



# INTERCOUNTRY ADOPTION BREAKDOWNS

January 2017

## INTERCOUNTRY ADOPTION BREAKDOWNS: ISS SURVEY TO IMPROVE THE PREVENTION AND MANAGING OF THESE SITUATIONS BY SUPPORTING ALL THE PROFESSIONALS INVOLVED

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## Introduction

From a very young age a child learns, from his loving entourage and his sensory experiences, to develop this incredible ability to experience and transform his/her setbacks into success, as Sophie Marinopoulos, French psychologist and psychiatrist, points out.

The absence of loving figures for certain children and therefore the deprivation of these vital sensory experiences will disrupt their development and generate deficiencies that an adoptive family, with their own background often involving painful experiences, is going to try to heal. From the coming together of these two destinies, a story of resilience<sup>1</sup> will be born, as Johanne Lemieux, social worker and psycho-therapist specialised in adoption matters from Québec, says, a decisive human adventure where the adoptive parents will become «teachers of resilience» for the child.<sup>2</sup> According to Boris Cyrulnik, a French psychoanalyst who introduced this term, «the parent-teacher of resilience is not focused on his performance as a saviour or repairer. He is available to care for the child, but without the unrealistic aim of completely healing or erasing all traces of the past».<sup>3</sup>

Many adoptions have given children deprived of their family a new opportunity to grow up and flourish within a family. Nevertheless this meeting may in some cases end in a breakdown. Addressing these painful situations calls for visiting or revisiting each stage of this adventure: from the process of declaring a child adoptable and assessing parents as suitable to raise them, through to the post adoption follow up. Additionally, the intercultural dimension of intercountry adoptions also enriches and at the same time complicates these projects.

It would seem the time has finally come, after hundreds of thousands of intercountry adoptions have taken place, to question the incredible progress made in this field and to consider the difficulties that have hindered the building of, in some adoptive families, a secure and solid attachment, specifically in Johanne Lemieux words, a « deep emotional bond that is going to generate within the child a feeling of confidence and security essential in the furtherance of his personal development and fulfilment [...]. Without this bond, the child will never feel safe, never confident, never loved. Without this relationship, the parent will never feel competent, useful and loved ».<sup>4</sup> What factors can obstruct the creation of this bond? The answer to this question is not singular and, as mentioned by the many professionals who were contacted by ISS, breakdown situations are not the result of one risk factor but of an accumulation of several factors which will be raised in a non-exhaustive manner below and in the future professional Guide on intercountry adoption breakdowns which is currently being developed by the ISS/IRC.

Discussing and analysing intercountry adoption breakdowns mean above all to question the definition or characteristics of a successful adoption. As Ana Berástegui Pedro-Viejo, doctor of psychology and professor at the University Pontificia Comillas of Madrid, puts so well « [...]

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<sup>1</sup> « The ability to survive physically, psychologically and socially and to function normally and even to be happy, despite the trauma of the past» Extract of Lemieux J (2016) *L'adoption: Mieux vivre les trois premières années après l'arrivée de l'enfant- Les clés d'une adoption réussie*, (Adoption: living better during the three years following the arrival of the child – the keys to a successful adoption Adopteparentalité, Québec Amérique, pp.99-100.

<sup>2</sup> *Supra* 1

<sup>3</sup> Cyrulnik B., *Un merveilleux malheur*, Paris, Odile Jacob, 1999.

<sup>4</sup> Lemieux. J (2016), *L'adoption: Mieux vivre les trois premières années après l'arrivée de l'enfant- Les clés d'une adoption réussie*, Adopteparentalité, Québec Amérique, pp.93-94.

we must begin to think of new ways of approaching adoption breakdowns which comes back, more or less, to searching for new ways of understanding the success of an adoption ».<sup>5</sup>

Also to dwell on the possible definitions or at least indicators of breakdowns or conversely the success of an intercountry adoption, is a first stage closely linked to gathering statistical data which is not without significant challenges.

Furthermore, the prevention and management of breakdowns can only be fruitful through greater collaboration between all the stakeholders involved at national as well as international level (administrative and legal authorities, governments, AABs, health and education professionals, psychologists and psychoanalysts, social workers, researchers, civil society, mediators etc.) and characterised by transparency at each stage (child's file, assessment of potential adoptive parents, etc.). This approach must also be guided by ongoing research in the best interests of the child in accordance with national and international laws.

The legal framework as well as the spirit and actions of cooperation are therefore essential and should be strengthened through various strategies that several countries and professionals have already considered. To this can be added the intervention of trained professionals who are supervised, capable of listening with compassion to the family in difficulty and able to identify the competences of each family member in order to emerge from the crisis in which they find themselves, both at an individual and a family level, and that the emergence results in a new family cohesion or a temporary or permanent rupture of the bond. Support characterised by a pre and post adoption specialist services whose geographic and economic accessibility and continuity guarantee the quality of such support essential to the success of the adoption.

ISS warmly thanks the nineteen Adoption Central Authorities (CA hereafter) together with the Adoption Accredited Bodies (AAB hereafter), ISS members and other independent experts who have contributed to this survey.<sup>6</sup> We are pleased to present the results below. This synthesis is aimed at developing the future professional Guide on intercountry adoption breakdowns which will be available during the year 2017. Part of this synthesis will therefore be included in the publication currently being developed by the ISS/IRC.

## **I. Qualify and quantify intercountry adoption breakdowns: an impossible mission?**

It is evident from replies to the ISS/IRC survey that, to date, there is no official and unanimous definition of an intercountry adoption breakdown either on the legal or practical level, a lack that is underlined by some CA and that they would like to see addressed.<sup>7</sup> Given the multiplicity of situations to which the notion of breakdown refers, it seems judicious to identify the indicators which allow, as precisely as possible, reflection on this diversity in order to try to categorise the types of breakdown.

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<sup>5</sup> Gómez Bengoechea, B., Berástegui Pedro-Viejo, A. y Adroher Biosca, S. (2015), *Se busca familia para un niño. Perspectivas psico-jurídicas sobre la adoptabilidad*, Dykinson S.L, p.119.

<sup>6</sup> **Central Authorities:** Bayern, Rheinland, Rheinland-Pfalz and Hessen and Federal CA (Germany), Armenia, Australia, Belgium (Flemish Community), Cyprus, Denmark, Spain, Finland, France, Luxembourg, Norway, New-Zealand, Peru, Romania, Sweden and Vietnam; **AAB:** French Adoption Agency (*Agence française de l'adoption*) and COFA- Comité de Cognac –Adoption et Parrainage de Charente (France) and Centro italiano Aiuti all'Infanzia-CIAI (Italy); **ISS:** Netherlands (Anneke Vinke, independent adoption specialist); EFA (Enfance et famille d'adoption, France).

<sup>7</sup> It should be noted that one of the Australian States has developed a specific policy relating to the management of cases of intercountry adoption breakdowns.

## A. Practical indicators

A situation of intercountry adoption breakdown is noted when difficult circumstances have compromised the coexistence of the adoptive family and the establishment or maintenance of a bond of affiliation at an emotional level occur and sometimes require the intervention of child protection and adoption services. Depending on the degree of seriousness of the problems encountered within the adoptive family, several scenarios taking different forms can be identified and may lead to a separation:

### 1. Invisible breakdowns

#### Invisible separation: family coexistence without a solid and secure bond

These breakdowns concern cases where the adoptee and other members of the adoptive family live under the same roof without «a mutually, solid, highly satisfying and genuine bond» being established, according to Johanne Lemieux. «The adoption remains [...] a purely legal state of affairs without emotional depth, without any beneficial effect on the development of the child or the parent, or the family as a whole».<sup>8</sup> Although these adoptions do not result in a breakdown or pseudo-breakdown (de facto separation), they are adoptions that are not fully realised at a psychosocial level and can be categorised as **invisible breakdowns**.

The Luxembourg CA discusses the situation where, from a clinical point of view, the measure of protection that is adoption has not worked because it has led to insufficient or inadequate parenting as regards the specific needs of the adopted child and therefore little or no acknowledgment of the needs of the adoptee.

#### *De facto* separation or pseudo-breakdown (terminology used by Ana Berástegui Pedro-Viejo)

Referring here to situations where the coexistence of the adoptive family is interrupted without the child protection system being mobilised or the implication of social services. This situation is characterised by a *de facto* separation between the adoptee and his/her adoptive family, for example through the placement of the child in a boarding school or similar entity. These breakdowns are therefore not traceable.

