



Published by the International Reference Centre for the rights of the children deprived of their family (ISS/IRC)

# NEWSLETTER



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## INTRODUCTION

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At the end of 2021, the ISS/IRC chose this famous quote from Nelson Mandela as its *leitmotif* for the year 2022: “There can be no keener revelation of a society's soul than the way in which it treats its children.”

The last few months have seen this quote put to the test, whether because of the armed conflict in Ukraine, the impact of the pandemic, or the various revelations, investigations, and advocacy actions on past adoption practices. However, many actors, both State and civil society, work daily to inform, train, and adjust the various national child protection systems to provide relevant and responsive services considering the short-, medium- and long-term consequences of the above-mentioned events.

Dealing with the reality of things ... this is what our different services strive for daily. Through this newsletter, which marks the beginning of the summer period, the ISS/IRC wishes to share concrete actions to contribute to the transformation of representations. These representations, which are implanted in our society, raise questions about humanitarian aid, reception, and integration (see p.11), racism (see p.8), the diversity of learning methods (see p.6), abandonment, family construction, identity, multiculturalism, etc.

Located between hope and duty, on behalf of past, present and future generations, the construction of a society in which the diversity of needs and singular knowledge of each human being (see p.6) are valued depends on each of us. It is only through and thanks to our daily actions that changes will take place and be seen, and this is the message that this Newsletter wishes to convey.

The ISS/IRC Team  
June 2022

## ACTORS IN INTERCOUNTRY ADOPTION AND CROSS-BORDER CHILD PROTECTION

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- **Bulgaria, Canada, Colombia, Denmark, Ecuador, India, Ireland, Finland, Latvia, Madagascar, Malta, Mexico, The Netherlands, Peru, Romania, Senegal, Switzerland, Thailand, Turkey, United Kingdom, Venezuela, Viet Nam** : these countries have updated the contact details of their Central Authorities, competent authorities and/or accredited adoption bodies designated under the 1993 Hague Convention.
- **Ecuador and Malta**: these countries have updated the contact details of their Central Authority designated under the 1996 Hague Convention.

Source: Hague Conference on Private International Law, [Latest updates](#).

## ISS/IRC NEWS

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### Changes in the ISS/IRC Team

In April 2022, Judith Binder decided to leave ISS due to family reasons. ISS/IRC team sincerely thanks her for her work and dedication and wishes her all the very best for her future endeavours.

This situation has in no way affected the smooth delivery of IRC services (newsletters, country situation analyses, enquiry service etc.) as well as the activities of current contractually agreed IRC projects, thanks to the strong commitment and motivation of each IRC team member.

The ISS General Secretariat has indeed sought to consolidate the current IRC team with internal and external collaborators.

IRC team is currently composed of Carlotta Alloero (60%), Sonia Liliana Almenarez (90%), Juliette Duchesne Roulez (80%), Mauricio Garcés Sepúlveda (50%), Dorra Sayari (60%) and Jeannette Wöllenstein-Tripathi (80%) as new IRC Director as of June 2022.

As regular external consultants and colleagues, IRC is closely working with Maria Montserrat Andrade, Diego Bonil Vaca, Olivier Geissler, Galina Ivanchenko, Marie Jenny, Khadijah Madihi, Jimmy Messineo, Sandrina Pépit, Jeanne Pince and Leticia Virosta.

### Spotlight on two IRC team colleagues

**Carlotta Alloero** is working with IRC since February 2021 as a *Child Protection Lawyer*. She holds several law degrees and has practiced in the UK and in Italy. Carlotta has extensive know-how in the child protection and adoption fields. She has in the past worked for the ARAI (an Italian public AAB), the CAI (Italian Central adoption authority), the Innocenti Centre in Florence, UNICEF as well as the HCCH. Carlotta is proficient in 4 languages: English, French, Italian and Spanish. She is also learning Ukrainian. Besides her passion for international children's rights, she enjoys listening to French and Fado music.

The newest addition to our team is **Dorra Sayari**, who joined as *International Law and Human Rights Officer* in June 2022. She recently graduated with a Master of Advanced Studies in Human Rights, Transitional Justice and the Rule of Law from the Geneva Academy of International Humanitarian Law and Human Rights (HEID). Dorra previously worked as a Project Coordinator at a Tunisian human rights organization (Fanni Raghman Anni), and in the Global Humanitarian Advocacy Unit at CARE International. Dorra is a theatre practitioner and a passionate advocate for gender equality as well as the use of arts as a means for social change. She is proficient in 4 languages: English, French, Arabic and Spanish.

### Increased interest in the Verona Principles

ISS/IRC are delighted to report that the interest in the [Verona Principles](#) (Principles for the protection of the rights of the child born through surrogacy) has significantly increased.

**1/** ISS/IRC has been invited for an intervention and hearing before the [Irish Joint Committee on International Surrogacy](#) on 26 May 2022 on the Verona Principles. The Joint Committee on International Surrogacy was established to consider and make recommendations on measures to address issues arising from international surrogacy. The entire recording can be found at the following [link](#) (starting hour 2 and 5 minutes).

**2/** Further, ISS took part, as an observer, in the [98th plenary meeting of the European Committee on Legal Cooperation](#) (CDCJ) of the Council of Europe (1-3 June 2022). In the context of the discussions on a potential revision of the [Convention on the Legal Status of Children born out of Wedlock](#) (ETS No. 85), ISS presented the Verona principles, its historical context, background and structure.

ISS is thankful for these occasions to advocate for a better protection of children's rights and look forward to future opportunities of collaboration.

## BRIEFS

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### Quebec Central Authority: Preparation programme for intercountry adoption candidates

Mandatory as of 2023, the Quebec Central Authority has announced the launch of a compulsory online preparation programme for candidates who wish to begin an intercountry adoption process. The aim of this programme is to inform and raise awareness among candidates about the reality of intercountry adoption so that they can decide whether to undertake such a life project. This new feature will be presented in more detail in an upcoming Newsletter.

