



The financing of Adoption Accredited Bodies and challenges faced: searching for promising practices

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Introduction

As underlined during the Special Commission on the 1993 Hague Convention (THC-1993) in June 2015, there was a clear recognition of the “importance of the role of adoption accredited bodies in the intercountry adoption process in many Contracting States, and the challenges that these bodies face in light of the changed landscape of intercountry adoption.”¹ AABs must adapt to changes such as the notable decrease in intercountry adoptions (ICA), the evolving profiles of internationally adopted children as well as the supplementary criteria required for prospective adoption parents (PAP) by the countries of origin. Currently, however, there seems to be a striking paradox. On the one hand, AABs’ expertise is more than ever requested in terms of quality and specialised services,² and on the other hand their financial sustainability is at risk. Their precarious situation is essentially due to the decrease in adoption cases as adoption fees being for many of them their main source of income; lack of public understanding and support of their work – all of which is made even more challenging due by the current financial crisis and politics of austerity.

In order to draw a panorama of the different financing methods and in search of promising practices, the ISS/IRC launched a survey in July 2015 within its network with a relatively high response rate reflecting the interest in the subject. It is very grateful to the 36 Central Authorities and other entities³, which replied to the survey, covering approximately 30 countries.

The 1993 Hague Convention foresees specific provisions on financial aspects of ICA, such as their framework, control and monitoring. AABs’ work regarding fees and costs is, in principle, regulated by countries: they shall not charge unreasonably high fees in relation to their rendered services and are obliged to the transparency of costs to avoid “improper financial or other gain”.¹ In the current complex situation described above combined with an increased demand of specialized services by Central Authorities, adoption candidates, adoptive families or local partners in the country of origin, the issue of how AAB’s are financed and supported is of extreme importance and shall therefore be examined hereafter.

One of the survey’s participants described the situation as follows: “*on the one hand, we have to maintain the quality of services and manage all the responsibilities (delegated to us by the Central Authority) which can’t be depending on the number of applicants*”.

¹Arts. 8 and 32 of THC-1993; See Factsheet n°2 on Financial Aspects of ICA for the 2015 Special Commission meeting, http://www.hcch.net/upload/wop/factsheet_finasp_en.pdf

¹ See Conclusions and Recommendations adopted by the Forth Meeting of the Special Commission on the practical operation of the 1993 Hague Intercountry Adoption Convention, http://www.hcch.net/upload/wop/adop2015concl_en.pdf.

² More and more AABs provide specialized services. For instance : AAB Emmanuel Adoption en Communauté française de Belgique, Médecins du Monde in France, Nuevo Futuro in Espagne, Aiuti all’infanzia in Italie, etc. Moreover, the Indian Central Authority has published a guide dedicated to AABs entitled *Special Children for Special Parents: A Guide for Adoption Agencies* giving several guidelines for preparing PAPs adopting a special needs child, so has done Sweden with the guide *Special parents for special children* (both guides available in English at ISS/IRC).

³ Central Authorities of receiving countries: Australia, Andorra, Canton of Thurgau (Switzerland), Canton of Wallis (Switzerland), Flemish, French-speaking and German-speaking Communities of Belgium, Finland, France, Denmark, Germany, Malta, Monaco, the Netherlands, New Zealand, Japan, Republic of Cyprus, Switzerland; Central Authorities of countries of origin: Armenia, Czech Republic, Latvia, Lithuania, Mexican State of Nuevo León, Philippines, Poland, Republic of Seychelles, Togo; ISS Branches and correspondents: Germany, Spain, The Netherlands, United States; AABs: Nordic Adoption Council (NAC) reuniting responses from AABs of Denmark, Finland, Norway, Iceland and Sweden, Swiss AAB (*Fachstelle für Adoption*), German AAB (*Family International Frankfurt*), Italian regional AAB ARAI.

This document presents an analytic synthesis of different financing methods, and identifies several promising practices to overcome obstacles faced by AABS.

The following synthesis does however not include countries in which AABs do not exist⁴. It is important to note that it is not obligatory to use AABs. In a few receiving countries and in the majority of countries of origins, recourse to AABs is not used. ISS/IRC supports countries in this situation when they can adequately fulfill their responsibilities and are able to furnish all related adoption services through their adoption Central authority.⁵

However, the recourse to AABs can be helpful for discharging some of the Central Authority's functions when AABs can render quality services within the adequate legal and practical framework.⁶

To help provide a framework of analysis, the ISS/IRC refers to the *Guide to Good Practices N°2 on Accreditation and Adoption Accredited Bodies (GGP 2)*⁷, to the recommendations made by the Hague Conference on Private International Law in the framework of the 2015 Special Commission or to practices, which have prior been published in the ISS/IRC Monthly Review – all with due footnote references.

⁴ Armenia, Croatia, Czech Republic, German-speaking Community of Belgium, Japan, Lithuania, Latvia (Orphan Courts = municipality bodies), Republic of Cyprus and Republic of Seychelles, Togo.

⁵ For instance: Australia, Monaco. While Australia uses a Central Authority model, one Australian jurisdiction (New South Wales) has accredited one body, Australian Families for Children (AFC), to provide ICA in NSW. AFC is not authorised by the Australian CA, or competent authorities in other Contracting States, to act in other Contracting States (as required by art. 12 of the 1993 HC).