### 2. Temporary separation through a legal or administrative decision

On the basis of proposals made by the French CA, these situations relate to cases where the child is entrusted to child protection services during a given time without however returning to the family, the link with the latter being maintained. In accordance with international standards<sup>9</sup> it remains to ensure a periodic revision of the child protection measure and to decide as soon as possible on a new family placement. Spain, for example, has introduced deadlines in their Law n°26/2015<sup>10</sup> with the aim of giving priority to stable rather than temporary family measures.

### 3. Definitive separation leading to an adoption breakdown

The latter occurs when, following the entry of the child into a protection system and temporary placement, the adoptive parents clearly express the wish to abandon the child and carry out administrative and legal steps in this respect. The State will then assume care of the

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<sup>8</sup> Extrait de Lemieux. J (2016), *L'adoption: Mieux vivre les trois premières années après l'arrivée de l'enfant- Les clés d'une adoption réussie*, Adopteparentalité, Québec Amérique, p.92.

<sup>9</sup> Guidelines for the Alternative Care of Children paragraphs 53, 57, 58 and 67.

<sup>10</sup> Law n°26/2015 relating to the modification of the system of care for children and adolescents. Available in Spanish at: <https://www.boe.es/boe/dias/2015/07/29/pdfs/BOE-A-2015-8470.pdf> (consulted 13 October 2016).

child and the adoption will be considered as permanently severed.<sup>11</sup> However some parental obligations in respect of the adopted child may remain (see I.B.3).

The Spanish CA defines the breakdown of an adoption as an abandonment experience which occurs in respect of children who have already previously been victims of abandonment during their life and for whom adoption is perceived as a permanent protection measure in which a great deal of time and effort have been invested. This situation can also occur in adulthood, sometimes even in an almost «natural» way (distance).

On the side of Countries of Origin, Peru stipulates that they do not have a standard definition of an intercountry adoption breakdown and are only aware of this type of situation when they are informed, through post-adoption reports, that the child has been placed in a foster family or in a facility and that the Receiving State has assumed protection.

## B. Legal indicators

A distinction is generally made between a breakdown before or after delivery of the final administrative or legal adoption decision. In the United States, such a distinction is made through the use of the terms «disruption» and «dissolution».<sup>12</sup>

### 1. Breakdown before the delivery of the adoption decision (Article 21 of 1993 HC)

In situations referred to in Article 21 of 1993 HC<sup>13</sup>, the breakdown usually manifests itself by a permanent placement of the child outside his/her family. The separation can occur during the course of the probationary period for cohabitation or during pre-adoptive care, which may take place in either the State of Origin or the Receiving State, a factor that will have an impact on the applicable common law. In such situations, a close cooperation of all the stakeholders involved – a key element of 1993 HC - is indispensable.

In Germany, for example, according to the information provided by the CA *Rheinland*, the law relative to the implementation of 1993 HC reinforces Article 21 of 1993 HC by granting the child a right of temporary residence in Germany during the probationary period.<sup>14</sup>

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<sup>11</sup> Guidelines for the Alternative Care of Children, paragraphs 53 and 54.

<sup>12</sup> What is a **disruption**?

The term disruption is used to describe an adoption procedure which ends after the child has been placed in an adoptive family, but before the adoption is legally finalised, therefore as a consequence the return of the child, or the entry into a foster family or placement with new adoptive parents.

What is a **dissolution**?

The term dissolution is generally used to describe an adoption where the legal bond between the adoptive parents and the adopted child has been ruptured in a voluntary or involuntary manner after the adoption has been legally finalised, with as a consequence the return of the child, or the entry, in a foster family or placement with new adoptive parents.

Extracts from Child Welfare Information Gateway, [https://www.childwelfare.gov/pubPDFs/s\\_disrup.pdf](https://www.childwelfare.gov/pubPDFs/s_disrup.pdf) (consulted 13 October 2016).

<sup>13</sup> Article 21 (CLH-1993):

1. When the adoption is to take place after the child has moved to the Receiving State and the Central Authority of the State considers that the maintenance of the child in the foster family is not in their best interests, this Authority should take appropriate measures for the protection of the child, particularly in view:

a) to remove the child from the people who wish to adopt him/her and to take provisional care of the child;  
b) in consultation with the Central Authority of the State of Origin, to ensure without delay a new placement for the child with a view to his/her adoption or alternatively provide an alternative long term care; an adoption can only take place if the Central Authority of the State of Origin has been duly informed about the new adoptive parents;

c). as a last resort, ensure the return of the child if it is in his/her best interest

2. With regard in particular to the age and maturity of the child, s/he will be consulted and where appropriate his/her consent obtained about the measures to take in accordance with this article

<sup>14</sup> §6 Abs. 3 AdÜbAG available at [http://www.gesetze-im-internet.de/ad\\_bag/](http://www.gesetze-im-internet.de/ad_bag/) (consulted 11 October 2016).

Spain states they have encountered some experiences of adoption breakdowns during the pre-adoptive care phase of the child when the child is present on Spanish soil. According to the Spanish CA, child protection services are able to identify such cases and to act in accordance with the obligations under the relevant national legislation on child protection.

In the case where **the breakdown proves to be final** another family solution must be found for the child. This will require cooperation between the various stakeholders concerned, specifically the adoption CA of the Receiving State and the State of Origin, child protection services, the institution or the foster family where the child is (was) at the time, as well as any AAB potentially involved.

## 2. Breakdown after the final adoption decision (1996 HC)

When difficulties arise within the adoptive family after the adoption decision has been delivered, the common law of the Receiving State applies (e.g.: Germany *Rheinland-Pfalz* and *Hessen*<sup>15</sup>, Denmark<sup>16</sup>, Spain<sup>17</sup>, France<sup>18</sup>, Italy<sup>19</sup>, Norway<sup>20</sup>, New Zealand<sup>21</sup> and Sweden<sup>22</sup>).

In Italy, according to the AAB CIAI<sup>23</sup>, two different situations can take place: the breakdown can occur before the adoption decision, pronounced in the country of origin, has been recognized and transcribed by the Italian authorities, or when the adoption decision has been recognized as probationary placement of 12 months (equivalent to a foster care placement). In both cases, the minor has not acquired, neither the status of son/daughter of the adopters, nor the Italian citizenship. The Italian common law<sup>24</sup> in the field of foster care and adoption then applies to the foreign minor who is in a state of abandonment.

The Danish CA specifies, in this regard, that once an adoption is finalised it no longer has any authority in respect of the adoptive family. The last contact with the adoptive family is through a home visit in order to elaborate the first post-adoption report and to guide the family towards the post-adoption and other relevant services. As a result it is the child

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<sup>15</sup> Sozialgesetzbuch Achten Buch/ SGB VIII: art. 27 in the event of difficulties met by the family and art.33 and 34 when the child has been temporarily separated from his/her family

<sup>16</sup> Danish Act on Social Services.

<sup>17</sup> Art. 172 del Código Civil “cuando la Entidad Pública a la que, en el respectivo territorio, esté encomendada la protección de los menores constate que un menor se encuentra en situación de desamparo, tiene por ministerio de la ley la tutela del mismo y deberá adoptar las medidas de protección necesarias para su guarda (...).”

<sup>18</sup> These are the laws and rules of communal right concerning neglected children and/or placed with child welfare (ASE) that will apply in the case of a breakdown situation. The adoption breakdown is evident when the parents sign a report on the admission of the child as a Ward of Court and do not retract within 2 months. They may also sign consent to adoption, Moreover according to Art. L 224 -1 of the Code of Social Action and Families the place and the method of placement of the child, if s/he benefits from a statute of Ward of the State is decided by the president of the Departmental Council in agreement with the Guardian and the family Councillor.

<sup>19</sup> Law 184/1983: art. 35 (adoption breakdown prior to the recognition of the foreign adoption decision in Italy); art.37 bis (application of the Italian legal dispositions regarding the placement in a foster family or into adoption in the case of an adoption breakdown prior to the recognition of the foreign decision) and art. 27 (transcription of the adoption decision pronounced abroad conferring an irrevocable character to the adoption).

<sup>20</sup> Norwegian Child Welfare Act of 1992

<sup>21</sup> Children, Young Persons and Their Families Act 1989 - which enshrines the principle of subsidiarity - calls in the first instance a formal family group conference for information sharing and planning.

<sup>22</sup> Social Services Act Chap.5 Section 1: “The local social welfare committee shall satisfy any special need for support and assistance that might exist after an adoption case or matter has been determined”.

<sup>23</sup> Centro italiano Aiuti all'Infanzia, voir <http://www.ciai.it/>.

<sup>24</sup> Supra 19.

protection authorities at local level that are responsible for the welfare of the child<sup>25</sup>, the situation is exactly the same in many other countries including Norway<sup>26</sup>.