Source : [Autorité centrale québécoise - Secrétariat à l'Adoption Internationale](#).

### Belgium - Adoption of a Resolution to recognise the occurrence of illegal adoptions

On 17 May 2022, the Committee on External Relations of the Chamber adopted a resolution to recognise the occurrence of illegal adoptions in Belgium, to confer the status of victim on the persons concerned and to start an administrative enquiry on the matter. This investigation is to be carried out by a panel of independent experts and presented to the Belgian House of representatives by the summer of 2023. It will focus on Guatemala, Chile, Sri Lanka, and India.

Source: *Le Soir* (2022). [Cas d'adoption illégale : la Chambre ouvre une enquête](#).

## Spain – Recent judgement of the Supreme Court on Surrogacy

[The Spanish Supreme Court](#) rejected an action for a declaration of maternal parentage by possession of status in respect of a child born in Mexico through a surrogacy arrangement. It considered that commercial surrogacy violates the fundamental rights recognised in the Constitution and international human rights conventions, stating that both the surrogate mother and the child to be procreated are treated as mere objects, not as persons with the dignity of human beings and the fundamental rights inherent to human dignity.

## Recent judgments of the European Court of Human Rights

- Adoption proceedings initiated by the authorities in violation of the mother's and her child's right to respect for family life: [D.M. and N. v. Italy](#).
- Two judgments concerning care orders in Norway: [A.L. and others v. Norway](#) and [E.M. and others v. Norway](#), [press release](#).
- A Court's refusal to hear young children deprived of parental care represented by social services, not by a special guardian, in foster care proceedings brought by an applicant grandparent: [Q and R v. Slovenia](#).

Source: Council of Europe - Children's Rights - [Newsletter January - March 2022](#).

## RECENT DEVELOPMENTS IN UKRAINE

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### The Cabinet of Ministers of Ukraine announces amendments to adoption procedures

At the beginning of June 2022, the [Cabinet of Ministers of Ukraine](#) announced changes to the Resolution of the Cabinet of Ministers of Ukraine of October 8, 2008 № 905 "[On Approval of the Procedure for Adoption and Supervision of the Rights of Adopted Children](#)", mainly applicable to domestic adoption procedures.

Changes were introduced by **Resolution 618 of May 24, 2022 aimed at solving so-called pending cases where an adoption order was issued before the 24 February, 2022** by a Ukrainian tribunal, but the prospective adoptive parents had no time to complete the subsequent steps of the adoption procedure due to the Russian invasion. As per ISS/IRC understanding, this change applies to pending domestic and intercountry adoption cases. For instance, the Resolution introduces a procedure via consular channels that facilitates the transfer of the child who has been evacuated abroad to the adoptive parents and describes the documents needed to complete the procedure.

Changes introduced by [Resolution 636 of May 31, 2022](#) relate to the digitalisation of the alternative care process (placement of a child, etc.) and the adoption procedure, electronic resources and electronic forms for filing documents, hence reducing the time for consideration of documents and verification, and simplifying the adoption procedure. These amendments only concern domestic procedures already initiated by Ukrainian citizens.

**For new domestic procedures**, Ukrainian citizens can apply for an adoption consultation by using the newly developed [Diya application](#). The consultation will help assessing their readiness to adopt a child, understanding the details of the procedure as well as choosing a form of family setting. Also, through the application, candidates can familiarise themselves with the relevant legislation related to adoption. The Diya application is currently being tested and does now only deal with the initial stage of new domestic adoption applications. Additional features for the subsequent phases are currently under development and will be available soon.

As a reminder, the adoption procedure for foreign residents and Ukrainian citizen living abroad remains the same, and **all intercountry adoption cases currently in-process for which no adoption order was granted before 24 of February 2022 as well as new adoption applications are still suspended** and must to be managed through the National Social Service of Ukraine. As per available information, the National Social Service is still unable to process new requests for intercountry adoption. (See the [position](#) of the Ukrainian government of 21 March 2022, and also the international call for a moratorium on intercountry adoption, [joint statement on intercountry adoption](#)).

## Relocation of Ukrainian children to the Russian Federation

Since the Russian aggression against Ukraine, there have been numerous allegations of violations of the international humanitarian and criminal law as well as violations and abuses against human rights of Ukrainian civilians, including children. In March 2022, an Independent International Commission of Inquiry was appointed by the Human Rights Council to investigate and collect evidence of such violations and abuses.

In recent weeks, UN bodies and other organisations (for example Terres des Hommes) have expressed their concerns over the alleged "forced deportation" of Ukrainian children to Russia. For example, the OHCHR said to have recorded a growing number of complaints of children taken away from institutions in the Donbass region. As a matter of fact, the UN have initiated a probe into the allegedly "forced deportation" of Ukrainian children from the eastern part of the country to Russia to be adopted by Russian families.

At present, there is no clear data on the exact number of children concerned. However, according to the Ukrainian ex-Ombudsman "around 300.000 orphans and children deprived of parental care were taken to Russia" mirroring the figures mentioned by Russian Defence Ministry, according to which since the end of February more than 1.9 million people, including over 307 thousand children, have been displaced from Ukraine and the newly created republics of Donetsk and Lugansk to Russia.

Furthermore, according to Ukrainian and other sources, last May the Russian government adopted **the Decree of the President of the Russian Federation of May 30, 2022 No. 330** simplifying the process of obtaining Russian citizenship for Ukrainian children without parental care in the view of facilitating their adoption. Therefore, the Ukrainian Ministry of Foreign Affairs reported the violation of Fourth Geneva Convention 1949 and promised to take all possible measures to ensure the protection of Ukrainian children illegally transferred to Russia. For the Ukrainian government, their return to Ukraine is now a priority.<sup>1</sup> At the beginning of June, 120 Russian families have already applied to the Russian Office of the Children's Ombudsman with a request to adopt a Ukrainian child.

