

SPAIN

Protection of the child deprived of, or at risk of being deprived of, the family of origin

COUNTRY SITUATION












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[1. Statistics](#)

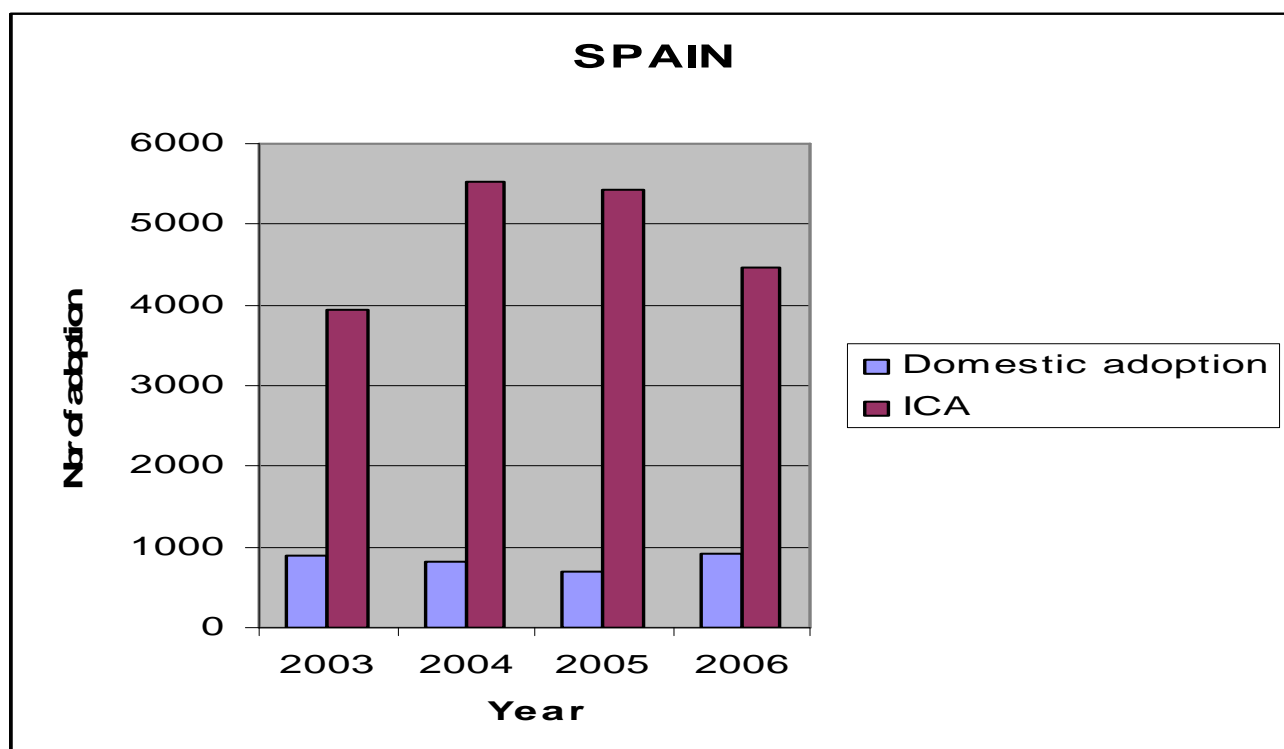
There were 875 national adoptions (autos adopción) in 1998 and in 2008 there were 916. In contrast for intercountry adoptions in 2008 there were 4472 adoptions. National adoptions make up approximately 17% of the adoptions in Spain, which is approximately the same rate as France. In addition to these trends, the latest information from Catalunya shows that there is a drop in PAPs for ICAs. In 2006, there were 2493 PAPs, in 2007 1859 PAPs and in 2008 1018 PAPs.

Country of Origin	2007	2006	2005	2004	2003	2002	Total
 Bolivia	42	21	89	92	126	76	446
 Brazil	1	19	26	18	22	7	93
 Bulgaria	11	11	21	57	202	181	483
 Burkina Faso	4	1	3	2		3	13
 Cameroon				1	1	3	5
 Chile	7	11	15	20	14	18	85
 China	1059	1759	2753	2389	1043	1427	10430
 Colombia	174	260	240	256	285	271	1486
 Congo, Democratic Republic of the	29	31	12		1	4	77
 Congo, Republic of the	8						8
 Costa Rica	3	1	6	10	15	11	46