⁶ See ISS/IRC Monthly reviews editorials n°70 and 71 of 2004.

⁷ See *Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice*, Guide No 2 under the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption: <http://www.hcch.net/upload/adoguide2en.pdf>.

The role and nature of AABs

According to articles 9 and 22 of THC-1993, a Central Authority may **delegate** its' obligations and responsibilities of general nature to adoption accredited bodies.

Minimum standards, with regard to AAB's activities, set out by THC-1993 and further developed by the Guide to Good Practice n° 2 and the Explanatory Report on THC-1993, are:

- **Principle of professionalism and ethics in adoption**
- **Principle of non-profit objectives**
- **Principle of preventing improper financial gain**
- **Principle of demonstrating and evaluating competence using criteria for accreditation and authorisation**
- **Principle of accountability of accredited bodies**
- **Principle of using representatives with an ethical approach**
- **Principle of adequate powers and resources for authorities**

The THC-1993 **does not specify** on how and by whom these delegated functions shall be financed. Each Central Authority decides on the specific cooperation with its AAB's, reason why there exists a wide range of different systems.

As stated in the ISS/IRC Manifesto, "(...) specific regulations must be in place and set clear criteria regarding the nature of the organisation, its mission and objectives, how it operates and its financial transparency, in addition to its regular supervision by an independent authority." According to ISS/IRC, it is crucial to remember that AABs are fulfilling delegated public functions according to the standards set out in international standards and must therefore receive the adequate public support, including financial assistance and follow up support at all levels (ethical, professional and practical).

TABLE OF CONTENT

Section 1: Financing methods	5
1.1. Exclusively private or mainly private financing of AAB	5
1.2. Limited public support from Central Authorities or governments	6
1.3. Exclusively public or mainly public financing of AAB	6
1.3.a. Public financing of 50 % and more	6
1.3.b. Exclusively public-financed AABs in “hybrid AAB systems”	7
Section 2: Eligibility criteria for governmental support and AAB’s related obligations	8
2.1. <i>Conditio-sine-qua-non</i> : fulfillment of authorisation and accreditation conditions	8
2.2. The number of adoptions and of cooperation agreements undertaken as criteria	8
2.3. Financial support for humanitarian aid projects	8
2.4. Merger of resources among AABs as eligibility criteria for public support	9
2.5. Achievement of common objectives and means through long-term agreements with the Central Authority	9
2.6. Obligation to finance specific adoption services	9
Section 3: Supervision mechanisms	10
3.1. External supervision (by the Central Authority)	10
3.1.a. Different levels of external supervision: local and federal	10
3.1.b. Procedural and staff supervision	10
3.1.c. Financial reports/ activity reports/ annual inspections/ management reviews	11
3.1.d. Complaint mechanisms & questionnaires to PAPs	11
3.1.e. Ethical supervision	11
3.2. Supervision by an “structure-internal” board	12
Section 4: Potential solutions to face current challenges	13
4.1. Advocacy efforts among AABs	13
4.2. Enforced cooperation	13
4.2.a. Between AABs and Central Authorities (“extended co-responsibility”)	13
4.2.b. Between AABs	13
4.3. Legal enforcement	14
Section 5: Conclusions and recommendations	15
References	18

Section 1: Financing methods

As THC-1993 does not determine on how and by whom the AABs' activities shall be financed, the different financing methods range from (1) exclusively private-financed and mainly privately-financed to (2) mainly State-financed and exclusively State-financed.

In Germany, Canada, Spain, the Netherlands, Andorra, Philippines, New Zealand and Switzerland⁸, AABs are even exclusively self-financed (100 %). In the majority of countries that have responded to the ISS/IRC survey, AABs⁹ have several income sources, including public contributions, however most are mainly self-financed or a hybrid of the two. This is for instance the case in Denmark, Finland (2 of the 3 AABs), Norway, Sweden, France (for some AABs) and Flemish Community of Belgium.

1.1. Exclusively private or mainly private financing of AAB

The **main sources** of private income with regard to those mixed financing models are:

- Adoption fees/remuneration paid by PAP (between 55-100%)¹⁰: Payment from PAP for adoption services, which can include the application process (dossier-related costs), adoption mediation, pre-adoption counseling and post-adoption services. In Denmark for instance, the fees paid by the PAPS may only be exclusively used to cover the costs directly associated with the operation of the AAB's activities in Denmark and abroad, including expenses for child welfare work related to the adoption assistance activities. Despite the private nature of this source of income, a certain control is exercised by public authorities through the regulation of adoption fees, as it is the case in the Flemish Community of Belgium or in Manitoba in Canada.¹¹
- Membership fees (2-9%)¹²: Contributions of AAB members in so called "democratic membership associations". Their member families govern these structures. They have a voting right once they have paid the membership fee.
- Donations by private or public organisations¹³, such as churches, childcare organisations, humanitarian organisations, private investors etc. According to the German Central Authority, tax reductions apply to those kinds of contributions. For example, in Finland, grants are paid by the Finnish Slot Machine Association (SMA) to 2 of the 3 Finnish AAB, which are non-governmental organisation. Those contributions vary from AAB to AAB (15 to 40 %). However, according to one of those AABs, this source of income is qualified as "high risk" income. AABs must apply each year and cannot count on a specific amount, as the grant varies from year to year. Thus, an important dependency on this grant implies automatically more financial uncertainty.