On the 17th of June 2022, a Coordination Headquarters for the Protection of the Rights of forcibly displaced persons (FDPs) was established by the Cabinet of Ministers of Ukraine tasked to promote activities to protect the rights of deported persons and to identify ways to solve this issue.

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<sup>1</sup> <https://www.kmu.gov.ua/news/zayava-mzs-ukrayini-shchodo-ukazu-prezidenta-rf-pro-sproshchenij-prijom-v-rosijske-gromadyanstvo-ukrayinskih-ditej-sirit>; see also <https://www.kmu.gov.ua/news/irina-vereshchuk-shukayemo-ta-povertayemo-ukrayinskih-ditej-yakih-primusovo-vivezli-okupanti> - For an unofficial English translation, please contact the ISS/IRC.



### Learning and teaching for learning at school: Experience of providing school support<sup>2</sup>

*In this article, Elisabeth Perrin, special educational needs teacher and 'School-Adoption' Liaison Officer at the regional education office for Puy-de-Dôme, France, tells us about her role in supporting teachers and adoptive families with issues around schooling and academic learning.*

**A**dopted children represent an overall challenge for schools, and in some cases their attendance raises issues with learning and adaptation similar to those for 'special needs' students. Support for teachers and adoptive families is key to creating the best conditions for a successful educational pathway for these young people.

In 2008, *Aide Sociale à l'Enfance* and the local branch of *Enfance & Familles d'Adoption* (EFA63) organised a conference in the French Département of Puy-de-Dôme, on the topic of 'Intercountry adoption: Crossing to the other shore'. Following on from this, the local schools' inspectorate and the various partners attending decided to create a new role of *correspondante École-Adoption* (School-Adoption Liaison Officer). Since then, a specialist teacher trained in adoption processes has been offering families and institutions support with issues relating to adoption and educational pathways for adopted children, as part of a wider role focusing on children with special educational needs. At the request of families, school professionals or any partners involved in the young adoptee's educational pathway, and with the parents' agreement, this adoption adviser provides information, training, and guidance, and encourages liaison and consultation about the student.

All parents dream of seeing their children succeed at school. For adoptive parents, additional issues arise in relation to adoption, depictions of successful adoption, and integration of the adopted child into their family. Schooling is therefore seen as very important, and this can lead to suffering and conflict if the child experiences a difficult or complicated educational pathway. Homework, repeated failures, and problems with understanding and engaging in learning tasks can damage family relationships, jeopardising attachment and bonding to a new family.

On arrival at school, as soon as these adoptees present problems with learning or with social skills in a group, they are referred to as **special needs students** because of their history, problems they have developed, or

visible or invisible differences. These multiple vulnerabilities are disruptive and limiting and mean that 'normal' or 'linear' schooling is not always possible. These days, schools find it a real challenge to accommodate, educate and provide diploma training for the diverse range of students.

The issue for all school and education professionals is how to support the unique pathways of adopted children and young people, and provide group schooling in our educational settings, while respecting individual needs and aspirations, family preferences, and educational and therapeutic care plans. Taking this inclusive approach raises complex educational and societal challenges.

#### **The adopted child, their family and school**

When the child joins the school, the teachers and school community often view them with curiosity and pity as a child who has come from so far away, see their parents as heroic and 'noble', or expect their future at school to be shaped by a traumatic past. In daily lessons and throughout their educational pathway, the child's wide range of specific needs and singular experience challenges the skills of the teacher, who will often express their frustration in terms of 'I don't know how to handle this'. This expression of professional helplessness, in spite all the educational and organisational adjustments the school may make to the student's pathway, shapes the relationship with the family and may exacerbate conflict between parents and school, and rejection of the school system.

In my work as a School-Adoption Liaison Officer, I have tried to develop reflection and professional teaching practice in several areas:

- Helping to change teacher perceptions, especially around adoption and pathways for young adoptees.
- Considering how teaching practices can be rolled out to all students in the class – so that if I develop a particular trick to make it easier to understand a concept, it will be useful and beneficial for many

<sup>2</sup> See also the EFA Journal of June 2016: *La scolarité des enfants adoptés*.

other students, which will help to build community in the classroom and break down stigma.

- Working in partnership with other care and/or education professionals who can share their skills in analysing and addressing complex or deadlock situations.
- Recognizing the role and the voice of the adoptive family in their life plan with their child.

The issue of the child's schooling, together with their health, is **a central concern for families prior to adoption, on arrival of the child, and long after.** This issue is heightened in the context of adoption, and raises other types of questions – about integration, racism, the pace and diverse ways of learning, the consequences of abandonment or other trauma – that go far beyond the realm of adoptive families. Because what the student learns at school makes them question their certainties and perceptions, it can be a test for their self-esteem, unsettle them in the adoption process, and sometimes cause them pain by stirring up their past.

In 2015, *Enfance & Familles d'Adoption* produced a publication, [Le devenir des jeunes ayant grandi dans une famille adoptive : enquête sur les adoptés et leurs frères et sœurs](#). [What happens to young people who have grown up in an adoptive family: a study of adoptees and their siblings]. This demonstrated that adoption is not synonymous with academic failure, and this is confirmed by what we see among adoptees in school.

