fl.C)	FIN	I
<b>2009</b>		approx. 2,500 per year		39 <sup>(a)</sup>				no info				4507
<b>2008</b>	100		494	71	304	470			448	422	350	5,045
<b>2007</b>	99		452	67	426		7,642		510	428	323	5,635
<b>2006</b>	93		400	70	448		8,981		665	297	348	6,237
<b>2005</b>	79		403		582	850	9,074		674	233	219	6,243
<b>2004</b>	41		461		706		7,718		688	265	369	

<sup>(a)</sup> considering the first 7 months of the year.

**Table 3/b How many new PAPs application files did every receiving country send to the countries of origin in the last five years?**

	CY	F	IE	LU	NL	N	ES	SE	DK	BE (Fl.C)	FIN	I	PT
<b>2009</b>			no info	40 <sup>(a)</sup>	no number			no number		The exact number is unknown, but it exceeds the number of adoptions	No available data on this aspect		33
<b>2008</b>	76			57		470			500			12	
<b>2007</b>	71			49			7,642		550			31	
<b>2006</b>	64			56		850	8,981		800			8	
<b>2005</b>	62						9,074		610			29	
<b>2004</b>	27						7,718		520			12	

<sup>(a)</sup> considering the first 7 months of the year.

**Table 3/c What is at present date the total number of eligible PAPs who are waiting for an adoption in every receiving country?**

<b>CY</b>	<b>F</b>	<b>IE</b>	<b>LU</b>	<b>NL</b>	<b>N</b>	<b>ES</b>	<b>SE</b>	<b>DK</b>	<b>BE (Fl. Comm.)</b>	<b>FIN</b>	<b>I</b>	<b>PT</b>
186 (Oct.'09)	28,000 (July '09)	350 (Oct.'09)	86 (Aug. '09)	n/a	1,950 (Sept.'09)	n/a	n/a	1,020 (Nov.'09)	800 found eligible, but many did not finish the procedure. Approx. 400 are waiting for an adoption (Dec. '09)	City of Helsinki: 121 (in October 2009) this includes families who do not have their permit yet. Families with their application overseas: 57. Save the Children Finland application overseas: 313/26.10.2009 Interpedia application overseas: 204	9,095 procedures pending; 2,457 of them are currently in an advanced stage and 6,638 in an initial stage (January 2010)	72 (January 2010)

**Table 4** How many adoptions has every country of origin done with each receiving country in the last five years? Please indicate the number year by year

	FRANCE	ITALY	AUSTRIA	SPAIN	NORWAY	THE NETHERLAND	ISRAEL	USA	GERMANY	SWEDEN	CZECH REP.	MONACO	CANADA	SWITZERLAND	DENMARK	FINLAND	CYPRUS	OTHERS	TOTAL	
2004	ESTONIA							5		1						4			10	
	HUNGARY		26																26	
	SLOVAKIA	4	63	1		3			0	3	1	0	1						76	
	PORTUGAL	NO INFORMATION																		
	BULGARIA	x	113		x				x	x	x			x		x		x		113
	LITHUANIA	25	34		1				25		8									4
2005	ESTONIA							3		6						3			12	
	HUNGARY		38																38	
	SLOVAKIA	10	26	0		2			1	2	0	0	0						41	
	PORTUGAL				2				2					1					1	6
	BULGARIA	x	37		x				x	x						x		x		37
	LITHUANIA	21	40				1		23	7	5									3
2006	ESTONIA							12		7						2			21	
	HUNGARY	7	62		8	9	2	2	10							1			101	
	SLOVAKIA	0	23	3			3		3	2	0	0	0						34	
	PORTUGAL	3						2						3					8	
	BULGARIA	x	28		x				x	x				x					28	
	LITHUANIA	21	69			1			22	3	6				3	1				4
2007	ESTONIA							16		7						3			26	
	HUNGARY	6	82	1	16	13	5	11	1										135	
	SLOVAKIA	2	29	4			7		2	6	0	0	0						50	
	PORTUGAL	3			2								2						7	
	BULGARIA	x	32		x				x	x				x	x				32	
	LITHUANIA	27	77		6	1			19	3	10			3						5
2008	ESTONIA							15		9						1			25	
	HUNGARY	3	84		5	8	7	6	1					2					116	
	SLOVAKIA	0	29	2			10		1	7	0	2	0						51	
	PORTUGAL	4																	4	
	BULGARIA(a)		74																74	
	LITHUANIA	14	78	1	3				14		7		1		3				7	128
POLAND	NO INFORMATION FOR ALL YEARS																			

(a) until 1.06.2008

## Glossary

The research and analysis includes a comparative and multidisciplinary (law, sociology, psychology, statistics) focus. The ChildONEurope working group fully base their work on the fundamental guidelines on child care and protection in the EU to be found in the child and human rights international instruments, notably

- the European Convention on Human Rights and the Case-Law of the EctHR;
- the UN Convention on the Rights of the Child and its Optional Protocol on the sale of children, as well as the Recommendations of the Committee on the Rights of the Child;
- the Hague Convention 1993 on protection of children and co-operation in respect of intercountry adoption, considered as a common European framework even if not in force in every member state.