⁸ In Switzerland, one AAB receives subsidies from the Cantonal Central Authority once a year. Details are however unknown.

⁹ The financial aspects are elaborated regardless of the AAB's nature or structure, which could reach from non-governmental structure to non-profit foundations or associations etc.

¹⁰ In Sweden (95 % in average), Norway, Finland and British Columbia in Canada (some AABs up to 100%).

¹¹ In the Flemish Community of Belgium, the fees for adoption mediation services cannot exceed more than 3 000 Euros.

¹² In Iceland, Norway and Sweden.

¹³ In Switzerland, Ontario and British Colombia for instance.

- Other sources of income, quite limited, can result from activities such as training¹⁴, so called “motherland tours”¹⁵, book-selling¹⁶ or fundraising campaigns¹⁷. Financial incomes¹⁸, bank interests or temporary investments¹⁹ have also been indicated as a source of income.

1.2 Limited public support from Central Authorities or governments

With regard to public funding support, it constitutes less than 10 %, in most of the cases. It can even amount 5 % or less of the annual funding.²⁰ In the Flemish Community of Belgium, the Central Authority contributes with an annual subsidy for working and staff costs which amounts approximately to 100,000 € per year and a fixed subsidy depending on the number of the AAB’s cooperation with countries of origin. Both subsidies amount to between 30 and 40 % of the AABs’ annual incomes. However, as shown by results, from 2013 to 2014, the percentage of public contributions is decreasing in several countries (in Denmark²¹, 1 AAB in Norway, 1 AAB in Sweden). One counterexample of this general trend is *Inoradopt* (Norway) whose governmental support has increased from 6, 4 % in 2013 to 8, 4 % in 2014. In France, the 32 AABs are essentially financed from private funds. However, 19 out of 32 AABs receive an annual subsidy from the Central Authority which amounted 303 600 Euros in 2015. Some of them are also eligible for subsidies from local authorities. Subsidies are decided following a call for proposals and fixed upon an evaluation of the AAB’s realized activities and its size. A special case is the Finnish AAB, *the City of Helsinki*, a municipality body, the operations are solely financed by applicants’ fees. However, if the fees do not amount to the budget, security is provided, to a certain extent, throughout the financial support of the local administration. As stated by the latter, “being part of a roof structure helps a little, but in the long run (this support) do(es) not add up to much in our operations”.

1.3. Exclusively public or mainly public financing of AAB

1.3.a. Public financing of 50 % and more

The AABs in Iceland and the French-speaking Community of Belgium are mainly financed by public contributions (more than 50 %). In Poland, for instance, AABs are 100 % publicly financed. Before the new *Law on Family Assistance and Foster care system* in 2012, Adoption Centers (Polish AABs) were previously under the responsibility of *poviat authorities* (municipality level), AAB fulfill now commissioned tasks of the government administration, which must be implemented by the *voivodeship self-government* (district/regional level) financed from state budget. This change was introduced to realign the differences of the amount of money spent on adoption centres by *poviats*.

In 2012, the Icelandic Adoption Society (sole AAB in Iceland) and the Ministry of Interior agreed on a service agreement that was extended in 2015 for 3 more years. This agreement covered 69 % of the AAB’s funding in 2014 through a service fee from the governmental budget.

¹⁴ *Adopsjonsforum* in Norway.

¹⁵ *Adopsjonsforum* and *Children of the World* in Norway.

¹⁶ Flemish Community of Belgium.

¹⁷ Ontario and British Colombia, Canada.

¹⁸ *Children of the World* and *Inoradopt* in Norway.

¹⁹ *Adopsjonsforum* in Norway.

²⁰ *Children of the World* and *Adopsjonsforum* in Norway; *Children of the World* and *Adoptionscentrum* in Sweden.

²¹ In Denmark, two AAB (*DanAdopt* and *AC International Child Support*) have been merged at the beginning of 2015. The new organisation *Danish International Adoption (DIA)* will receive 2 million DKK (270.000 €) yearly from the Danish Central Authority. The merge was supported by the government, who provided 9 million DKK (1, 2 million €).

Each AAB in the French-speaking Community of Belgium is beneficiary of an annual lump-sum subsidy by the Ministry of the Federation of Wallonia-Brussels in the amount of approximately 50% of their annual funds. Additionally, the majority of AABs receives public support for employment (*aide publique à l'emploi*).

1.3.b. Exclusively public-financed AABs in “hybrid AAB systems”

In France and in Italy, the great majority of AABs are private organizations. However, in both countries, there is one public AAB, ARAI in Italy (regional level) and AFA in France (national level). The latter is a public operator exclusively financed by the French State (Ministry of Social Affairs). ARAI on the other hand receives annual contributions for the staff's salaries. This mechanism allows PAPs to only pay a cost-sharing (expenses incurred abroad, translation and delivery costs of the follow-up reports).²²

Advantages of a mainly State-financed system

(not guaranteed if financing of AABs is exclusively or mainly private based)

- Allow AABs to provide services without having to be dependent on numbers of adoptions;
- Limit conflict of interest when assessing PAPs dossiers as “potential sources of income”;
- Avoid actively seeking for prospective adoptive parents and adoptable children;
- Subsidies may imply greater State's accountability and therefore closer supervision;
- Implies financial relief for PAPs in some cases (see Italy case);
- Allows Central Authorities to have greater influence on an AAB's activities. For example the Central Authority has a greater capacity to effectively limit the number of PAP dossiers to be sent to the country of origin, to focus on the needs of children and of the country of origin.