 Dominican Republic	19	9	20	24	33	29	134
 Ecuador	2	5	4	2	6	10	29
 El Salvador	23	19	16	22	31	19	130
 Ethiopia	481	304	227	220	107	12	1351
 Ghana	2			3			5
 Guatemala	8	6		3	8	28	53
 Haiti	22	15	24	36	17	1	115
 Honduras	3	5	21		14	16	59
 Hungary	15	7	3	10	7	9	51
 India	103	79	43	117	100	109	551
 Ivory Coast	6	4	1	1		1	13
 Kazakhstan	130	70	43	24	2		269
 Madagascar	1	10	24	13	24	19	91
 Mexico	39	35	33	17	50	58	232
 Moldova	5	7	1	1			14
 Morocco		20	6	21	20	7	74
 Mozambique	5	1	3				9
 Nepal	76	173	43	68	38	35	433
 Nicaragua	2	2	1	1	4	3	13
 Panama	8	41	3	3	4	4	63
 Peru	21	41	66	50	50	42	270
 Philippines	29	28	10	1			68
 Romania			3	48	85	38	174
 Russian Federation	955	1290	1262	1618	1157	809	7091
 South Africa	2	3	1	7	8		21
 Thailand		1	5	1	1		8
 Ukraine	338	181	394	349	462	358	2082
 Venezuela						5	5
 Vietnam					10		10
Other	15	2	1	2	3	2	25
Total	3648	4472	5424	5510	3951	3615	26620

Sources: Instituto Nacional de Estadística - Adopciones internacionales, <http://www.ine.es/>; Peter Selman, Newcastle University. See AICAN, www.aican.org/statistics.php?region=0&type=receiving#stat_es

2. Domestic adoption vs Intercountry adoption 2003 -2006



3. Adoption conditions

Central Adoption Authority	<p>Ministerio de Educación, Política Social y Deporte Dirección General de las Familias y la Infancia Paseo de la Castellana, 67 28071 MADRID Persona de contacto: María Jesús Montané Merinero, Jefa del Servicio de Adopción y Protección, mjesus.montane@mepsyd.es Tel: +34 (91)363 8173 Fax: +34(91)363 5069 http://www.mepsyd.es/politica-social/familias-infancia.html.</p> <p>Each of the 17 Autonomous Communities in Spain is the Central Authority for its territory. List of autonomous central authorities available at: http://www.mepsyd.es/politica-social/familias-infancia/adopciones/enlaces/comunidades-autonomas.html</p>
Prospective adoptive parents (PAPS)	<ul style="list-style-type: none"> ▪ Minimum age of 25 ▪ Minimum age difference between the child and PAP is 14 years ▪ If a married couple wishes to adopt, at least one of the two must be 25 ▪ No compulsory preparation ▪ Other specific criteria for ICA depend upon the country of origin ▪ Single persons are allowed to adopt ▪ Same sex couples are allowed to adopt <p>Source: Art. 175, Civil Code.</p>

Process	The PAPS must obtain a declaration of suitability to adopt from the Service for Children (Servicios de Menores) located at their place of residence. The PAPS will be assessed and interviewed, taking into account the characteristics of the country that they wish to adopt in. After their approval, the PAPS can make an adoption application for a child living overseas either through the Spanish Central Authority, or Spanish Accredited Adoption Bodies, or directly in the country of origin, depending on the conditions of the latter.
File of PAPS	PAPS must prepare the following documents: <ul style="list-style-type: none"> ▪ Birth and marriage certificate (divorce judgment if one exists) ▪ Family file relating to civil status ▪ Dossier prepared by the Servicio de Menores from the Autonomous Community which includes a psycho-social report and medical certificates ▪ Police records ▪ Information about economic situation All the above documents must be legally recognised by the Spanish Authorities
Matching	The matching process depends upon the country of origin. The Spanish Central Authorities will send files to its counterpart in the country of origin for them to perform the match. The Central Authorities in the countries of origin will then make proposals to the PAPS, who will make a decision about whether they accept the proposal.
Transfer of the child	Whether the PAPS have to physically collect the child depends on the country chosen. The PAPS will have to ensure that the adopted child has the appropriate visa to enter into the country via the Spanish Consulate or Embassy. As soon as the child arrives in Spain, this should be communicated to the Autonomous Community (Comunidad Autonoma). Source: Art. 19, Civil Code and Ministerio de Educación, Política Social y Deporte, etapas de tramitación: www.mepsyd.es/politica-social/familias-infancia/adopciones/adopcion-internacional/procedimiento-adopcion/etapas-tramitacion.html .
Accredited Adoption Bodies	Accredited adoptions bodies are usually not profit organisations and act as intermediaries between the PAPS and adoption authority in the country of origin. Accredited adoptions bodies: http://www.mepsyd.es/dctm/mepsyd/politica-social/adopciones/2008-listado-alfabetico-ecais.pdf?documentId=0901e72b80027cee
Statistics	For statistics on intercountry adoptions, see www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/pagina-web-definitivo-estadistica-2003-07.pdf?documentId=0901e72b80027856 For statistics on domestic adoptions, see www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/estadisticasadopcionnacional-2006.pdf?documentId=0901e72b80027855 .