In the case of a breakdown, the temporary placement measures for the child set out under the child protection laws of the Receiving State shall then apply. These measures can result in the placement of the child with a foster family or in an institution, the withdrawal of parental authority or even in extreme cases the revocation of the adoption when allowed by the country's legislation (see I.B.3), etc. In this respect, ISS welcomes child protection laws which, as in New Zealand or Germany (*Bavaria*), ensure the correct application of the principle of subsidiarity and give preference to family type temporary measures, in accordance with the CRC and the UN Guidelines for the Alternative Care of Children (*Guidelines* below). Furthermore the CA of Cyprus specifies that in the event of abuse or neglect of the child social services must, in accordance with the national legislation in force, take all necessary measures to protect the child concerned, including separation from his/her family (biological or adoptive).

As regards States of Origin, Vietnam envisages two possible scenarios in their adoption law No. 52/2010/QH12, effective since 1 January 2011: the revocation of the adoption (see I.B.3) and the repatriation of Vietnamese children adopted abroad. A 2016 Circular<sup>27</sup> specifies the management of breakdown cases where the child is still on Vietnamese territory and when s/he has left Vietnam and lives in the Receiving State (see section II.A.1). These provisions provide a legal framework for cooperation such as required by The Hague Conventions 1993 and 1996.<sup>28</sup>

In India, the sections 19 and 20 of the new adoption regulations of 2017 set up several obligations in case of a breakdown or risk of an intercountry adoption breakdown, such as the obligation for the Receiving State to consult the Indian diplomatic mission with a view to the placement of the child with a new adoptive.<sup>29</sup>

It is also interesting to note that Russia, in its bilateral agreement with France, envisages, according to information provided by the French public AAB (*l'Agence française de l'adoption*), that in a case of a breakdown or a grave situation, an exchange between CAs can be established on a case-by-case basis.

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<sup>25</sup> Danish Act on Social Services

<sup>26</sup> When the adoption is finalised and once the child arrives in Norway, the child benefits from the same rights of access to health and child protection services as all other Norwegian children. The child is therefore under the responsibility of local child protection services, available at the municipal level where the child lives, rather than the responsibility of the Central Authority for Intercountry Adoptions.

<sup>27</sup> Circular N°03/2016/TTLT-BTP-BNG-BCA-BLDTBXH "guiding on following up the development of Vietnamese children adopted by foreigners and children protection in necessary circumstances".

<sup>28</sup> Once the IA has been completed measures for the protection of the child fall within the scope of 1996 HC these provisions can be useful in certain situations:

- When shortly after the IA has been completed the decision on adoption is declared void or revoked in the Receiving Country. Measures must therefore be taken concerning the care of the child however the Country of Origin can remain concerned with the protection of the child. The mechanism of transfer of competence is anticipated by Arts 8 and 9 of 1993 HC could make it possible to involve the authorities of the CO.
- In the extremely rare situation where the authorities of the CO of the child are very concerned about the risk to which the child could be exposed by the new parents, Art 32 can be invoked in order to request the CO to envisage taking protection measures concerning the child.

When the PA envisage taking a protection measure concerning the child while the CO has relevant information for the protection of the child, the CO could have recourse to Art. 34 to ask the CO to provide them.

<sup>29</sup> Available in English at ISS/IRC.

### 3. Adoption: revocable/irrevocable

However, in the case where the separation becomes permanent a legal breakdown of the adoption cannot always take place. Indeed, an international adoption is, in many countries, a full adoption and cannot be revoked, without exception.

#### a) Irrevocability of full adoptions

##### Principle: Full adoptions are irrevocable

In a large number of countries, intercountry adoption is irrevocable by the fact of its plenary nature<sup>30</sup>. It is therefore impossible that a legal dissolution of the adoption can take place, as pointed out by a number of CAs who responded to the survey such as the CA of the Flemish Community of Belgium<sup>31</sup> and Luxemburg<sup>32</sup>. In cases where problems occur, the situation is regulated by general texts relative to youth protection.

##### Exception: Revocation of full adoption

Several CAs mentioned however exceptional situations defined by their law in which a full adoption can be revoked and a new adoption can then be delivered by a judge.<sup>33</sup> Furthermore, the Danish CA states that adoption can be revoked in exceptional cases specified

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<sup>30</sup> SSI/CIR (2012), *Comparative analysis on simple and full adoption*. Available in English and French on the ISS internet site, under the IRC reserved area

<sup>31</sup> Civil Law 356-1: "full adoption gives the child the same rights and duties as a child born from the adopters".

<sup>32</sup> Full adoption is not revocable in Luxembourg (art 368-3 Code Civil) and simple adoption can only be revoked for serious reasons (art 366 Code civil). It should be noted that the majority of intercountry adoptions are full adoptions.

<sup>33</sup> Examples:

##### **Belgium Flemish Community:**

Art. 347-1 Civil Code: A child who has been adopted, whether it involves a simple or a full adoption, can be adopted again, both by way of a simple or as a full adoption, if all conditions needed for the creation of the new adoption are met and if, either:

1° the previous adopter or adopters are deceased;

2° the previous adoption is reviewed or the previous simple adoption regarding the adopter or adopters has been revoked;

3° very compelling reasons exist that require a new adoption to be pronounced at the request of the Public Prosecution.

##### **France:**

L'Art.360 of the Civil Code provides for the possibility that after a full adoption a simple adoption could be delivered on serious grounds

##### **Romania:**

The termination of adoption is regulated by the Civil Code: art.475-482.

The adoption shall terminate upon:

- dissolution or
- annulment or
- when declared null under the law

Art.476 (2): Also adoption may be dissolved when it is necessary for the adoptee to be taken special protection measures, provided that the dissolution of adoption is in the child's best interests. In this case adoption is considered dissolved on the date of the final judicial order regarding the establishment of protection measure under the law.

Art. 477 (1): Adoption may be dissolved at the adopter's or adoptive family request, if the adoptee threatens their or the ascendants' or descendants' lives, as well as the adoptee is guilty of criminal acts against adopters, punished with imprisonment for at least 2 years under the law.

It should be noted that Romanian law does not distinguish between national and intercountry adoption in the provisions relating to the revocation of adoptions



by their law on adoption<sup>34</sup> and that the request for revocation must be addressed to the designated CA under 1993 HC. Among the exceptional scenarios is the possibility of revoking an adoption based on a legal decision, for example, when the adoptive parent is guilty of serious misconduct or has persistently failed in their parental responsibilities; a situation which, according to the ISS/IRC, should not deprive the parents of certain responsibilities in respect of the child, such as the retaining inheritance rights, maintenance payments<sup>35</sup>, etc.

### b) Revocation of simple adoptions

Some countries do however provide for the possibility of revoking simple adoptions: the CA of the Flemish Community of Belgium mentions this possibility although they have never encountered this situation within the field of intercountry adoption.<sup>36</sup>

The French CA underlines the possibility of initiating a procedure for the revocation of a simple adoption for a situation that is objectively a breakdown.

From the point of view of States of Origin, Vietnam provides in its adoption law, as well as in the 2016 Circular mentioned above, the possibility of revoking the intercountry adoption decision if the child is still on Vietnamese territory at the time of the breakdown. Another family is then sought for the child by the competent Vietnamese authorities. The AAB or the Receiving State CA may be asked to find an alternative family for the child.

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<sup>34</sup> Danish Adoption (Consolidation) Act no 392 du 22 April 2013. Available at [www.ast.dk](http://www.ast.dk) (consulted 11 October 2016) Extracts :

Three possibilities of revocation:

- If the child is 18 years of age or more an adoption decree may be revoked *when the adopter and the adopted child both agree* on the revocation. This is the only condition for revocation.
- If the child is minor under 18 years of age the adoption decree may be revoked *if the adopter and the original parents of the adopted child both agree*, and if the revocation is in the best interests of the child. It is also a condition for revocation of an adoption decree of a child under 18 years that the *child shall be reinstated in the legal relationship with its biological family*.

In Denmark it is also possible to revoke an adoption decree by a court order but only if the adopter is guilty of serious misconduct towards the child or of persistently failing to discharge his or her parental duties in respect of the child, or if, for any reason, a revocation of the adoption decree is found to be of fundamental importance to the welfare of the child.