Advantages of exclusively or mainly privately financed system

(not guaranteed if financing of AABs is mainly State financed)

- Financial independence from public funds which are not necessarily secure and therefore create certain flexibility;
- Independence from internal politics (and perhaps overly pro-active ICA policy);
- Allow AABs to adjust operations and sustainability according to existing needs for ICA (e.g.: less AAB's will be needed given the decreasing number of ICAs).

According to ISS/IRC, if a country decides to implement an AAB system, adequate public support in form of financial contributions, as well as training and counseling modules should be granted in order for AABs to render quality services to PAPs, which are in line with ethical standards. Likewise to ensure AAB sustainability, private revenues such as the benefits from membership fees or from fundraising campaigns or book-selling activities should also be considered. Finally, as stated in the ISS/IRC Manifesto, “the system must enable the number and profile of AABs to be adapted based on the adoption needs of children. [Otherwise], competition between AABs within countries and between countries runs the risk of driving up adoptions and placing pressure on the countries of origin, a ripe situation for the development of fraudulent practices.”

²² In comparison, PAPs resorting to private AABs have to cover all expenses incurred in Italy and abroad, both for the pre- and post-adoption phases. In some Italian regions, however, the local administration places at disposal for the adoptive couples a contribution to partly cover the adoption procedure costs, especially the reimbursement of costs related to training. On a national level, the Italian government also created a monetary fund addressed to adoptive couples for the reimbursement of intercountry adoption expenses. The refund timing depends however on the financial availability of resources.

Section 2: Eligibility criteria for governmental support and AAB's related obligations

In order to be eligible for public grants, an AAB must in principle respect a certain amount of general duties, related to each step of the adoption procedure. Mostly, AABs are obliged to follow the instructions given by the Central Authority (e.g. French-speaking Community of Belgium). Other requirements would be to pursue of an efficient and effective financial policy, authorisation to collaborate with a specific country etc. However, there are also countries in which the State's subsidy is not linked to specific services by the accredited body (e.g. Denmark).

2.1. *Conditio-sine-qua-non*: fulfillment of authorisation and accreditation conditions

Minimum authorisation and accreditation standards are foreseen by articles 10-12 of THC-1993 and further detailed in Chapters 1 and 2 of the GGP2²³ and the Explanatory Report on THC-1993²⁴. In addition, the GGP2 foresees so called *model criteria for accreditation of bodies in receiving countries* (Annex 1) and gives guidelines and examples for the implementation of AABs in countries of origin (Annex 2). However, the implementation of an effective accreditation system is left to each country which is also competent to establish its' own accreditation criteria²⁵.

2.2. The number of adoptions and of cooperation agreements undertaken as criteria

In Sweden, one type of public grant relies on the average number of adoptions proceeded through an AAB in the course of two years. In the Flemish Community of Belgium, changes have been introduced to avoid the reliance on the adoption numbers undertaken each year. Before, AABs were obliged to intermediate up to 30 adoptions each year. Now, the Central Authority of the Flemish Community of Belgium grants an AAB the right to the fixed subsidy (see 1.2.) depending on whether the latter has on-going co-operations in 10 different countries or proposes at least one new co-operation in a new country of origin per year. Even if the public support is not directly linked to a specific number of adoptions per year, this practice potentially encourages AABs indirectly and could be an incentive for AABs to proceed to a maximum of adoptions, which could then lead to the same situation which goes against the recommendation made in section 133 of the GGP2.²⁶ The ISS/IRC believes that this criteria can lead to risks as it does not reflect the real need of ICAs and quality of services rendered. It would seem more appropriate to provide subsidies based on specialised services provided such as work with children with special needs, such as those with disabilities, part of sibling groups or those who are older.

2.3. Financial support for humanitarian aid projects

In Italy, AABs are obliged to engage in activities promoting the respect of children's rights in the country of origin where they work in (e.g. reduction of abandoned children), preferably through humanitarian aid projects with non-governmental organisations in the country of origin. This requirement is part of the Italian accreditation procedure and is foreseen for compliance with the subsidiarity principle.²⁷ According to ISS/IRC knowledge, these projects received public subsidies until 2012. Since then, financial coverage by the Italian Central Authority (CAI - *Commissione Adozioni Internazionali*) has been stopped or significantly diminished.

²³ See <http://www.hcch.net/upload/adoguide2en.pdf>.

²⁴ See <http://www.hcch.net/upload/expl33e.pdf>.

²⁵ For instance: *Commonwealth State Agreement for the Continued Operation of Australia's Intercountry Adoption Programme*.

²⁶ "However, a bad practice which must be avoided is to provide subsidies (from the CA) based on the number of parent applications or children adopted.", <http://www.hcch.net/upload/adoguide2en.pdf>.

²⁷ HCCH Country Profile for Italy, http://www.hcch.net/upload/adop2010cp_it.pdf and art. 19 of Resolution n° 13/2008/SG Intercountry Adoptions Commission <http://www.commissioneadozioni.it/media/56027/resolution1308.pdf>.