However, the school must not underestimate the potential vulnerabilities linked to the child's social, physical, and emotional history. All the questions about

**Many schools and teachers today could recount tales of accommodation, adaptation, tailored pathways, options taken, successes, friendship, and solidarity between children. Adopted children open up opportunities for reflection and action, including for other students and children considered to have special educational needs. These children are truly capable of showing resilience, energy, and creativity, which the school can unlock and which all of us – families and professionals – can support or encourage.**

*Elisabeth Perrin, elisabeth.perrin63@gmail.com*

*Education Consultant, Department for Inclusive Education, retired June 2021*

*School-Adoption Liaison Officer, Puy-de-Dôme regional education office, French Ministry of Education*

In Monthly Review No 255 (September-October 2021), Lynelle Long, Founding Executive Director of [InterCountry Adoptee Voices](#) (ICAV), presented the new educational video resources for professionals launched by ICAV on 1 October 2021. These resources have been specially designed to educate teachers, doctors and mental health professionals who work with or are in contact with intercountry or transracial adoptees. The five videos and recommended resources can all be found on the [ICAV](#) website.

integration, racism, academic failure, and pace of learning are legitimate, but we cannot think about the adopted child only in terms of these problems. The search for origins is an ongoing issue for the child, even if it is hidden or barely expressed. It permeates everyday life in an invisible way, coming to the fore at certain milestones in life, such as learning to write, adolescence and choosing options – and the adoptive family is an integral part of this story.

This School-Adoption service is proving invaluable for families and teachers in the Département of Puy-de-Dôme. It is encouraging a focus on the long-term educational pathways of young people, and on helping adoptive families in difficulty to access alternative pathways or guidance. With the changes in intercountry adoption – in particular the arrival of older, non-French speaking children – the focus for support has shifted from welcoming the adopted child on arrival towards more targeted follow-up with the educational pathway, including at secondary school.

At the start of the new school year in 2022, this specialist School-Adoption service – to be continued by Stéphanie Chanier – remains unique. It has not led the Ministry of Education to launch new initiatives in other départements. However, educational establishments and adoptive families can only be enriched by this unique service. This collaboration to develop training for teachers in the specifics of adoptees and their relationship with learning could intensify support for adopted children, but also for many children with special educational needs, around issues of attachment, bereavement, or placement in residential or foster care, and the impact on learning.

## How racism has impacted my life journey

*This article was drafted by Gabbie Beckley, adopted from Sri Lanka to Australia, clinical social worker, and is taken from the Blog [Intercountry Adoptee Voices](#).*

I have experienced many and varied forms of racism in my 40 years of living, walking and breathing in this world. It has impacted me in so many ways, how do I write them all down? I have grown up navigating this whitewashed world as a proud woman of colour, however being proud of who I am and what I have become in my life are not mutually exclusive. It has taken a lot of hard work, soul searching and conscious reflection many times over to become the most evolved person I am to date, and I am constant work in progress.

I have many family stories of racism, ones which now can be seen for what they were, in the time and place and the generational context from the speaker, not a reflection of my family as a whole.

One of the earliest memories I have is being told that a member of my family said, "No black child is going to carry my name!". But once I was put into my family member's arms, all the racist bullshit fell away and I was treated like everyone else. As I grew up, I in turn had great love and respect for this person, I forgave their ignorance and focused on our shared love of cricket and footy!

I have had experiences during my primary school years that I can still remember as if it were yesterday. Being kicked in the shins for sticking up of myself, for getting into physical altercations with racist bullies. For having teachers say to me, "I am ashamed to come from the same country as you".

I have been called the N word more times than I can count. I have experienced overt, covert, intentional and unintentional racism throughout my life. I have been racially profiled by the police, been followed around in shopping centres by security guards.

I have worked in workplaces where people have said to me "where are you from" and what about your "real parents". I have had people say to me, "Your English is so good for someone who was not born here". I have had a boss not talk to me for months at a time because of something he perceived I had done wrong. But it wasn't the case, he was just a racist person, and I was

so glad to leave that workplace and step into the workplace of my dreams!

I have not been given opportunities to further my career because of people's attitudes, resentments, and petty jealousy, which really boils down to, we don't want to work for a person of colour.

I have been underestimated, dismissed, undervalued, and not seen my whole life, which is why I probably am drawn to social work and the fight for the underdog and to try and dismantle the structural inequalities that remain so entrenched in our society.

I am a fighter, I am a social justice warrior, I am a firm believer in the power to make a difference and a positive impact on people's actions, I believe in kindness and giving people a fair-go.

### **How has this impacted me?**

Well, I consider myself as a person who thinks and reflects deeply about my actions and decisions. I have had the "what to do if you are stopped by the police" conversation with my children, in the wake of the well published murders of George Floyd, Tamar Rice, Brianna Taylor, and not to forget the tragic tale of our first nations peoples with the highest incarceration rate for young people and all the Black deaths in custody in which no-one is or has been accountable. I am sad, I am angry, I am dismayed that this is the current state of affairs that my children and I live in. Yet I do have hope – hope that we can build a community that brings about change, to work with like-minded individuals who share my passion and drive for positive change.

My experiences of racism have shaped the person I am, the parent I am and the social worker that I am. It impacts on my thoughts, actions, and deeds. I am mindful with how people view me, I am respectful in the face of racist person, and I refuse to be drawn down to their level. I think it has had an impact on my mental health when I was younger, it caused a lot of self-doubt and searching for my place in this world.

I think that one of my saving graces has been the reconnection with my birth family and culture. Getting



to know them is getting to know myself! I have spent the last 22 years knowing, growing, and loving my family and I am thankful every day that I sit in a unique position where I am part of two worlds, and I can sit comfortably in both.

**What would I suggest being done to better address the racism experienced by intercountry/ transracial adoptees?**

I believe that adoption does not have to be the first resort. I believe that keeping family together in their birth countries with support via sponsorship/ education/ income generating activities would be beneficial to adoptees in general but specifically in terms of their mental health and connection to their roots and cultures. If adoptions do have to occur – maintaining a relationship with family is imperative!

This includes birth parents, aunties, uncles, cousins, grandparents, and siblings.