<p>Simple or Full Adoption</p>	<p>In Spain only full adoption is recognised with the termination of ties with the biological family. A simple adoption concluded in a foreign country is considered as foster care, where Spanish citizenship will not be granted. The simple adoption can not be registered into the Civil Registry as an adoption. The conversion of the simple adoption into a full adoption is authorized. The Spanish authority will examine the following requirements before there can be a conversion into a full adoption:</p> <ol style="list-style-type: none"> a) All persons, institutions and authorities whose consent was required were fully informed about the consequences of the consent, effects of the adoption, effects of termination of the juridical links between the child and his family of origin; b) persons gave their consent freely in accordance with the legal forms and written proof of consent is required; c) the consent was not obtained as a result of a pre-payment or compensation and the consent was not revoked when the child was given for adoption; d) when the consent of the mother is required, this should be given after childbirth; e) taking into consideration the maturity and age of the child, he should have received counselling about the effects of the adoption, and if necessary his consent should be obtained; f) taking into consideration the maturity and age of the child, he should be able to participate in the proceedings; g) where the consent of the minor was obtained, it should have been given freely, in accordance with the formal and legal rules and without any kind of compensation or payment. <p>Source: Art. 30. 4, Law 54/2007, 28 December 2007, International Adoption.</p>
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4. Parallel support programs with other countries

- Bilateral Agreements on intercountry adoption exist with Bolivia, Philippines, Vietnam and most recently Panama¹

- Guatemala, Haiti, Bolivia and Ethiopia

Adopta Proyecto Niños olvidados (AAB)² has a cooperation program for children from Guatemala, Haiti and Bolivia who are 6 years or older living inside institutions and considered adoptable, which allows these children to spend their summer holidays in Spain. This practice is a type of foster care abroad or a pre-adoptive placement since many of the children end up being adopted. Asociación Cielo 133³ (AAB) has initiated a similar program

¹ Bolivia www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/entadavigorconvenioboliviaboe.pdf?documentId=0901e72b8002786a

Philippines www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/protocolofilipinas2003boe.pdf?documentId=0901e72b80027874

Vietnam www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/convenio-cooperacion-de-adopcion-entre-espana-y-vietnam.pdf?documentId=0901e72b80027869 and Panama Adoptantis No 63 Nov 2008

² <http://adoptabcn.info/content/view/77/>

³ http://www.cielo133.org/index.php?option=com_content&task=view&id=168&Itemid=159

in Ethiopia for children between 9 until 17 years old in foster care with around 20 children spending two months in Spain.

The Asociación pro Dereitos da Infancia (AAB)⁴ provides support to orphanages such as food and care services and sponsorship of 15€ is possible for each vulnerable family in Ethiopia. The sponsorship is monitored to verify that the child is attending school and his personal situation improved.

Behbey (AAB) has introduced development projects for health and education in Ethiopia.⁵ They provide micro credit for persons in extreme poverty, school fees, uniform and school material to a community Akaki Kaliti where 10 children have received support. Behby has also helped acquire medicine, sanitary material and powdered milk for orphanages in the capital as well as started a sensitisation campaign via workshops about cooperation and development, theatre for children, story tales for children and solidarity.

Mundi Adopta (AAB)⁶ has started sponsorship programs for families for basics such as schooling, food, financial support, constructing residences for children, canteens for schools and programs for the prevention of abandonment in Ethiopia. Mundi Adopta have also constructed schools and introduced new orthopaedic techniques in the hospital. 100 children have benefited from these investments.