Risks related to humanitarian aid projects undertaken by AABs

The requirement for AABs to engage in humanitarian projects in the country of origin can lead to serious abuses or unethical activities. In addition, it can contribute to exercising pressure on the country of origin to constantly provide adoptable children in order to continue benefiting from the related contributions. It is therefore primordial that those programs are effectively monitored²⁸. The Special Commission of 2010²⁹ stressed the necessity of establishing a separation between cooperation (development aid) projects and intercountry adoptions. In the same line of thinking, the ISS/IRC Manifesto states that *“development aid programs must be run by professionals in the field, without the intervention of stakeholders in charge of intercountry adoption issues”*³⁰. ISS/IRC welcomes countries that have introduced the explicit separation between ICA and development aid projects into their legal framework but also into practice.

2.4. Merger of resources among AABs as eligibility criteria for public support

In France, the annual subsidy has more chances to be granted if the AAB's project proposal focuses on reinforcing the staff's competencies, the preparation of PAPs and the pooling of resources with other AABs. Also in Denmark, the merger process between the 2 AABs received specific public funding (see 4.2.b. and 4.3.).

2.5. Achievement of common objectives and means through long-term agreements with the Central Authority

In addition to the above-mentioned public subsidy, the French Central Authority has inaugurated a system of agreements with 6 AABs setting out common objectives and means, which have to be achieved in three years. Annual subsidies are delivered over a three-year's period.

2.6. Obligation to finance specific adoption services

Most countries, which have responded to the ISS/IRC survey, did not specify whether public funds must be used for specific adoption services. However, there are examples when adoption services must be provided for the PAP's preparation and for post-adoption services. The Central Authority of Luxemburg foresees specific services that its AABs are required to render in general and in each stage of the adoption procedure (pre-adoption phase, adoption phase, post-adoption phase). The Danish authorities, demand that the economic and legal competences of its AAB are upgraded, that a more collaborative collaboration with the partners in the country of origin is established and that the AAB participates in the education of PAP during the waiting period through different programs, such as language courses or preparation courses before the PAP's travelling in the child's country of origin. The Flemish Community of Belgium requires that 70 % of the subsidy is used for staff costs.

ISS/IRC commends countries that encourage mergers and pooling of resources among AABs through the attribution of financial assistance (e.g. France; Denmark) especially in the context of changing ICA landscape. We would like to reiterate the importance to avoid providing public grants for humanitarian aid projects undertaken by AABs in the country of origin. As stated in the ISS/IRC Manifesto, *“(t)he AABs' responsibility for the selection of their representatives in the countries of origin is too often an ongoing challenge. In addition to their competencies in child protection, and more specifically, in adoption, AABs must above all be able to demonstrate their independence with respect to their integrity, professional ethics and compensation.”* In addition, public financial resources shall focus on specialized and professional services rendered by an AAB in each phase of the adoption procedure (e.g. Luxemburg; Denmark and France).

²⁸ Guide to Good Practice n°1 http://www.hcch.net/upload/adoguide_e.pdf.

²⁹ http://www.hcch.net/upload/wop/adop2010_rpt_en.pdf.

³⁰ See http://issuu.com/issirc/docs/iss_manifesto_eng/1.

Section 3: Supervision mechanisms

According to articles 11 (a) and (c) and 32 (3) of THC-1993, the “composition, operation and financial situation” of AABs shall be subject to supervision by the competent authorities of their State. In many countries³¹ that have responded to the survey the financial supervision mostly occurs during the authorisation and accreditation process. In terms of quality of operations, the AAB’s services are periodically reviewed³² which can result in the accreditation being renewed or withdrawn.

In general, the activities of an AAB is supervised (1) by an external structure, such as the country’s Central Authority, or (2) by an internal body.

3.1. External supervision (by the Central Authority)

3.1.a. Different levels of external supervision: local and federal

In France, AABs are supervised both at regional and federal level. First, an AAB receives authorisation from the County Council (*Conseil départemental*) to work within the French territory. This authorisation can be revoked due to serious breaches. Secondly, the French Central Authority accredits the AAB to work in a specific country. Such accreditations are given for an unlimited time, but can be revoked any time, due to serious misconduct or if the AAB has not been able to mediate adoptions in a course of three years. One risk of being accredited for an unlimited time is that it can be difficult to ensure the necessity of AABs ongoing services especially in a changing climate. This is especially problematic when multiple AABs were accredited due to the higher numbers of ICAs in the past and now, with fewer ICAs being undertaken, there may be less need for as many AABs.

In Spain, significant changes concerning AABs’ authorisation and accreditation procedure have recently been introduced by the Law N° 26/2015.³³ From now on, the decision to initiate, suspend or limit intercountry adoptions from specific countries is incumbent upon the Central Authority at federal level, as well as the accreditation of AABs and the control and monitoring of their actions abroad. The Autonomous Communities (ACs) remain however competent for accrediting and controlling the actions of these bodies on their territory.

3.1.b. Procedural and staff supervision

In the French-speaking Community of Belgium, each adoption and especially the matching procedure is examined on a case-by-case basis. AABs are also obliged to inform the Central Authority about each stage of the adoption procedure. Therefore, the CA’s supervision is undertaken nearly on a daily basis in form of a file management. In British Columbia and Manitoba (Canada), the AABs are monitored in a similar way: the Central Authority licenses and monitors the adoption placements practice.