According to these international texts, some core concepts may be defined in the following way:

*Intercountry adoption* - The criteria to distinguish between domestic and intercountry adoption are the respective habitual residences of the child and of the prospective adoptive parents in different countries, and the necessity for the child to move from the country of origin to the receiving country as a consequence of the adoption project. The criterion is thus not the citizenship of the concerned persons.

*Best interest of the child* - Adoption as any other child care option has to be decided in the best interest of the individual child concerned, and not primarily in the interest of the adults, being the parents/family of origin or the prospective adoptive parents, nor of the States, being the State of origin or the receiving State.

As far as possible, children should grow up in a permanent and family setting.

*Subsidiarity principle* - Every child has the right to know and to be cared for by his or her own parents, whenever possible. The State has positive obligations to take any available step in order to sustain the parents and the family of origin, to maintain or reintegrate the child and to prevent abandonment as far as it coincides with the best interest of the child. If this is not possible, the child has the right to be adopted in priority in his or her own country of origin, taking into consideration the desirability of continuity in a child's upbringing and the child's ethnic, religious, cultural and linguistic background. If necessary, international cooperation has to support every State in order to help to respect these obligations. Intercountry adoption is thus twice subsidiary: to maintaining the child in the family of origin then to domestic adoption.

*Participation of the child* - The child who is capable of forming his or her own views has the right to express those views freely, these being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body.

*Non discrimination principle* - Children may not be discriminated in the adoption process, especially relating to their origin. This means for example that children adopted domestically must enjoy safeguards and standards equivalent to children adopted intercountry and *vice versa*; the same for children from non Hague States compared with children from Hague States or for children from non EU member States compared with children from EU member States.

*Non profit principle and fight against trafficking* - Adoption may not provide any financial or undue profit. The adoption process has to protect children, families of origin and prospective adoptive parents from any type of trafficking.



## Questionnaires

### Questionnaire on the management of the demand for international adoption in the countries of origin

#### Preliminary remark

The subject of this research finds its origin in the fact that at present in the framework of international adoption there is an imbalance between the number of PAPs<sup>58</sup> application files in the receiving countries and the number and profile of adoptable children from the countries of origin.

This research is therefore aimed at analysing the mechanisms put in place from the receiving countries and those of origin to deal with this imbalance and at identifying the related numbers.

We have tried to formulate the following questions in a way that can fit the different procedures followed at national level, but being conscious of the many differences present in the procedures of the different countries, we kindly ask you to contact us in case some questions are not clear.

#### Questions

1. With which receiving countries does your country work and on which criteria are they chosen?

2. Do you know approximately the number of children who are in need of intercountry adoption in your country? How did you acquire this knowledge?

3. How many adoptions has your country done with each receiving country in the last five years? Please indicate the number year by year.

How many PAPs application files do you receive each year from every receiving country and how is this number fixed? Do you decide by yourself, is it imposed by the receiving country or is it decided in collaboration?

How many PAPs application files do you refuse? Why?

4. In your country are international adoptions done through the Central authority and/or accredited bodies?

If you have accredited bodies, how many are they? On which basis do you authorise an accredited body to work with a receiving country?

Are there foreign accredited bodies working in your country? How many are they? And from which receiving countries? On which basis do you authorise foreign accredited bodies in your country?

5. Do the competent authorities of your country send the information on adoptable children to the competent bodies in the receiving country? If not, how does your country intervene?

6. Are there waiting lists of children in your country and at which step of the procedure? Who manages those waiting lists in your country? Does the Central Authority know approximately the number and profile<sup>59</sup> of children on the waiting lists?

7. In your country are meeting with PAPs required and at which stage of the adoption procedure?

How long can the PAPs think before giving an answer to the matching proposal? How many times can they refuse? Is child consent required for matching?

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<sup>58</sup> By the acronym PAPs we mean prospective adoptive parents, that can be represented by couples, married or not, heterosexual or homosexual, singles according to the national legislations.

<sup>59</sup> By profile of children we mean their characteristics, e.g. their age, state of health, ethnic origin, if they are alone or a group of brothers/sisters, etc.