- China

Andeni, Asociación Nacional para la Defensa del Niño (AAB) provides support to orphanages and schools in China. During 2001-2002 Andeni donated 24 000 € to rebuild a local school. Adeni has also provided scholarships for students for the 6 years of their schooling.⁷ In partnership with the Red Cross China and the International Cooperation Agency from Spain, Adeni has provided 12 000 € to support an orphanage in Peking.⁸ Moreover, Adeni has donated materials to an orphanage in Nanchang including 270 pairs of shoes, 142 wool paints, 140 blankets, 200 pyjamas, 35 chairs, 1 castle to play and 1 heating.⁹ Adeni also participated in the reconstruction of a rural hospital in Yunan which included a donation of 48 810 € to the Chinese Embassy in Spain.¹⁰ The donations of Adeni provide a good example of development aid which is clearly for a specific purpose and can be accounted for. There is also no expectation that the investment will be recurring, nor is there a dependency created between the country of origin and receiving country.

- Colombia

Fundación Balms (AAB)¹¹ has initiated the Project Casa de la infancia which maintains a centre for children between 2 years to 13 years in Colombia by providing nutrition, health, education and development aid for the adult life. The first phase of the program aims to target 70 children and eventually 250 children in the final phase. This project provides a good practice as there is a clear identification of direct beneficiaries of the program.

⁴ Asociación pro Dereitos da Infancia (AAB) www.addisgalicia.org/documentos/orfanatos.doc, www.addisgalicia.org/documentos/region14.doc

⁵ <http://www.behbey.es/proyectos.htm>

⁶ www.mundiadopta.org/

⁷ http://www.andeni-cantabria.org/htm/proyecto_geling.htm

⁸ http://www.andeni-cantabria.org/htm/proyecto_pekin.htm

⁹ http://www.andeni-cantabria.org/htm/proyecto_Nanchang.htm

¹⁰ http://www.andeni-cantabria.org/htm/proyecto_laomeng.htm

¹¹ www.fundacionbalms.com/proyectos_ver.php?id_proyecto=1

- Peru, Cuba, Honduras and Dominican Republic

Asociación Nuevo Futuro Navarra (AAB)¹² has established projects in Peru to support institutions and encourage insertion programs. In Cuba, the Asociación Nuevo Futuro Navarra has worked on the capacity building of professionals working with children with special need education with 2 042 beneficiaries. They have focused on improving the quality of food in schools which has benefited 37 schools and 14 012 of beneficiaries. They also promote programs to improve the living conditions inside the institutions with 736 beneficiaries. In Honduras, Asociación Nuevo Futuro Navarra has set up a canteen in the school with 90 beneficiaries and in the Dominican Republic, the aim is to improve the primary health services benefiting 1 500 families, 800 adolescents and 180 children.

5. Political approaches to adoption

- National Radio of Spain on International Adoption news based on figures provided by the Ministry of Foreign Affairs
www.maec.es/es/MenuPpal/Actualidad/Colaboracin%20con%20Rne%205/Paginas/colaboracin_rne5.aspx
- Speech to improve cooperation regarding intercountry adoption between Spain and Mexico on 15/10/2007.
www.maec.es/es/MenuPpal/Actualidad/Declaraciones%20y%20discursos/Paginas/discursosomministro20071015.aspx

6. Key areas of favourable adoption practices

- The National Adoption Commission is currently undertaking an evaluation of the adoption situation with the aim of augmenting national adoptions
- Adoption leave Loi 39/1999
 - 16 successive weeks
 - In the case of adoption of several children, an extension of 2 weeks will be granted for each child starting with the second.
 - Leave entitlement for children up to the age of 6.
 - Furthermore, thanks to Act 7/2007 on the Basic Statute of public employment, the public officials hired under contract have the right to 2 additional months in the case of intercountry adoption so as to be able to travel in the child's country of origin.
- New law introduced that allows for a tax benefit for adoption (La Ley de Noviembre 2007)
- The staff at the Central authority must undergo initial training and is made up of a multidisciplinary team such as at least one lawyer, psychologist and social worker.