With the new adoption law in Denmark, which will be in force from 1 January 2016, the accredited body will have to report all organisational changes to the Central Authority as well as changes in relation to adoption in the countries from where the body mediates including country partners. In Ontario (Canada), AABs have to submit evidence regarding the suitability of agency staff including directors, members of the board and foreign representatives. Such evidence may include, among others, resumes, criminal and child welfare clearances and education credentials. The ISS/IRC welcomes the assurance of professionalism of AAB’s in providing their much needed services. In Finland, the Central Authority (Finnish Adoption Board) meets AABs on a regular basis and gives advice if problems or questions arise: “there is a very low-threshold interaction between AABs and the Adoption Board”. This enables easy and quick communication, which could bring advantages such as

³¹ Switzerland, the Netherlands, Spain for instance.

³² The Swedish Central Authority can for instance order an authorized AAB to remedy deficiencies in the intermediation operation.

³³ See ISS/IRC Monthly Review n°194 “Spain: A new law amends the child and adolescent protection system”.

early identification of solutions to problems. Regular meetings between the Central Authority and its AABs take equally place in New Zealand.

3.1.c. Financial reports/ activity reports/ annual inspections/ management reviews

In the majority of countries, AABs are legally obliged to submit reports to the Central Authority on the developments in the country of their activity, on costs, practices, changes of laws and procedures in the country of origin they work with (e.g. France, Switzerland, and New Zealand³⁴).

- Financial/accounting reports: Normally public subsidies are paid in advance. The residues are then paid after receiving the financial and activity report for the AAB that shall provide proof the proper use. Otherwise refunds can be claimed, such as it is the case in Luxemburg or in the Flemish Community of Belgium. Also, in Andorra, professional fees are revised according to their conformity with THC-1993. In France, Sweden and in Ontario (Canada), AABs are obliged to justify the use of the received annual subsidy by submitting a report. The French AABs that benefit of target agreements (over 3 years) have to report annually on their achievements to submit a global assessment report after 3 years. In New Zealand, although AABs do not receive public subsidies, their operational and financial management is annually reviewed and audited. As part of the new adoption system in Denmark, the financial aspects will fall under intensified supervision/monitoring with a follow-up at least twice a year.
- Activity reports: must contain a detailed description of AABs activities throughout the year. In Sweden, the Central Authority requires yearly activity reports on each country an AAB works in, which includes also information on the actual costs associated with the adoptions that were made from the country the year before.
- Regular quality checks through supervisory inspections that may also take place without notice at the adoption agencies (Flemish Community of Belgium). In Sweden the Central Authority plans these inspections yearly. In Australia, on-sight visits can occur any time.
- In NSW (Australia), AABs monitoring can also occur through reviews of particular areas of practice or the body's management and governance arrangements. In New Zealand, AABs must demonstrate a clearly defined management structure and have robust recruitment and vetting and training and supervision of staff.

3.1.d. Complaint mechanisms & questionnaires to PAPs

Regarding unethical or irregular activities of AAB, the Central Authority examines accusations. This is done for instance in the US, Switzerland, Manitoba and Ontario in Canada, and the Netherlands. In the latter, a special complaint committee is in place for complaints from PAPs about AAB's work. The Committee is financed by the Ministry of Justice and deals with complaints of all kinds related to the work of an AAB. In NSW (Australia), an AAB may also be required to participate in a risk management program if there are concerns about its practice. Apart from PAPs being able to transmit complaints regarding an AAB, the Central Authority sends out surveys to families who have adopted through an AAB to gauge their views.

3.1.e. Ethical supervision

AAB's activities are required to comply with certain ethical standards. Several countries have therefore foreseen specific legal provisions introducing ethical working guidelines that apply in general to all professionals working in the child protection system (e.g. French-speaking Community of Belgium,

³⁴ Section 21 and 22 of the *Adoption (Intercountry) Act 1997*: overall assessment concerning an AAB's composition, operation and financial situation.

Italy)³⁵ or apply specifically to AABs (e.g. the Netherlands)³⁶. It is also worthwhile mentioning that several European adoption organisations, regrouped in the association Euradopt³⁷, have adopted common ethical rules that supplement existing rules and legislations in their respective countries.³⁸

3.2. Supervision by an “structure-internal” board

Varied forms of monitoring can also be undertaken by an internal body as is the case for democratic membership associations in Norway, Sweden and Iceland. For instance, the members of the Swedish AAB *Adoptionscentrum* belong to a local branch and elect a board. Bi-annually, a General Assembly is elected with the purpose to establish a National Board, the highest organ. The latter is responsible for the finances of the association for the period until the next General Assembly’s election and decides on the adoption fees and monitors the financial situation.

An effectively implemented public supervision creates a framework for the activities of an AAB (e.g. Denmark; Finland; New Zealand), especially relevant when limiting the number of adoption cases. Likewise, it ensures the adequate use of public subsidies and permits readjustments of public support if necessary. In addition, regular and adequate supervision is a means to prevent irregular practices, especially in the country of origin. ISS/IRC would like to promote the establishment of national ethical standards and guidelines (e.g. Netherlands; French-speaking Community of Belgium; Italy). However, despite the grant of public funds, ISS/IRC considers essential that AABs have a certain margin for decision-making in the framework of international and ethical standards, to allow for an independent voice without fear of repercussions such as loss of financing.