<sup>35</sup> For example: **South Africa**: High Court, Johannesburg, Case n°13040/2013 Turner IAIN Grant, sections paras 25, 37 and 63; **Argentina**: La Nación, 15 de diciembre de 2015, *Fijan una cuota alimentaria por renunciar a la adopción*. Extracts: “Los jueces de la Sala I de la Cámara Civil y Comercial de San Martín, Carlos Lami y Manuel Sirvén, fijaron alimentos equivalentes al 30% del sueldo de la madre en favor de los chicos por un plazo de cinco años. Ese período se fijó teniendo en cuenta el equivalente al de la guarda y puede finalizar si son nuevamente adoptados”.

<sup>36</sup> Civil Law art. 354-1 e.f.

### **Proposal of definition of an intercountry adoption breakdown on the basis of the indicators suggested:**

An intercountry adoption breakdown occurs when temporary or irremediable difficulties are encountered by the (future) adoptive parent and the (future) adoptee before or even after the adoption decision and can lead to a rupture of ties.

It should be noted that invisible intercountry adoption breakdowns exist in cases of separation that did not lead to a placement of the child through an administrative or legal decision, or when despite the coexistence of the adoptive family, no solid and secure attachment bond has been created.

It is strongly recommended that Receiving States and States of Origin include these breakdown situations and their management within their legislation as with, for example, Spain, Vietnam and India.

## **C. Collection of statistical data**

Although the collection of statistical data relating to intercountry adoption breakdown can be a complex task due particularly to the lack of a common definition at national and international level or the multitude of stakeholders involved, it remains however essential to improve the analysis, prevention and management of these situations.

Strategies must therefore be developed in order to remove the existing obstacles listed hereafter, some ways are being shared in this respect through the responses received to the survey.

### **1. Obstacles in obtaining statistical data**

Although statistics are still incomplete they are beginning to appear in the annual reports of some CAs (and other bodies) as with Spain, France and the United States, a first step that shows a certain willingness to lift the taboos around this issue.

The obstacles encountered in obtaining these data however remain numerous, as highlighted by the responses to the survey:

- Absence of **consensus on the definition of an adoption breakdown** and subjectivity of the professionals in the assessment of breakdown situations;
- Absence of the **systematic, standardised and compulsory collection** of data at national level;
- **Information/statistics on adoption breakdowns not relayed** by the child protection services to the adoption CA;
- **Absence of a distinction between national and intercountry adoptions;**
- Absence of a **distinction between adopted children and biological children in the statistics** provided by the child protection services concerning breakdown situations <sup>37</sup>;
- **Professional secrecy** cited by some child protection professions;
- Difficulties in obtaining data in the context of **independent and private adoptions**.

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<sup>37</sup> As Anne-Marie Piché (Quebec) specifies, ICA being of a full nature the names change to those of the adoptive parents after the delivery of the adoption decision, so even if the Youth Centres retain these files it is impossible to trace the ICA files in the computer system. Also mentioned in the article *Les échecs d'adoption, un tabou douloureux*, (Adoption breakdowns, a painful taboo). Le Monde, 1 March 2016, there is nothing to distinguish in the statistics an adopted child from a biological child placed with Social Child Aid.

## 2. Statistical data nevertheless available

Certain CAs have shared some statistics that they have been able to collect or that have been provided to them by child protection services, a situation that deserves to be welcomed and developed. The ISS/IRC also commends those countries that provide statistics on breakdowns taking place before and after the adoption decision, an approach that promotes a comprehensive view of the problem. However, none of this data is collected on the same basis, so it is impossible to compare these figures or to draw conclusions from them.

### ▪ Statistics of breakdowns before the delivery of the adoption decision

The CA *Rheinland* (Germany) which is also the recognised child protection authority at local level, reported in 2014 about 121 breakdowns before the delivery of the adoption decision. However, these statistics do not distinguish between national and intercountry adoptions. The Danish CA indicated that it had only a few breakdown cases before the adoption had been finalised, due in particular to a lack of resources for prospective adoptive parents (PAPs) and the consequences that ensue. Furthermore one case concerned a child with very particular special needs. In the United States, the CA 2015 annual report<sup>38</sup> provides statistics relating to intercountry adoption breakdowns occurring in Hague Convention countries: 3 placements resulted in breakdown during the year 2015 of which 2 concerned children from China, the reasons reported for the breakdown being medical; the other concerned a 9 year old child coming from Poland. These three children stayed in their country of origin (also see Romania below).

### ▪ Statistics of breakdowns after the adoption decision:

Available from CAs	
<b>Australia:</b> Breakdowns in the twelve months after the placement of the child	Statistics on the progress of family life twelve months after the adoption took place are published by the Australian Institute of Health and Welfare (AIHW) in their annual report on adoptions in Australia. The AIHW has never however recorded any breakdown since the publication of their first statistics in 2010-2011. Furthermore, the Australian Central authorities at a national and territorial level are aware of certain breakdown cases however most of their reports have not registered ruptures in the last decade.
<b>Denmark:</b> Number of applications handled for the revocation of adoption	Although statistical data regarding adoption breakdowns is not systematically collected, certain figures can be shared concerning the number of requests for revocation of the adoption treated by the later (see I. B. 3. a). Between 2010 and 2013: a small number of requests have been submitted to the Danish CA - between 1 and 7 each year – including also relative intercountry adoptions.
<b>Spain:</b> Number of intercountry adoption breakdowns <sup>39</sup>	For the first time 2015 statistics on ruptures in adoption that took place in 2014 have been provided through the Annual Statistic Bulletin on Child Protection <sup>40</sup> . However the CA is unable to provide a global analysis of this data because only 12 Autonomous Communities responded and 9 of these did not record any ruptures. Of the 7 ruptures signalled by 3 Communities

<sup>38</sup> See [https://travel.state.gov/content/dam/aa/pdfs/2015Annual\\_Intercountry\\_Adoption\\_Report.pdf](https://travel.state.gov/content/dam/aa/pdfs/2015Annual_Intercountry_Adoption_Report.pdf) (consulted 11 October 2016)

<sup>39</sup> As a reminder there is no normal definition of an adoption breakdown in Spain. It results in practice when a breakdown occurs because the affiliation links between the adoptive parents and the adoptee have been broken and the care of the child has been placed with the administrative authority for child protection.

<sup>40</sup> Available at:

	it is possible to deduce the respective level of breakdown in 2014: <b>3.16% for Madrid Community, 2.38% for Castilla-León and 2.12% in Castilla-La Mancha.</b>
<b>France:</b> Number of children admitted as wards of the State following a breakdown in adoption/ Number of difficult situations	There is no comprehensive data on intercountry adoption breakdowns. The only national data to date concerns the number of children admitted annually as a Ward of the State following an adoption breakdown (annual report of the ONPE): <b>6 admissions in 2013, 7 in 2014</b> without however distinction between national and intercountry adoption. Furthermore, 3 difficult situations were notified to the French Central Authority at national level in 2013 compared to 14 in 2014 and 16 in 2016 (see details available at IRC/ISS).
<b>Italy:</b> Intercountry adoption breakdowns/children placed following an adoption breakdown	A study undertaken in 2003 <sup>41</sup> disclosed that the percentage of adoption breakdowns was a of 1,7 % of the total number of intercountry adoptions carried out in Italy during that period. In 2014 <sup>42</sup> , an enquiry on Italian children living outside their family estimated that, as of 31st of December 2010, 3 % of placed children had prior been living with an adoptive family (no distinction between domestic and intercountry adoptions) and 1 % of children were (newly) declared adoptable following a definitive adoption breakdown. <sup>43</sup>
<b>Romania:</b> <u>2005-2012:</u> suspension of ICA (except by a family member up to the 3 <sup>rd</sup> degree) <u>Since 2012:</u> resumption of ICA only by Rumanian nationals living abroad (law n° 233)	According to data available in the Archives of the Romanian CA <sup>44</sup> : <b>43 Intercountry Adoption (ICA hereafter) breakdowns</b> have been registered of which: - <b>30 children never left Romania:</b> ICAs carried out during 1991-2001 with the USA (11), Italy (12), Spain (3), Cyprus (1), Greece (1), Ireland (1) and Malta (1); - <b>8 ICA breakdowns</b> carried out between 1997-2000 concerning children who were in the <b>Receiving State</b> but no longer with their adoptive family (under the child protection system); - <b>1 ICA breakdowns</b> carried out in 1998 (in UK) concerning a child who did not adapt to the adoptive family and has been <b>newly adopted in the UK</b> , it should be noted that <u>the new adoption was approved by the Romanian Courts.</u> - <b>4 ICA breakdowns</b> carried out between 1991-2000 in USA (2), Canada (1), and the UK (1) resulted in the return of the child to Romania.
<b>Vietnam</b>	Statistics collected since the entry into force on 1 January 2011 of Law No. 52/2010/QH12 on adoption: <b>13 cases of ICA breakdowns</b> took place after the adoption decision by the competent Vietnamese Authority at provincial level. In 3 of the cases the child had already left Vietnam for the Receiving Country with the adoptive parents.
<b>Available from the AAB and/or adoptive family associations or other agencies</b>	

[http://www.observatoriodelainfancia.msssi.gob.es/productos/pdf/Estadistica\\_basica\\_de\\_proteccion\\_a\\_la\\_infancia\\_17.pdf](http://www.observatoriodelainfancia.msssi.gob.es/productos/pdf/Estadistica_basica_de_proteccion_a_la_infancia_17.pdf), p.100. (Consulted on 11 October 2016).