6a. Key concerns of adoption practices

- No compulsory preparation for PAPS
- In Spain, PAPS can decide to adopt a foreign child through an accredited body or through a private adoption. Problems with private adoptions include:
 - ▶ Parents and child have no support during the process
 - ▶ No guarantee of monitoring
 - ▶ Subject to abuses such as corruption, illegalities, kidnapping of the child etc
 - ▶ No verification of the origins of the child and principle of subsidiarity
 - ▶ No verification that adoption is declared independently from financially disinterested parties

¹² www.nuevo-futuro.org/portal/index.asp

6b. Key issues raised by the UNCRC on ICAs

Some of the discussion in Oct 2007 between the UNCRC and Spain related to ICA

59. Mr. MARINA HERNANDO (Spain) said that national adoption figures were relatively low in comparison with international adoption figures in Spain owing to Spain's particularly low birth rate. The Spanish children in children's centres were predominantly those with disabilities, learning difficulties, and in many cases were sets of siblings; finding adoptive parents for them was therefore a particularly sensitive issue. The main priority in respect of those children was to help to establish the appropriate conditions to enable them to return to their biological families. International adoption took place in conformity with all of the guarantees established under domestic and international law. Spain had ratified all of the relevant international instruments in that regard. The sale of children in any form, including under the guise of adoption, constituted a crime. All international adoptions were conducted through adoption agencies, which selected candidate families from a list. The best interests of the child were of the utmost importance, and not all candidates were accepted. It was strictly forbidden for any family to attempt to enter into a private agreement with the parents of a child placed for adoption. Under no circumstances were children adopted from countries where there were no competent authorities dealing with adoption procedures. Draft legislation was currently under discussion to prevent the adoption of children from countries suffering from armed conflict or natural disasters, in order to prevent trafficking in and sale of children under the guise of international adoption. Although the Spanish authorities could not always control the practices of other countries, every effort was made to ensure that Spain did not indirectly support those practices.

60. Ms. ORTIZ said that it was difficult for the receiving country to be sure that the country of origin acted in conformity with all prescribed guarantees at every stage of the adoption process. Spain must cooperate with the country of origin to strengthen its institutions in order to provide those guarantees, as selling a child for adoption was little or no better than selling a child for sexual exploitation. She requested additional information on the various police forces in Spain and asked whether they were coordinated by one body or by several at the different levels of administration.

66. Mr. MARINA HERNANDO (Spain) said that, although Spain could not intervene in the affairs of sovereign nations, it sought documentary evidence through its embassies and international organizations such as the United Nations Children's Fund (UNICEF) that the adoption process took place in conformity with all necessary guarantees. Where there was evidence that a country could not offer those guarantees, Spain would advise families to cease negotiations, as had been the case with Guatemala and Haiti. Spain could not prevent people from exercising their right to seek children for adoption abroad but the measures it had implemented were designed to give maximum protection to the children involved. As mentioned previously, all international adoptions were conducted through adoption agencies and Spain advised families to use recognized Spanish agencies, for example the Collaborative Entities for International Adoption (ECAIs), which were controlled and inspected by the Spanish authorities.

Source: Summary record [CRC/C/SR.1277](#) and <http://www2.ohchr.org/english/bodies/crc/crcs46.htm>

7. Main sources of information

- Intercountry Adoption legal framework in Spain www.mepsyd.es/politica-social/familias-infancia/adopciones/legislacion/adopcion-nacional-internacional/ambito-estatal.html
- Comunidades Autonomas www.mepsyd.es/politica-social/familias-infancia/adopciones/enlaces/comunidades-autonomas.html
- Accredited Bodies www.mepsyd.es/politica-social/familias-infancia/adopciones/adopcion-internacional/entidades-colaboradoras/relacion-ecaais.html
- Federaciones de ECAIS (Entidades Colaboradoras en la Adopción Internacional) anadai@yahoo.es

- Ministerio de Asuntos Exteriores y Cooperación, Dirección General de Asuntos y Asistencia Consulares
www.maec.es/es/MenuPpal/Ministerio/Organigrama/Paginas/Organigrama%2063.aspx
- Ministerio de Justicia, Dirección General de los Registros y del Notariado.
www.mjusticia.es/cs/Satellite?c=Page&cid=1057821035133&lang=es_es&pagename=Portal_del_ciudadano%2FPage%2FHomeJusticia
- National Adoption Statistics, Ministerio de Educación, Política Social y Deporte,
www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/estadisticasadopcionnacional-2006.pdf?documentId=0901e72b80027855
- Intercountry Adoption Statistics, Ministerio de Educación, Política Social y Deporte
www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/estadisticasadopcioninternacional2006.pdf?documentId=0901e72b80027854
and www.mepsyd.es/dctm/mepsyd/politica-social/familias-infancia/pagina-web-definitivo-estadistica-2003-07.pdf?documentId=0901e72b80027856