³⁵ *Code de Déontologie des travailleurs du secteur de la protection de l’enfance* ; Guiding principles of the Public Sector’s Ethics (Italy)

³⁶ *Minimum Standards for the Quality and Sustainability of AAB services (revised in 2013).*

³⁷ For more information: <http://portal.euradopt.org>.

³⁸ See http://portal.euradopt.org/index.php?option=com_content&view=article&id=8&Itemid=114.

Section 4: Potential solutions to face current challenges

As repeatedly underlined in the framework of the Special Commission of 2015, the current crisis of AABs must be addressed and brought to the awareness of the various governments as well as the wider public. However, there are several initiatives that deserve to be mentioned and further developed:

4.1. Advocacy efforts among AABs

In Finland, joint advocacy efforts are undertaken among AABs towards the Central Authority and at the political level. Those initiatives offer a platform for joint discussions on how to find alternative financing channels.

4.2. Enforced cooperation

4.2.a. Between AABs and Central Authorities (“extended co-responsibility”)

An enforced cooperation between AABs and Central Authorities is not only required concerning **financial aspects** (AABs demand more responsibility of “duty bearers” with regard to higher public subsidies or increased financial support by Central Authority in general), but shall also concern the **management of adoption cases**. This would most definitely facilitate the **specialisation of services** provided by AABs, which remains a necessity underlined during the 2015 Special Commission.³⁹ As stated by the Central Authority of the Flemish Community of Belgium: “*We prefer a few adoptions with a good support for the families instead of a lot of adoptions with poor quality service*”. In Luxemburg, AABs and Central Authority are regularly in contact in order to ensure the quality and viability of services. The Central Authority in the French-speaking Community of Belgium led, together with the AAB *Croisée des Chemins*, a pilot project for the development of specific matching tools.⁴⁰

In the French-speaking Community of Belgium, Central Authority undertakes frequently **joint evaluation missions** with AABs in countries of origin. Also, the Central Authorities of the different Belgian communities collaborate frequently together.⁴¹

4.2.b. Between AABs

In some countries⁴², AABs reunite in **association or networks**, facilitating the exchange and direct contact among professionals. The Nordic Adoption Council meets for example every two years to discuss future collaboration and working synergies. Another way to tackle current challenges is to limit the number of AABs per country through **mergers**. In Denmark, for instance, the 2 AABs were merged in January 2015 with the financial support of the Central Authority. This merger was supported by the political system, since the existence of only one Danish accredited body was considered to be more contemporary and sustainable in a country like Denmark (small population with decreasing intercountry adoption numbers over the past years). According to the Danish Central Authority, it was a measure that will ensure the ability of the Danish accredited body to provide financial stability and the necessary professional resources.⁴³

In Belgium, the AABs *Sourires d’Enfants* and *FIAC-Horizon* have established a long-time partnership in several countries of origin and work for instance with the same institutions and representatives in the

³⁹ Point 14 of the Conclusions and Recommendations: *The SC recommended that adoption accredited bodies should acquire and / or have access to professional expertise on the intercountry adoption of children with special needs.*

⁴⁰ See for instance article « *Getting to know better the adoptive child thanks to an innovative tool* », Monthly Review n° 193.

⁴¹ Lettre d’information n° 14, Septembre 2015, <http://www.adoptions.be/index.php?id=3937>.

⁴² Switzerland, the Nordic Adoption Council

⁴³ Idem 34.

country of origin. This enables both to benefit from each other's work, experiences and evaluations and saving financial and human resources at the same time.

Finally, in countries with few adoption numbers, adoption candidates could be referred to the AABs of the neighboring countries. However, in Andorra, the activities of an AAB are monitored by the Directorate of Social Services, which establishes a contract with the AABs from the neighboring countries.

4.3. Legal enforcement

In order to adequately address the current challenges faced by AABs, it is essential that the legal framework is constantly reviewed and adapted, according to AABs needs but also regarding their supervision. As mentioned in the preparatory document for the 2015 Special Commission on financial aspects of ICA, an adequate **legal framework for financial issues** of ICA must be established and implemented. However, financial issues shall also include the financing of AABs. The new adoption law in Denmark (see 3.1.b.) will include financial aspects related to the AAB's activities. The sole AAB (after the merger of the 2 AABs) will receive an annual subsidy of 2 million DKK. Another example are the recently modified **supervision modalities** of Spanish AABs based on the introduction of a two-leveled supervision system involving local and federal authorities (see 3.1.a.).

According to the Swedish legislation, AABs are required to have the financial resources to cover up financially in case of a major unexpected challenge and/or liquidation in order to save the adoptive families from suffering big financial losses and to secure any redundancy payments. Any surplus at the end of the year, goes directly to this "guarantee fund".

The roles and tasks of educating and assessing PAPs and facilitating an intercountry adoption placement are separated within the New Zealand Law. This is intended to reduce the tension that can arise between an assessment process that PAPs pay for and then a placement being facilitated by the same agency that is also on a fee for service basis.

ISS/IRC would like to encourage existing initiatives and movements intended to tackle current challenges that are faced by AABs. Enhanced cooperation shall be aimed through co-responsibility and cooperation models between Central authorities and its AABs (as in the French-speaking part of Belgium) but also through joint efforts among AABs (e.g. Scandinavian countries). The importance of having an adequate legal framework that includes financial aspects (e.g. Sweden or Denmark) as well as precise supervision modalities (e.g. New Zealand) is clearly needed to comply with THC-93.