<sup>41</sup> Commissione adozioni internazionali (2003). *“Percorsi problematici dell’adozione internazionale, Indagine sul fenomeno della “restituzione” dei minori adottati da altri Paesi”*.

<sup>42</sup> Salvaggio et al., 2014.

<sup>43</sup> Based on the information provided by the AAB CIAI : in 2011, the adoption breakdown rate, was below 2 % (national and intercountry adoptions) in the Veneto region ; in 2016, the region Emilia Romagna showed that, between 2006 and 2014, the regional rate of adoption breakdowns was of 2,86% and that statistically the risk of a breakdown was slightly higher in case of an intercountry adoption.

<sup>44</sup> The National Authority for Child Rights Protection and Adoption) and the data are from our records (petitions from the adoptees, central authorities, Romanian diplomatic missions.

<b>AAB « Médecins du Monde » (Doctors of the World, France)</b>	This AAB studied the background of 582 children adopted internationally from <b>2001 to 2005</b> via their intermediary. <sup>45</sup> Situations where a breakdown occurred were seen in <b>2% of these adoptions</b> . An initial study conducted by the same AAB on children adopted between <b>1990 and 2000</b> showed a level of <b>3%</b> .
<b>Available from studies conducted by various researchers around the world (see III.B)</b>	

**Strategies to remove barriers in compiling statistics concerning ICA breakdowns (based on replies to the survey provided by the CAs) :**

- To be based on a shared definition in order to collect fixed statistical data at a national level;
- To conduct a pedagogical work, such as the French CA, with the adoption services, the child protection authorities as well as the AABs in order to raise awareness about the importance of assessing information on critical situations;
- To centralise situations where a breakdown has occurred encountered by social/child protection services and the AABs by bringing them to the attention of the CA at national level. The CA seems to be the most appropriate institution to centralise this data and subsequently identify avenues of prevention and management of these complex situations at both national and international level.
- To register the obligation to identify data on adoption breakdowns in the law, as is the case, for example in the legislation of the United States according to which social services must identify situations of children they have to take into care and the AAB must report any breakdown they are aware of.<sup>46</sup>

## II. Cooperation issues in intercountry adoption breakdowns

The close cooperation through direct dialogue and a continuous and transparent exchange of information between the CAs of States of Origin and Receiving States play an essential role, both in the prevention and management of breakdown situations. This cooperation must be able to ensure that the rights and needs of the child are guaranteed at each stage of the adoption process in order to avoid these situation occurring, or if they cannot be avoided, they should be managed in accordance with State laws and the international instruments which they are party to.

In cases where the adoption procedure has been interrupted in the State of Origin by the future adoptive parents, we have had many contacts with the Central Authority of the State of Origin.

Source: *Flemish Central Authority (Belgium)*

The absence of standards clarified in Article 21 of the 1993 HC (cooperation in a breakdown case before the delivery of the adoption decision) or Article 8-9, 32 and 34 of the 1996 HC (cooperation when the intercountry adoption is finalised) is nevertheless susceptible, as the French Central Authority specifies, to generating tensions that compromise the best interest

<sup>45</sup> Lebrault M., André-Trevenec G. (2015), *Adoption internationale accompagnée. Devenir des enfants adoptés à l'international de 2001 à 2005 par l'intermédiaire de l'OAA Médecins du Monde*, Neuropsychiatrie de l'enfance et de l'adolescence 63, pp. 141-156.

<sup>46</sup> Preventing Sex Trafficking and Strengthening Families Act of 2014 (Public Law 113-183), section 208, <https://www.congress.gov/113/plaws/publ183/PLAW-113publ183.pdf>.

of the child, for example in cases of incomprehension between States when the requirements of one goes against the rights of the other.

Also some States have raised, in their replies, difficulties encountered in cooperation within the framework of relative intercountry adoptions (Denmark, France and Vietnam) such as the misconception of the scope of application of 1993 HC that for certain States does not include relative adoptions.<sup>47</sup> The French Central Authority, for its part, refers to a specific case where an adopted child was taken back to the biological parents on the initiative of the adoptive parents, without consultation with the local or Central Authorities.

## A. International cooperation

### 1. Cooperation with the State of Origin in the case of a breakdown

When the breakdown occurs in the State of Origin, cooperation between the Central Authority of the State of Origin and the Receiving State, potentially involving the AAB and sometimes the local embassy of the Receiving State, will be put in place as specified by Denmark. The local child protection authorities and the personnel of the institution or the foster family where the child is located may also be involved. The Vietnamese Central Authority states, by virtue of its 2016 Circular mentioned above, that in such a case the decision of intercountry adoption is revoked and the child remains in the care environment where s/he lives. The Vietnamese Central Authority, with the potential assistance of the Central Authority of the Receiving State and the AAB, will then try to find a new family for the child.

When handling these situations, we have cooperated with the Central Authorities of Receiving Countries as well as the embassies of involved countries in order to exchange useful information to identify solutions to cases under enquiry.

*Source: The National Authority for the Protection of Child Rights and Adoption, Romania*

### 2. Cooperation with the Receiving State in the case of a breakdown

When the breakdown occurs in the Receiving State and protection measures in respect of the adoptee must be decided, cooperation is demonstrated by an exchange of information between the AAB and the CAs of the Receiving State and the State of Origin. The importance of this point is emphasised by several States of Origin and inscribed in the law of certain such as Peru<sup>48</sup> or India (see I.B) who require to be informed of any new placement of the child in breakdown cases, together with the follow-up of the child through regular social reports.

The Spanish CA shares its cooperation experiences in such situations and specifies that they keep the CAs of States of Origin informed through the development of follow-up reports when a breakdown occurs. Such reports should provide information on the protection measures taken in respect of the adoptee, whether this is a new adoption placement or other measure, such as a placement in a foster family or in an institution, as well as on professional interventions that adoptees have benefited from within the framework of their care. The same applies for the CAs of different Australian States who indicate that they systematically and

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<sup>47</sup> HCCH, *Guide to Good Practice No 1: The Implementation and Operation of the 1993 Hague Intercountry Adoption Convention*, para. 312.

<sup>48</sup> Resolución Ministerial N° 035-2016-MIMP - Directiva General N° 004-2016-MIMP, *Lineamientos Para el Control post Adoptivo de Niños, Niñas y Adolescentes*, available in Spanish at: [http://www.mimp.gob.pe/files/transparencia/resoluciones\\_ministeriales/rm\\_035\\_2016\\_mimp.pdf](http://www.mimp.gob.pe/files/transparencia/resoluciones_ministeriales/rm_035_2016_mimp.pdf) (consultado el 13 de septiembre del 2016).

regularly keep the State of Origin informed about the adoptive family situation and their evolution. Furthermore, they may request additional information from the State of Origin about the pre-adoption history of the child.

Such an exchange allows for **transparency** between the various authorities regarding the motivations which have led to the choice of a particular solution in the interest of the child and allows for **a better collaboration in implementing** these decisions.

Vietnam also specifies in its 2016 Circular that when the child leaves Vietnam and lives in the Receiving State, the competent authorities of the two States must discuss and cooperate closely in order to find the solution which responds in the most suitable way to the best interests of the child. In addition, Vietnam states that if all the care solutions for the child have been exhausted and are unable to guarantee his/her rights and needs, the Vietnamese CA will agree with the CA of the Receiving State on the potential return of the child to Vietnam and will then activate the collaboration of competent local authorities in order to manage the return consequences for the child. In practice, the Vietnamese CA underlines that they have never experienced a case of this type to date.

### **B. Internal cooperation**

Faced with the myriad of actors implicated in a breakdown situation, the collaboration and coordination of the actions of each one will require an open dialogue centred on the child and his/her needs and on the search for a consensus in cases where there is a divergence of viewpoints.