There needs to be a greater emphasis on the adopter's thoughts and feelings in relation to adopting a child of colour. Deep dive into their history and experiences, get them to take annual courses on the impact of racism and how to be an anti-racism ally/ advocate. Ask them to look at their friendship circles, is it diverse? Does it represent a wide range of culturally appropriate, socio-economic, gender diverse people?

I think we should try collectively to share our stories and experiences, in the hope that with great knowledge comes great responsibility – and that is everyone's business!

In May 2022, Intercountry Adoptee Voices (ICAV) organized a webinar with a panel of 6 transracial intercountry adoptees who shared their experiences of racism, growing up in a country where the racial majority does not reflect their skin colour and outward appearance. The recording of this webinar is available at the following [link](#).

### Key documents developed by the Subgroup on Children's Care under the [Alliance for Child Protection in Humanitarian Action \(Alliance\)](#)

*As part of the international response to the Russian military invasion of Ukraine, various international organisations working on care issues have joined their efforts through the ad-hoc creation of an informal working group – formed under the CP Alliance – to ensure effective collaboration and communication on the issues related to child-family separations and mass displacement of Ukrainians children and families.*

*The informal group is convened by members of the [Global Collaborative Platform on transforming children's care](#) with the purpose of discussing key areas of concerns, sharing tools and resources, and giving updates on the latest situation of unaccompanied and separated (UASC) children. It is co-led by a representative of the UASC Taskforce under the CP Alliance and a representative from the [Global Collaborative Platform](#).*

Since March 2022, ISS has been actively participating in the newly created Subgroup on Children's Care. During the weekly meetings different key actors share information and updates on the situation regarding children's care in Ukraine and in the neighbouring host countries as well as the actions taken by the Ukrainian government. In addition, the Subgroup aimed at developing tools and guidance to assist governments, agencies, and professionals to respond to the daily challenges caused by the mass-displacement of persons at local and regional levels. Ultimately, it provides a space to discuss and address not only the longer-term implications of the conflict on children's care and care reforms in Ukraine, but also the need to re-shape the humanitarian response support in such contexts.

#### **Call for Moratorium on Intercountry Adoption in Response to the Conflict in Ukraine**

In the Subgroup meetings, ISS stressed on the importance of adopting a harmonised approach among all receiving States when dealing with intercountry adoptions and called for a suspension of all adoption procedures. As a result of the discussions and exchanges within the Subgroup and in line with the position of the Ukrainian government, a [joint statement on intercountry adoption](#) was published at the end of May 2022. The joint statement is based on the widely recognised principle that in emergency situations such an armed conflict as well as in its aftermath, adoption is not the most appropriate response for children deprived of parental care, including unaccompanied and separated children. Throughout the statement, the Subgroup advocates for a change in attitudes at policy level and raises

awareness of the public on the risks involved in intercountry adoptions during crisis. At the end of June, the Joint Statement has been endorsed by more than forty international entities, including UN agencies, international and national NGOs and networks specialised in child protection and humanitarian response.

#### **Key Recommendations and Considerations**

Due to the devastating consequences on the Ukrainian child protection system, including the disruption of services, internal and cross-borders movements of children, lack of human and material resources, coupled with the responses of the host countries, the Subgroup recognised the need to have aligned messages addressing major concerns faced by the child protection practitioners on the ground. Thus, it was decided to elaborate a **working document** that, based on the international human rights standards, could serve as a guidance for professionals and policymakers working both inside Ukraine and in host countries. **The document can be shared by the ISS/IRC upon request.** Its purpose is therefore to highlight the key aspects that should be considered to support and protect Ukrainian children in different contexts (for example in the context of movement and relocation; family separation; alternative care; intercountry adoption or surrogacy, etc.).

The document is divided into eight sections, each containing key considerations and recommendations in accordance with a specific area of children's care. Hyperlinks to additional resources, including those developed since the onset of the conflict, are also provided.

## Tales from the frontline by Hope and Homes for Children: Ukraine, Romania, and Moldova

*Since the Russian invasion, Ukraine as the neighbouring countries faced situations for which they had no preparation, no response, and no resources. Hope and Homes for Children (HHC), an NGO working since 1994 to end the institutionalisation of children and present in these countries, informs us about their concrete actions to support the concerned families and children and face the new reality.*

Since February 2022, Ukraine suddenly faced situations for which it was not prepared, such as displacement, refugees, systemic collapse of social welfare, education, health, food distribution, transportation, administration. The situation for families and children at risk has significantly deteriorated. Children residing in institutions returned to their families without the necessary support and safeguards. Refugees from Ukraine started to arrive in neighbouring countries, including Romania and Moldova through several border crossing points.

Neighbouring countries also faced hardship. While spared by the destruction and war, they had little previous experience in emergency and humanitarian crises. Countries like Romania and Moldova (where HHC operates, as in Ukraine) had to learn and adjust its systems to provide the needed services and assistance to the newly arrived refugee community. Civil society also stepped in to provide support.

Since the humanitarian crisis started to unfold, all the HHC teams created in all communities have joined the efforts. Staff and volunteers work seven days a week. Specialists of centres of social services, and psychologists have all become active participants in determining the needs of families with children and unaccompanied and separated children while continuing providing psychological and social support.

### Tales from the front in Ukraine

Suddenly faced with war and destruction, the HHC team in Ukraine quickly learned and adapted their assistance and support to the new reality. They describe the passing months as “increasing problems and finding solutions.” Under such dire conditions, the team support was prioritised to families with children in the Dnipropetrovsk and Donetsk regions left without means of subsistence due to the war, including raising funds to help children and families in the Dnipropetrovsk and Kyiv regions. In addition, HHC Ukraine continued to work with partner NGOs to strengthen their capacity to the work conditions of

emergency situations. In particular, the HHC team helped to develop a set of services for places of mass temporary settlement of Internally Displaced Persons (IDPs) in several regions, which includes among others temporary shelter, humanitarian aid, recovery of lost documents, placement of children in educational institutions, psychological and medical assistance.