Section 5: Conclusions and recommendations

Essential recourse to AABs in an adequate accreditation and supervision system foreseeing public support

The recourse to an AAB system is not mandatory. Should a Central Authority, however, choose to implement an AAB system and delegate some of its tasks, it may guarantee the respect of children's rights by offering professional adoption services, in conformity with international and ethical standards. Also, it could effectively hinder the PAP's recourse to independent and private adoptions (see *Editorial Monthly Review n°70*). ISS/IRC commends countries that have opted for an AAB system and have, for that purpose, introduced an adequate and transparent system of accreditation, supervision and sustainable support, including financially, into their legislation (see *Editorial Monthly Review n° 71*).

Based on the promising practices developed around the world and international standards, ISS/IRC recommends the following:

Financing methods

ISS/IRC considers adequate fixed public financial support necessary to ensure the highest quality of an AAB's work as it undertakes Central Authority duties during the whole adoption process including follow up:

→ Public funding

- Shall be **significant** but not represent an AAB's sole source of income due to the risks linked to uncertainty stemming from the world financial crisis (Iceland, French-speaking Community of Belgium);
- An AAB must be able to **rely on** a fixed and convened public support (e.g. through fixed subventions);
- Funding should be **paid in advances** – at least in its majority - to ensure the AAB's mid-term stability (Luxemburg).

→ Private funding

- **Avoid all dependency** from PAP's payment for adoption services; adoption fees paid by PAPs shall represent a small percentage of an AAB's income;
- **Other sustainable and reliable income sources** have to be encouraged (e.g. private long-term donations, membership fees etc.).

→ Guarantees

- **Establish a guarantee fund** which would avoid that adoption candidates/adoptive families are left behind without the necessary support overnight in this context of random factors, such as suspension of adoptions in a country of origin or of the AABs accreditation/authorisation (Sweden).

Eligibility criteria for financial governmental support

According to ISS/IRC, transparency shall guide all financial aspects of ICA. Therefore, unambiguous criteria concerning public funding must be developed:

- Require **accreditation and authorisation** as first eligibility criteria (French-speaking and Flemish Community of Belgium)
- **Avoid** application mechanisms with **uncertain outcomes** (Luxemburg – fixed amount decided and reevaluated every year)
- Establish **clear and realistic eligibility criteria and obligations** for an AAB to fulfill (e.g.: transparency of AAB's financial structure and costs published on the Central Authorities website)
- Promote the merger of AABs' resources by foreseeing **public grants for close cooperation** among AABs (Italy, France)
- **Separate** grants for public support **from the number of adoption mediations or number of co-operations** with country of origins
- Establish a **catalogue of minimum services**, such as training, counseling and support of PAP's throughout pre- and post-adoption periods (Iceland, Denmark, and Luxemburg)
- Reiterate **ethical and working standards** in the country's legislation/regulations
- Public means shall be **focused on professional and specialized AABs**

It has to be noted that public support shall not exclusively be of financial nature. It must also include **other types of support**, such as training (Italy) and counseling modules for the AAB's professionals or support to help fulfill ethical standards throughout their work.

Effective collaborations and qualitative and quantitative supervision

According to ISS/IRC, the implementation of an AAB system requires strengthened cooperation mechanisms on different levels (between Central Authorities, between Central Authorities and AABs and among AABs). Furthermore, an effective supervision mechanism needs to be established on a qualitative and quantitative level:

1) Strengthened co-operation mechanisms

➔ Strengthen practical co-operation between Central Authority and AAB

- **Legal provisions, regulations and practical guides** (Spain, Denmark);
- Through **service agreements** (Iceland), **general contract** with the Central Authority (Luxemburg, Andorra) or **specific agreements on objectives and means** (France);
- **Co-responsibility between Central Authority and AABs** towards PAPs and the country of origin (moratoria; pipeline cases etc.);
- **Side-by-side collaboration** during the adoption process, especially matching procedures and post-adoption services (French-speaking Community of Belgium);
- **Establish Ethical Charters** on a national level which are in compliance with the relevant international standards (Netherlands);
- **Limit the number of AABs and the number of proceeded adoption cases** throughout its AABs according to children's needs and based on the country of origin's demands (Denmark, Iceland).

➔ Strengthen cooperation between AABs

- **Joint advocacy efforts** (see Scandinavian AABs);
- Merger/fusion of AABs if necessary and adequate with regard to adoption numbers and AAB's financial and human resources (Denmark, France, Italy, French-speaking Community of Belgium) → **joint means of action**.

2) Qualitative and quantitative supervision

➔ Supervision modalities

- Careful election and regular monitoring of the **representative in the country of origin**;
- **Monitoring** through annual financial and activity reports, staff and procedural inspections;
- **Specialisation of AAB** promoted by Central Authorities to ensure that the needs of adopted children and families are met (according to Paragraph 14 of the Conclusions and recommendations, adopted by the Forth Special Commission of 2015).

➔ Sanction mechanisms

- **Complaint mechanisms** for authorities of the country of origin, PAPs and any other person involved in the adoption process (French-speaking Community of Belgium, Switzerland);
- In case of infractions/unethical activities, **criminal provisions** starting with the withdrawal of AAB's accreditation etc.;
- **Public announcement** of AAB's accreditation/authorisation withdrawal (for the U.S.: <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/agency-accreditation/agencies-denied-accreditation.html>).

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