In this way, certain CAs have shared their experiences of internal collaboration. The French CA mentioned two concrete cases in which a **consensus** was reached on the care option and the support provided to the child. Furthermore, in the event of conflict between the stakeholders involved in the management of a breakdown, an **external mediator** may be called upon in order **to facilitate a supervision meeting**.

In Luxembourg, regular meetings take place between the CA, the AAB and the *Maison de l'Adoption*<sup>49</sup> in order to coordinate their policies and practices to discuss various potential problems that may be encountered.

#### **Strengthen cooperation for a better prevention and management of breakdown situations through:**

- Respective responsibility of Receiving States and States of Origin in relation to ethics and professionalism at each stage of the adoption process and for this to be appropriate to the individual profile and needs of children;
- Transparency in sharing information on PAPs and the child and in the transmission of additional information solicited by either State;
- Regular communication through post-adoption reports, including information on the child's development in his/her new family, on potential difficulties and the steps taken to manage the situation;
- Promotion of direct dialogue between the CA (AAB, etc.) of the Receiving State and State of Origin in the management of breakdown situations and particularly in the framework of relative adoptions;
- Search for a consensus at State internal level and between States with recourse to a mediator if necessary, so that the interests of the child are preserved above any divergences and that s/he is heard throughout the process;

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<sup>49</sup> Organism created in 2007, independent of adoption agencies and not involved in the actual implementation of adoptions, in charge of supporting potential adoptive candidates before and after the adoption.

- Inclusion of cooperation matters in cases of intercountry adoption breakdowns in the cooperation agreements established between countries for example;
- Inclusion of cooperation issues in the agenda of international meetings and seminars such as the Special Commission on the practical operation of 1993 HC and 1996 HC;
- Promotion of the ratification of the 1996 HC.

### III. Analysis, prevention and management of intercountry adoption breakdowns

#### **Examples of adoption breakdowns due to the inability to create an attachment bond:**

- The first case concerns an adoptive family in which the bonds/the emotional relationship of the adopted child, over 8 years of age, with his/her adoptive parents has not been able to develop.
- In the second case, the child was removed from the adoptive family, at the request of the family, based on the inability to create an emotional attachment. A therapeutic support had nevertheless been finished.
- In another case where the establishment of a bond was critical, the situation had been « repaired » thanks to professional support.

*Sources: Zentrale Adoptionstelle Bayern and Zentrale Adoptionstelle Landes Jugendamt Westfalen (Germany)*

On the basis of situations/concrete cases shared through the responses to the ISS/IRC survey, the following risk factors could be identified as well as diverse means to better prevent and manage such breakdowns.

#### **A. Identified risk factors**

The responses to the ISS survey confirm that the breakdowns of intercountry adoption cannot be attributed to a single risk factor but rather to a combination or accumulation of risk factors. The latter are sometimes related to the ability of the adoptive parents to raise a child with special needs, to the functioning of a family system, to the skills/attitudes of professionals or even the adoption process itself.

##### **1. Capacity of adoptive parents to care for a child with special needs**

- **Older children:** 5 years or more (French CA), 6 years or more (Spanish CA), etc.;
- **Sibling adoptions** that sometimes create difficulties linked to the positioning of one child in relation to the other (more problematic child for example) and in relation to the whole of the family;
- **Presence of biological children** in the family which can generate difficulties for the adopted child to find his/her place;
- Abrupt change of rules;

- **Disabilities and medical conditions** of the child sometimes poorly assessed;
- **Traumatic past** of the child: situations of repeated abuse and/or significant institutional experience;
- **Behavioural** problems;
- **Attachment** disorders;
- Untimely attendance of **social networks**.

##### **2. Profile of adoptive parents and family functioning**

- Adoptive parents who **elderly**;
- Lack of awareness of their own psychological limits;
- **Attitude** of adoptive parents: very high level of requirements/expectations or an unrealistic level; impatience as regards the establishment of an attachment bond (which takes more time with older children); the wish for a child who will help the adoptive parents



avoid facing up to the conflicts/problems linked to adoption and therefore put the need for child protection in the background; the desire for a child who will, in the eyes of the adoptive parent, avoid the possibility of conflict/problems linked to the adoption and therefore put the need for child protection in the background ;

- Great importance attached to academic achievement and social integration;
- Difficulty in **managing the child's behaviour** and identifying the meaning hidden behind this behaviour; fixation on the negative elements of the relationship;
- Gaps related to **educational experience** or inadequate education (authoritarian or over protective, psychologically inflexible);
- **Single parent families:** impact of the absence of a partner, insufficient resources at an economic or human level in order to cope with demanding responsibilities;
- Absence of support from family and social environment;
- Difficult/destabilising events to be overcome by the adoptive parents: divorce, accident, serious illness, loss of employment, death, etc.

### 3. From the professionals' side

- Inadequate level of professional competence (training, methods of family assessments, working conditions, team stability, etc.);
- Lack of supervisory sessions/subjectivity;
- Granting approval despite negative preliminary reports.

### 4. Related to the adoption process

- **Second adoption** takes place too early;
- **Independent and private adoptions;**
- Inadequate assessment and preparation of the PAP's and the child;
- Insufficient information about the child;
- Existence and quality of **post-adoption services**, lack of dissemination and limited recourse to such services towards concerned families;
- Difficulties for certain States of Origin to obtain information on the post-adoption follow up of the child.

## B. Prevention measures

Preventing intercountry adoption breakdowns involves ensuring each stage of the adoption process guarantees the rights of the child, namely placing the child and his/her needs at the heart of the process. Prevention therefore means reinforcing these stages and adapting them to the current profiles of children in need of intercountry adoption:

### ➔ Recommendation 1: refinement of the child's assessment

The prevention of adoption breakdown depends *inter alia* on the assessment of the child's adoptability, particularly the psychology of the child and the quality of information transmitted on the child's history of the life (number of family breakdowns or times in care, medical details, developmental, educational etc.). The quality of the matching is largely dependent on the quality of the child's file. Indeed, through the information available on the child's journey, the risk factors will be identified beforehand and indicate the choice of a family most suitable to care for the child.

The Vietnamese CA indicates its willingness to improve the quality of children's files and mentions, among others, the special attention given to in-depth examinations of children

The assessment of the child's adoptability must be carried out by professionals competent in the field of intercountry adoption and its specificities. To this effect, ISS has developed tools for professionals and children within its project 'A better future is possible for children with disabilities living in residential care': a practical Manual for professionals and a Life Book (for more information see <http://www.iss-ssi.org/index.php/fr/que-faisons-nous/cwd-fr>).

affected by an illness. The Romanian CA for its part specifies the content of reports on children: medical and personal history, stage of development, particular characteristics and, when relevant, special needs, the child's resilience, the child's views on his/her adoption project collected in accordance with the child's degree of maturity and development, recent photographs. Moreover, the importance of cooperation from the State of Origin/Receiving State has been underlined when, for example, more information is sought on the child, particularly when an older child is concerned.

### ➔ Recommendation 2: preparation of the child in conformity with the latter's profile

The preparation of older children seems to increasingly receive the attention of States of Origin and over recent years a number of them have improved their practice in this field. The Vietnamese CA specifies, in this respect, their efforts to provide psychological support to children and in learning the language of future Receiving Countries. Moreover, the exchange of photos and videos is encouraged during initial contacts with the PAPs to facilitate the future integration of the child.

The French CA underlines, for its part, the work being carried out in Colombia to support the child during the determination of his/her adoptability and his/her preparation to enable him/her to join in on the project being proposed to him/her.

In addition, the ISS/IRC has had occasion to publish several articles in its Monthly Review on experiences developed by several States of Origin such as the Philippines, Chile, South Africa, Lithuania or India in order to improve the quality of the child's preparation and in particular to adapt it to the age of the child.<sup>50</sup>

Finally, to further develop competences and equip children, guides such as the « *Guía para niños y niñas adoptadas* » have been developed by several countries such as Spain.<sup>51</sup>

### ➔ Recommendation 3: refinement of the assessment of the PAPs

As underlined by one of the CAs of a Receiving State, one of the most effective ways to prevent adoption breakdowns is to conduct an **in-depth examination of adoption candidates** at the time of the psychosocial enquiry and to include themes such as the stability of the couple's relationship, the respective point of views on the education of the child, the ability to accept the child with his/her (special) needs, the importance of telling the child about his/her adoption and supporting him/her when s/he expresses the wish to search for his/her origins. When assessing the aptitude of the candidates, attention must also be given to their **age, state of health, personal qualities and social environment** as underlined by the Swedish CA.

<sup>50</sup> See ISS/IRC Monthly Reviews n° 181 May 2014 and n°193 July/August 2015.