8. Please make a scheme of the adoption procedure phases and indicate at which stage are PAPs put on a waiting list?

Are there different procedures depending on the receiving country? If yes, please describe and highlight the differences.

9. Does your country have different waiting lists for multiple adoptions, for adoptions of disable children and older children? If yes, what is the procedure? Is this foreseen by practice or by law?

10. Does your country have a different waiting list for interfamilial adoptions? If yes, what is the procedure? Is this foreseen by practice or by law?

11. Does your country impose a minimum delay between two adoption procedures by the same PAPs? If yes, how long is the waiting period? Is this foreseen by practice or by law?

12. Does your country accept two or more simultaneous applications by the same PAPs or are there restrictions?

13. How many new PAPs application files did you accept in the last 5 years? Please indicate the number year by year

At the present date what is the total number of PAPs applications files that your country received?

14. Does your country plans to limit/stop inter country adoptions?

What happens with the applications already accepted by the collaboration partners?

15. Are there any significant differences while working with receiving countries on field of intercountry adoption? Please indicate only the most important differences concerning the various phases of the adoption procedure.

## **Questionnaire on the management of the demand for international adoption in receiving States**

### **Preliminary remark**

The subject of this research finds its origin in the fact that at present in the framework of international adoption there is an imbalance between the number of PAPs<sup>60</sup> application files in the receiving countries and the number and profile of adoptable children expressed from the countries of origin.

This research is therefore aimed at analysing the mechanisms put in place from the receiving countries and those of origin to deal with this imbalance and at identifying the related numbers.

We have tried to formulate the following questions in a way that can fit the different procedures followed at national level, but being conscious of the many differences present in the procedures of the different countries, we kindly ask you to contact us in case some questions are not clear.

### **Questions**

1. With which countries of origin does your country work and on which criteria are they chosen?

2. Do you know approximately the number and profile<sup>61</sup> of children who are in need of adoption in the countries of origin with whom you work? How did you acquire this knowledge?

---

<sup>60</sup> By the acronym PAPs we mean prospective adoptive parents, that can be represented by couples, married or not, heterosexual or homosexual, singles according to the national legislations.

<sup>61</sup> By profile of children we mean their characteristics, e.g. their age, state of health, ethnic origin, if they are alone or a group of brothers/sisters, etc.

3. How many adoptions has your country done with each country of origin in the last five years (please indicate the number year by year)

How many PAPs application files does your country send each year in every country of origin and how is this number fixed? Do you decide by yourself, is it imposed by the country of origin or is it decided in collaboration?

4. In your country are international adoptions done through the Central authority and/or accredited bodies ?

If you have accredited bodies, what is the proportion of adoptions managed by the Central Authority in comparison with that managed by the accredited bodies?

How many accredited bodies do you have? How many accredited bodies are authorised to work in each country of origin? On which basis do you authorise an accredited body to work with a country of origin?

5. Does the Central Authority allow that all the eligible PAPs application files are sent to the States of origin? In which way does your country send the PAPs applications files (directly by PAPs, through the Central Authority or through the accredited bodies?

If not how does the central authority manage the remaining PAPs application files?

6. Are there waiting lists of PAPs in your country and at which step of the procedure? Who manages those waiting lists in your country?

Does the Central Authority know approximately the number and the profile of PAPs on the waiting lists?

7. Please make a scheme of the adoption procedure phases and indicate at which stage are PAPs put in a waiting list.

8. Does your country have different waiting lists for multiple adoptions, for adoptions of disable children and older children? If yes, what is the procedure? Is this foreseen by practice or by law?

9. Does your country have a different waiting list for interfamilial adoptions? If yes, what is the procedure? Is this foreseen by practice or by law?

10. Does your country impose a minimum delay between two adoption procedures by the same PAPs? If yes, how long is the waiting period? Is this foreseen by practice or by law?

Do waiting periods caused by a high number of applications have an impact on the waiting period between two adoptions procedures by the same PAPs?

11. Does your country accept two or more simultaneous applications (for two or more countries of origin) by the same PAPs? or are there any restrictions?

12. How many new PAPs application files did you accept (PAPs declared suitable for adoption) in the last 5 years (please indicate the number year by year)? And how many new PAPs application files did you send to the countries of origin in the last 5 years (please indicate the number year by year)?

What is at the present date the total number of eligible PAPs in your country who are waiting for an adoption?

13. When a State of origin stops international adoptions, how does your country manage if some PAPs application files have already been put on a waiting list in that country?

14. Does your country have public information session on intercountry adoption as well as preparation and training session for PAPs? Are these preparation and training sessions mandatory or voluntary? How many sessions are required for each couple? Do you charge a fee to attend the sessions?



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