Furthermore, HHC Ukraine is working closely with key child rights organisations such as UNICEF and Save The Children in Ukraine to determine how services can best be provided to the children and families who need them most: safe, child-friendly places for their leisure and development in the communities and the operation of mobile teams to help internally displaced persons in these regions. A training programme and materials for training for the preparation of employees of such services and mobile teams were developed.

The team was also involved in the development of the service design and determination of an arrangement for temporary accommodation for mothers with young children. The work with internally displaced persons has shown that mothers with infants need special conditions and cannot be in crowded places. Babies under stress are often restless at night and disturb the rest of other people. Therefore, it was decided to create such temporary centres for mothers with babies, where each woman with children will have a separate room equipped for a comfortable stay.

Lastly, since the start of the war, the HHC team in Ukraine has been in constant negotiations with various organisations to raise funds to support families with children and evacuated children from institutions according to the procedures and guidelines provided by the Ukrainian government. As a result of these activities, a total of 156 children left Ukraine accompanied by the institutions’ staff acting as their legal guardian.

## **Tales from Romania and Moldova**

Since early March, HHC intervention in the neighbouring countries became more structured with some elements still being developed and refined.

In **Romania** the authorities responded swiftly and used the EU Temporary Protection Directive to ramp up and coordinate interventions. Thus, the government passed emergency decisions to provide basic social services to the Ukrainian population, including for unaccompanied children and children coming from Ukrainian State care. Blue Dots (Reception Centres) for refugees were set up at the border. Hence, the HHC team in Romania set up a cooperation with the local and county authorities to provide support for refugees, but equally started to provide support on their own. During this period, HHC support was three-fold: 1) at Sighetu Marmatiei border crossing point, HHC team helped with the initial registrations, needs assessments as well as support for transportation, accommodation, legal status, job search and enrolling children in education and with General Practitioners (GPs) for subsidised medical treatment; 2) HHC team also provided direct support to Ukrainian children/families in Baia Mare or other cities, for example by covering rent costs or offering food supplies, computers, or trauma counselling. The team also provided transportation from Romania to other destinations/countries where concerned families wanted to go, and 3) Referrals of cases of refugees to competent authorities.

A total of approximately 2800 children and adults were supported in Romania by HHC or with its input.

In **Moldova**, the existing HHC team extended and structured its interventions to cover the refugee population at the border; at the Refugee Accommodation Centres (RACs), and in host communities. During the first eight weeks of the conflict almost 1900 refugees benefited from the HHC team's services including almost 800 children, the youngest being two weeks old. The services provided by the HHC team in the Blue Dot space are intended for decreasing the level of stress of refugees and providing a safe space to plan next steps or the needed information on available opportunities.

**ISS/IRC recognises the significant role played by HHC, as many other organisations, in these sorrowing times and would like to thank HHC teams as many others for being on the ground and supporting all children and their families to feel safe again.**

Besides, the HHC team has identified 18 RACs in 13 counties and municipalities and signed MoUs with RACs and local Social Work Departments. Initial meetings with families living in RACs have been organised to consult with caregivers on their main needs as well as to identify topics of interest for the structured activities with caregivers. There are families with complex medical needs and the HHC team has referred four of them to specialised health care services and hotlines.

The team plans to invite the refugee families living in communities to the structured activities in RACs. In addition, the HHC team has also initiated a small pilot project in which social workers refer families for additional support or families themselves self-refer to the State authority responsible for children (the Ministry of Labour and Social Protection) and its territorial representative on the ground. The main support provided so far consisted in providing medicines, special food and baby formula, financial assistance for rent and bills etc. A cash and voucher-based intervention will be piloted in two counties for both refugees (in RACs and communities) but also for Moldovan families as an integration strategy and to prevent negative coping mechanisms in host communities due to living costs, inflation and perception of refugee families having more access to services and support.

Additionally, as a long-term strategy, the HHC team started to develop a social *crèche* for children aged 4 months to 3 years old in one of the towns in the central part of the country. The *crèche* will address the day care need for Ukrainian refugees who decide to work but have babies and young children to look after. Moldovan children will also benefit from this day care possibility. Once the refugee crisis will be over, the social *crèche* will continue providing services. The renovation, equipment, training will be covered by HHC but the running costs of the service (salaries, utilities, food etc.) is planned to be covered by local public authorities, thus ensuring sustainability.

In addition to the foregoing, HHC continues to work with its "core" target group – local families at risk of separation and families with children in residential care institutions as well as other Moldovan families in need of support.

*In this article, Prof. Laura Carpaneto at the University of Law, Genoa, IT, explains how instruments of private international law can be applied for the protection of Ukrainian children fleeing their country. The author particularly examines the application of the 1996 Hague Convention on measures of protection concerning children.*

**T**ogether with women, children are bearing the most adverse consequences of Russia's war on Ukraine. Beside instruments of international humanitarian law, private international law instruments should be given further consideration when it comes to protecting children, many of whom are forced to move to other countries, mainly European countries. Mechanisms of protection may be activated under the (i) the 1996 Hague Convention on measures of protection concerning children and (ii) the Regulation 2201/2003 (so called Brussels II *bis* Regulation), which from the 1<sup>st</sup> of August 2022 will be replaced by the Regulation 2019/1111 (so-called Brussels II *ter* Regulation).