<sup>51</sup> *Adoptia* (2008), Departamento de vivienda y asuntos sociales, Gobierno Vasco. *Guía para niños y niñas adoptadas*. Available at: [http://www.zuzendari.net/Argitalpenak/docs/120\\_diversidad/1202008001\\_Pub\\_EJ\\_adoptia\\_c.pdf](http://www.zuzendari.net/Argitalpenak/docs/120_diversidad/1202008001_Pub_EJ_adoptia_c.pdf) (consulted on 11 October 2016).

Among parental qualities required can be cited psychological flexibility or the ability to listen and adapt.

The assessment process must equally adapt to the profile of children proposed for intercountry adoption.

- To this end, Norway has adopted new regulations for intercountry adoption in February 2015 under which **additional specific criteria** has been introduced for applicants for **the adoption of children from 3 to 5 years**.<sup>52</sup>
- New Zealand, for its part, is in the process of developing a new « **Parenting Plan** » tool which will require the PAPs to consider the unique needs of the child they have in mind, and consider what the needs and wishes may be from the child's perspective. This « *Parenting Plan* » will be revisited and rewritten by the PAPs once the matching proposal is received. They will thus verify for themselves if the profile of the child corresponds to what they imagined and how practically they will be able to respond to his/her needs: support from their own social network (extended family, friends, community), of professionals (paediatricians, speech therapists etc.) and other specialists.

In order to **harmonise practices** related to the assessment of the candidates' ability to adopt within a country, tools have been developed, as in Norway where, since the new adoption regulations of February 2015, responsibility for social enquiries has

been assigned to five regional offices under the direction of the CA.<sup>53</sup> In France, two toolkits have been developed by the CA, jointly with representatives of the competent authorities, for issuing the approval (certificate of aptitude of the adoptive parents to adopt): one related to the information provided to candidates and the other on the application for approval designed as a working guide for the PAPs' interview. It should be noted that the latter is intended to remain confidential in order to avoid assessments being biased by an over adaptation of candidates to the expected objectives. Moreover, the length of the assessment process should be used and seen as an opportunity **to start preparing** the adoption candidates.

#### ➔ **Recommendation 4: strengthening support for (potential) adoptive parents**

##### ❖ **Obligatory and specialised preparation for PAPs with an adoption project concerning a child special needs**

As encouraged by international organisations such as ISS, the preparation of PAPs should constitute a legal obligation, as it is the case in Denmark particularly since January 2016 as well as in Belgium, Luxembourg, Sweden and Norway. Elsewhere, this pre-adoption support sometimes exists in practice without always being required by law.

In addition, Luxembourg, where the preparation is obligatory, offers additional meetings to candidates moving towards the adoption of an *older child, siblings or a child with psychological or physical health problems*. Several weeks before the child arrives, a four hour session in *preparation for this meeting* is also offered. In one of the Australian States, the preparation of candidates has also been strengthened for the adoption of children over one year old. The Belgium French Community has set up a specific preparation for candidates for the adoption of a disabled child.<sup>54</sup>

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<sup>52</sup> The social report must reflect whether PAPs have experience and knowledge about older children, either achieved by education, relevant work or their own children. It is important that the social report reflects the PAP insight and understanding of the needs of an older child. Experience and knowledge about other cultures and languages are also relevant factors in the assessment.

<sup>53</sup> Previously, this responsibility was entrusted/placed with municipalities (428 municipalities), that is to say in practice to local child protection services.

<sup>54</sup> ISS/IRC Monthly Review n°191 May 2015, « *Préparation spécifique pour les candidats à l'adoption d'un enfant porteur d'un handicap: Le dispositif innovant de la Communauté française de Belgique* ».

It is interesting to note that Romania sometimes recommends, when permitted by the law of the Receiving State, to provide prospective adoptive parents with additional hours of preparation or, in extreme cases, to submit the latter to a re-evaluation of their aptitude in order to ensure that they are able to fulfil their role as parents suitably for the proposed child.

Finally, other resources, sometimes available online, have been developed to equip (future) adoptive parents.<sup>55</sup>

From the preparation stage on, PAPs should be informed on the post-adoption support available and encouraged to consult social or child protection services for advice or support as soon as problems arise within the family.

#### ❖ Legal obligation to provide quality post-adoption reports and follow-up services

In addition to the importance for the Receiving States, AABs and adoptive parents of fulfilling their obligations to send the follow-up post adoption reports required by the State of Origin, the adoptive families have the right, as all families, to access the support of social services in order to prevent and support difficulties which they could potentially encounter. In addition, in keeping with Article 9 of the 1993 HC and as promoted by the Committee on the rights of the child<sup>56</sup>, countries such as Denmark<sup>57</sup>, Spain<sup>58</sup>, an Australian State<sup>59</sup> and Sweden<sup>60</sup> have introduced this obligation into their domestic law. In Germany, the law on adoption procedures provides, through the AAB, advice and in-depth support to the child and the adoptive parents prior to the child's placement and during the first moments of life together, on prior acceptance from the parties concerned. This post-adoption support should respond to the following conditions:

- **Strengthen parental capacities** for example through parental coaching (Luxembourg);
- **Raise awareness, inform and encourage adoptive families to consult:** the post-adoption follow-up reports required by the States of Origin may provide the opportunity to discuss the issue with them, identify their needs and orient them accordingly;
- **Offer continuous and sustainable support:** to ensure such continuity, Denmark offers a system where the counsellor who follows the adoptive parents remains the same before

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<sup>55</sup> Spain: Ministerio de Sanidad, Servicios Sociales e Igualdad (2010), *La aventura de adoptar. Guía para los solicitantes de adopción internacional*. Available at: <http://www.msssi.gob.es/ssi/familiasInfancia/docs/AccesibleLaAventuraDeAdoptar.pdf> (consulted 11 October 2016); Adoptia (2008), Departamento de vivienda y asuntos sociales, Gobierno Vasco, *Guía de post adopción para familias*. Disponible à: [https://www.educacion.navarra.es/documents/57308/57740/guia\\_postadopcion\\_familias.pdf/4aab0090-9fde-4cb5-90a2-dff6a8d88681](https://www.educacion.navarra.es/documents/57308/57740/guia_postadopcion_familias.pdf/4aab0090-9fde-4cb5-90a2-dff6a8d88681) (consulted 11 October 2016).

<sup>56</sup> See for instance Concluding Observations of the Committee with regard to Italy in 2011 ([http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fITA%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRC%2fC%2fITA%2fCO%2f3-4&Lang=en)): « *Ensure systematic follow-up on the well-being of children adopted during the previous years and on the causes and consequences of the breakdown of adoption.* ».

<sup>57</sup> Since January 2016, all Danish adoptive parents must receive a preparation as well as counselling just before and immediately after the arrival of the child in order to guarantee the best possible start for the new family.

<sup>58</sup> Intercountry adoption law 54/2007 modified by law 26/2015 on the modification of the child and adolescent protection system, states in its art. 5.1 i) that it is incumbent on the public entities to provide qualified resources in the field of post-adoption and mediation services for the search of origins, for the adequate care provided to adoptees and adoptive families, which could be under the responsibility of accredited agencies and authorized bodies.

<sup>59</sup> In one of the Australian States, the CA is legally mandated to support the families and to supervise the adoption during the first 12 months beginning from the placement, or longer if needed

<sup>60</sup> The Social Services Act states in Chapter 5, section 1 that local social welfare committees must meet all specific needs for support and assistance that may be required after an adoption or when a problem has been identified. This responsibility begins immediately after an adoption has been finalised whether that took place in the State of Origin or in Sweden through Swedish Courts.

and after the realisation of the adoption and the arrival of the child in the family<sup>61</sup>. In Luxembourg, the *Maison de l'adoption*<sup>62</sup> provides support before and after the adoption to (prospective) adoptive parents and the adoptee throughout their lives.

- **Offer diversified support:** in Denmark and in Luxembourg, various services are proposed to adoptive families: psychological consultations and relational psychomotricity, psycho-corporal workshops, groups of older adopted children or support to adopted adults, support for the extended family and also to professionals in contact with the child (school, paediatrics or family doctors etc.). In France, some thirty medical or child psychiatric consultations specialising in adoption have been set up and provide assistance to adoptive families with view to deciphering difficult situations and finding solutions.<sup>63</sup>
- **Geographical and financial accessibility**

### ➔ **Recommendation 5: adaptation of the matching stage in an intercountry adoption context**

The matching stage, a crucial moment when the family considered to be the most suitable in responding to the needs of the child, will be chosen and must receive special consideration from all the adoption stakeholders. Countries such as Belgium and Romania, to mention two, have included in their legislation details of each key stage in the adoption process to ensure that it proceeds in the best interests of each child concerned, namely: that it is implemented by a multidisciplinary and independent team of professionals, who have available a legal, medical and psychosocial assessment of the prospective adoptive parents and the adoptable child sufficiently complete to be able to make an informed decision and choose the parents whose profile is most adapted to the potential pathology of the child and to his/her age. Furthermore, if needed, the possibility of seeking advice from a third person, expert in adoption, should be offered to the team in charge of the matching.