More precisely, the 1996 Hague Convention is a key instrument not only for its geographical scope (as it applies to all EU Member States as well as Ukraine); but also as it includes rules on jurisdiction, recognition of decisions and administrative cooperation, and provides conflict of laws rules. As for the situation of Ukrainian children, the Brussels II-*bis* Regulation has a residual application in respect to the 1996 Hague Convention: it applies once Ukrainian children acquire their "habitual residence" in a EU Member State (see art. 61 Regulation 2201/2003 and art. 97 of Regulation 2019/1111).

Different problematic situations presently affecting Ukrainian children have been identified and considered in light of the above relevant rules.

### **Displaced, separated and unaccompanied children "on the move"**

Ukrainian children who have been displaced in other countries, frequently without their parents or even without any adult, face risks of becoming victims of trafficking.

Such risks were already high few years ago: in a 2014 analysis report, it resulted that Ukrainians were among the most common victims of trafficking into the EU, by criminal networks operating between Ukraine and countries in Europe and Central Asia. Due the ongoing mass displacement and chaos, the number missing children is expected to increase: since the beginning of the war, an Ukrainian NGO called [Magnolia](#) has

reported over 2.200 cases of Ukrainian children being kidnapped, abducted, forcibly disappeared or missing.

The situation of displaced children is expressly considered by the [1996 Hague Convention](#): its article 6 envisages the jurisdiction for the adoption of protection measures based on the presence of the child. In other words, the mere presence of a child who is displaced in a contracting State of the Convention allows the courts of that State to exercise jurisdiction over that specific child.

As recommended by different [soft-law instruments](#), the competent court shall first of all identify the child and take steps in order to appoint, in accordance with the applicable law, a person as an *ad hoc* administrator, guardian or counsellor for the child and then find the most suitable protection measure (such as entrusting the child to extended family, alternative care arrangements such as kinship care, foster care, other forms of family based or family like care placement, residential care and supervised independent living arrangements for children), depending on the case at stake and on the situation of the specific child.

The analogous title of jurisdiction based on the presence of the child exists also under the Regulation 2201/2003 (art. 13) as well as under the new Regulation 2019/1111 (art. 11). However, as expressly clarified under the latter Regulation (see [recital 25](#)), this title of jurisdiction has a residual application: it applies anytime displaced children come from a EU Member State.

### **Children placed under care "by virtue of agreements"**

In Ukraine different forms of family placement of children lacking parental care exist, which are frequently grounded on "agreement" (See for example the patronage agreement under [art. 261 of the Family code](#)). As pointed out by [some authors](#), under Ukrainian law the agreement is a "family relations regulator": art. 7 of the Ukrainian Family Code established that family relations can be regulated by agreement between the participants of the relations, provided that the requirements of the Family Code are



respected. However, “informal” attribution of parental responsibility over a child by virtue of agreement may give rise to problems anytime a cross-border element arises, such as in the cases where the caregivers are forced to leave Ukraine in search for protection in another country.

However, under [art. 16](#) of the 1996 Hague Convention, the attribution of parental responsibility by virtue of an agreement shall be regulated by the law of habitual residence of the child at the moment the agreement takes effect (for more details, see the Explanatory Report of the Convention at [para. 103](#)). It is therefore the Ukrainian law that shall regulate the above situations and, given the role recognised to a “family law agreement” by the latter law as for the attribution of parental responsibility over children, the caregivers should not encounter difficulties, provided that they are able to show the agreement grounding their parental responsibility over a child.

True is that the admissibility of the above forms of attribution of parental responsibility does not however eliminate the risks connected to the circulation of children under the responsibility of their caregivers and, in particular, the risk of illicit practices.

It is therefore necessary for the authorities of the countries dealing with the adults taking care of children coming from Ukraine to strictly monitor the situation and to collect all possible information concerning the child, his/her situation and the agreement concerning the placement.

#### **Children placed in institutional care**

The number of children placed in institutional care in Ukraine is [high](#): as previously stressed, in 2020, Ukraine had 718 institutional care facilities where 102,570 children were living in residential care. Among them, there were also children with disabilities, in need of specific care and proper medical assistance.

**Both the 1996 Hague Convention and the Brussels II *bis* (and *ter*) Regulation envisage rules and mechanisms of protection for children on the move. Not all the emerging problematic situations affecting children moving away from Ukraine are expressly regulated by the above instruments. However, in the ongoing situation advantage should be taken of the full potential deriving from their combined application of the above instruments and of an interpretation of their rules in light of the principles enshrined in the 1989 CRC. Such an interpretation is expected by all EU Member States (see art. 24 of the Charter of fundamental rights of the European Union, art. 3 Treaty of the European Union).**

The 1996 Hague Convention envisages a specific mechanism of cooperation among contracting States: the so-called cross-border placement of children under art. 33. An analogous rule is envisaged at EU level by art. 56 of the Regulation 2201/2003 (which will be replaced by art. 82 of the Regulation 2019/1111). Whilst recourse to the cross-border placement of children within the EU Member States under art. 56 of Regulation 2201/2003 is quite frequent<sup>3</sup>, the same mechanism envisaged by art. 33 of the 1996 Hague Convention has not been applied frequently. However, such a mechanism would allow the placement of Ukrainian children in another contracting party of the 1996 Hague Convention. Given the ratification by all EU Member States of the 1996 Hague Convention, Ukrainian children placed in institutions or in every way in need of assistance and under the jurisdiction of Ukrainian public authorities may be placed in any of the EU countries where suitable care solutions are available for them.

#### **Children born in Ukraine through an international surrogacy arrangement**

Urgent protection is also needed for children born through surrogacy arrangements. As well known, Ukraine is a surrogacy hub. Since the beginning of the war, there are many children born by surrogate mothers, who have not been picked up by their parents. Analogous problems occurred already during the pandemic.

Despite the ongoing efforts of the International Community as to protect the rights of children born by virtue of surrogacy<sup>4</sup>, there are no specific instruments which might be helpful in this respect.

As seen for the children placed in care centers or health institutions, one measure which could offer temporary protection to these children (provided that they are still under the care of a health institution), is the mechanism of cross-border placement.

<sup>3</sup> See [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556945/IPOL\\_STU\(2016\)556945\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556945/IPOL_STU(2016)556945_EN.pdf), pp. 44-55.

<sup>4</sup> See for example the parentage/surrogacy project under the aegis of the Hague Conference of Private International Law at <https://www.hcch.net/en/projects/legislative-projects/parentage-surrogacy>; the so-called “Verona principles” <https://www.iss-ssi.org/index.php/en/what-we-do-en/surrogacy>; the work of the UN Special rapporteur on the sale of children <https://www.ohchr.org/en/special-procedures/sr-sale-of-children/surrogacy-and-sale-children>.

## FURTHER READINGS AND MATERIAL

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### Recent resources on specific topics related to child protection, alternative care, and adoption:

#### Resources related to the Ukraine-Russia conflict:

- [European Parliament Resolution of 5 May 2022 on the impact of the war against Ukraine on women \(2022/2633\(RSP\)\)](#).
- Council of Europe - [Committee on Migration, Refugees and Displaced Persons \(06/06/2022\) Protection and alternative care for unaccompanied and separated migrant and refugee children](#).
- [Call for a moratorium on intercountry adoption in response to the conflict in Ukraine](#).
- Disability Rights International (2022). [Left Behind in the War: Dangers Facing Children with Disabilities in Ukraine's Orphanages](#).
- S. Hoff & E. de Volder (2022). [Preventing human trafficking of refugees from Ukraine](#).
- Voice & HIAS (2022). [Ukraine Assessment Report – Waiting for the Sky to Close: The Unprecedented Crisis Facing Women and Girls Fleeing Ukraine](#).
- EuroChild (2022). [Heroes cry too – Colouring book for children](#).
- NBC News (13/06/2022). [Russia's war creates Orphanage Crisis in Ukraine](#).
- The Time (09/06/2022). [Ukraine conflict is not justification to circumvent adoption standards](#).
- UNICEF Geneva Palais Briefing Note on the Situation of Children in Ukraine (06/05/2022). [Two months of war in Ukraine creating 'a child protection crisis of extraordinary proportions'](#).
- Eurochild, Child Circle, UNICEF (05/05/2022). [Discussion Paper on guardianship, care arrangements and custodial responsibilities for unaccompanied and separated children fleeing Ukraine and arriving in the European Union](#).
- Journal of Social Welfare and Family Law (11/05/2022). [The placement of children into foster care in Poland by foreign authorities](#).

#### Committee on the Rights of the Child – 2021 Day of General Discussion. [Children's Rights and Alternative Care – Outcome Report](#).

The purpose of this document is: 1) to provide summaries of plenary sessions and working groups that took place during

the DGD, and 2) to present a comprehensive set of recommendations on the key themes covered.

#### ECLIPS (2022). [Protocol on Trauma-Sensitive Care](#).

This Protocol aims to improve the resilience of everyone involved in child-care by developing awareness and different skills concerning detecting, referring, and treating trauma symptoms after child abuse and neglect in the 0-3-year age group.

#### Lumos (2022). [Putting child and Youth Participation at the Heart of Care Reform: An introductory Manual for Practitioners](#).

This manual is designed to facilitate, develop, and encourage meaningful participation in alternative care and care reform settings around the world.

#### South African Child Gauge 2021/2022. [Child and Adolescent Mental Health](#).

This report focuses attention on promoting child and adolescent mental health and well-being. It also looks at how experiences, feelings and behaviours can impact children and adolescents, find expression in longer-term and even life-long mental disorders.

#### Podcast – [Engaging fathers – Putting Lessons Into Practice](#), Part 1

**Webinar recordings:** Separated Childhoods Webinar #1: [Responding to Varied Experiences of Childhood Separation](#).

**Webinar recordings:** Spotlight on Series on Foster Care Practices Webinar #3 – [Safety and Protection in Foster Care](#).

**Webinar recordings:** [ICAV Racism in Australia as Intercountry and Transracial Adoptees](#).

## FORTHCOMING CONFERENCES AND TRAINING

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- Public consultation, [\*Derecho de Niñas, Niños y Adolescentes a Vivir en Familia y Alternativas de Cuidado\*](#), 12-13 July 2022, IPPDH.
- [Launch of report](#)– *Insights into the world of privatized, faith-based, residential care facilities in Myanmar*, 13 July 2022, Better Care Network.
- [Transforming Children’s Care Webinar #11](#): *Advancing the Care Reform Agenda Using the Systems Strengthening Approach*, 20 July 2022.
- [NACAC Adoption and Foster Care Conference](#), 19-22 July 2022.
- Euradopt 2022 Conference, 1-2 September 2022, Copenhagen. Registration and information [here](#).
- International & National Foster Care Conference 2022 – [Finding Ways Forward: Celebrating Identity, Culture, Families and Community](#), National Foster Care organization, 22 September 2022.
- Training 2022-2023 *Responsable d’équipe en protection de l’enfance*, École de la protection de l’enfance, registration and information [here](#).
- Training 2022-2023 *Experto Universitario en derechos de la infancia y adolescencia : contextos de aplicación y enfoque de derechos*, University of Valencia (Spain), registration and information [here](#).

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ISS/IRC would like to specifically thank Elisabeth Perrin, Gabbie Beckley, Laura Carpanato and the Hope and Homes team, for their valuable contributions to this Newsletter.



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ISS/IRC wishes to thank the governments (including of some federal States) of the following countries for their financial support in the preparation and distribution of this newsletter:  
Andorra, Australia, Belgium, Canada, Cyprus, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Luxembourg, Malta, Monaco, New Zealand, Norway, South Africa, Spain, Sweden, Switzerland, The Netherlands.