Additionally, Norway has developed a new system for **matching children with special needs** which must be approved by an independent body called « *Professional Adoption Board* » composed of a multidisciplinary team (general practitioner, clinical psychologist, and psychiatrist).

As highlighted by the Spanish CA, to ensure that the family chosen is the most suitable for the child's needs, the Receiving State should not hesitate to request additional information on the child from the State of Origin, if necessary. Furthermore, in cases of a matching proposal that is judged to be inappropriate by the Receiving State (because of the discrepancy with the capacities and the suitability of the concerned family), the latter should not hesitate to refuse the proposal. ISS/IRC takes the opportunity to recall that, in case of reversal of the flow of files, the State of Origin is also entitled to refuse a family proposal judged inappropriate regarding the child's profile and specific needs.

### ➔ **Recommendation 6: give special attention to the probationary period for cohabitation**

Preventing intercountry adoption breakdown involves the need to pay special attention and great care to the meeting of the child with his/her future parents and the initial period of their life together, which will take place, in the large majority of cases, in the State of Origin. In their 2012 legislation, the Romanian CA has also introduced a probationary period of living

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<sup>61</sup> Monthly Review ISS/IRC n°188 January 2015, « *L'assistance avant et après l'adoption: l'expérience de l'autorité centrale danoise* ». (Assistance before and after adoption: the experience of the Danish Central Authority)

<sup>62</sup> Supra 43.

<sup>63</sup> It is nevertheless regrettable that this system does not have institutional recognition which therefore weakens its position. A proposal made by the French CA is to *organise and label the territory with a network of reference places* of this type.

together between the child and his/her future adoptive parents and they have specified the period (8 meetings minimum) and the progress (supervision by social services at the domicile of the child). The Vietnamese CA also specifies that the arrival and stay of the prospective adoptive parents in Vietnam must be of a sufficiently long period to establish the initial bonds and requests that the AAB takes the role of guide/supervisor during this phase. Vietnam asks to be kept informed of the evolution of this probationary period, especially if a breakdown occurs at this time.

From the point of view of Receiving States, the CA of *Rheinland* (Germany) raises problems linked to the difference in professional standards between States of Origin and Receiving States that may occur during this period of establishing bonds which is particularly relevant for older children. It underlines the fact that for such adoptions the establishment of bonds should be progressive, supported by professionals and must take place over a sufficiently long period and that time limits envisaged by certain States of Origin are sometimes too short.

➔ **Recommendation 7: guarantee the qualification and quantity of professionals**

The competence and supervision<sup>64</sup> of professionals is part of the prevention factors of an intercountry adoption breakdown, as highlighted by the Spanish CA, where the training of professionals is included in their preventative programmes available or in Finland where, once a year, an adoption training is offered in which certain Members of Parliament also participate in.

The issue of breakdowns is thus frequently addressed in more comprehensive trainings on adoption made available, for example, through CAs<sup>65</sup> and post-adoption services, as it is the case in Luxembourg or Denmark where free trainings are offered to professionals in the educational field and other bodies caring for children, as well as other interested professionals. In addition, private training organisations or associations of adoptive families organise training courses for professionals. It should be noted however that specific training courses on this subject remain rare (for example: *CoramBaaf* training is nevertheless limited to national adoptions<sup>66</sup>).

Didactic tools for professionals particularly in the education and school sectors have been developed in Spain for example.<sup>67</sup> The French CA mentions, for its part, the organisation of annual days or round tables which bring together, at a national level, the different competent adoption authorities during the course of which the practices of managing breakdown cases are discussed and worked on.

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<sup>64</sup> The supervision or analysis of practice is based on concrete daily situations and offers the opportunity to reflect on the professional operation in order to better manage the difficulties.

<sup>65</sup> E.g. annual training realized by the Italian CA on intercountry adoptions and destined to all involved actors (Local social services, AABs, courts).

<sup>66</sup> *Learning from Disruptions in Adoption & Fostering*, for more information on the content and objectives of the workshop see: <http://www.corambaaf.org.uk/node/8151> (consulted 11 October 2016)

<sup>67</sup> Castilla y León ha editado Guía Didáctica en materia de adopción infantil y primaria. ARFA Castilla y León, y otra Guía para la atención sanitaria a los niños procedentes de adopción internacional. No se dispone del enlace; Adoptia (2006), Departamento de vivienda y asuntos sociales, Gobierno Vasco. *Guía de post adopción para profesionales*. Disponible a: <https://www.educacion.navarra.es/documents/27590/38595/postadopcion.pdf/a9038fcc-bc75-4452-a6b2-de3ee7a28c69> (consulted 11 October 2016); FADA Asociación de Familias Adoptantes de Aragón (2011), *Guía de Intervención educativa del menor adoptado*. Disponible a: <http://iass.aragon.es/adjuntos/menores/GuiaIntervencionEducativa.pdf> (consulted 11 October 2016).

## ➔ Recommendation 8: conduct studies/research on intercountry adoption breakdown

The French, Spanish and New South Wales (Australia) CAs cited several studies carried out specifically on adoption breakdowns.<sup>68</sup> Other countries have had the opportunity to address the theme in more global researches carried out or in the process of being carried out, as in Finland.<sup>69</sup>

### C. Nature of the support offered and the stakeholders involved

The management of breakdown situations addresses a legal dimension mentioned previously (see 1.B) and a practical one. Several contributors are involved and will need to collaborate in order to find, on a case-by-case basis, the answer most likely to protect the child and respond to his/her wide and complex needs. Dealing with a new abandonment, a new bereavement requires an excellent quality of support.

#### 1. Child protection services (Receiving State and/or State of Origin)

In the event of a breakdown, the adopted child enters the child protection system offering various forms of support:

- Psychological and social support;
- Specialised services (programme for adolescents etc.);

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<sup>68</sup> **Australia:** Harper J. (1997), *Joining and Separating: a Study of Adoption Disruption*, Sydney; Kluger M., Alexander G. & Curtis P. (2000), *What Works in Child Welfare*, CWLA Press, Washington; O'Neill C. (1993), *Do You Mean We are Not the Only Ones?* Children Australia, Vol. 18, No 2; O'Neill C. (1993), *Placement Disruption, a Review of the Literature*, Children Australia, Vol. 18, No 3; Ormerod T. (2004), *Service needs of transracial adoptive families*, PARC, paper presented at the 8th Australian Adoption Conference, Adelaide. [parc@bensoc.org.au](mailto:parc@bensoc.org.au); Rushton A. (2003), *Support for Adoptive Families, A review of current evidence on problems, needs and effectiveness*, Adoption & Fostering, Vol. 27, No 3.

**Italy:** *Commissione per le Adozioni Internazionali* (2003); Studies realised within the AAB CIAI in 2008 and 2015 on the well-being of internationally adopted children through CIAI's intermediary; Chistolini. M. (2010), *La famiglia adottiva*, FrancoAngeli, page 193. ([http://www.francoangeli.it/Ricerca/Scheda\\_libro.aspx?CodiceLibro=1305.130](http://www.francoangeli.it/Ricerca/Scheda_libro.aspx?CodiceLibro=1305.130) au 23 janvier 2017); Salvaggio, et al., 2014.

**Spain:** Loizaga Latorre, F. (2009), *Adopción Internacional. ¿Cómo evolucionan los niños, las niñas y sus familias?* Bilbao: Ediciones Mensajero; Estudio publicado por el Consejo Económico y Social de la Comunidad de Madrid Berástegui y Bengoechea (2003), *Los retos de la postadopción, balance y perspectivas*; Palacios J., Sánchez-Sandoval Y. (2005), *Adopción internacional en España: un nuevo país, una nueva vida*, Esperanza León, Madrid; Generalitat Valenciana - Estudio realizado por la Universidad de Valencia (2003-nueva versión 2008). *Ajuste o conflictividad familiar en el proceso de adopción: variables psicosociales relacionadas*; Comunidad de Madrid (Consejo Económico y Social), Berástegui Pedro-Viejo A. (2005), *Las adopciones internacionales truncadas y en riesgo en la Comunidad de Madrid*; Comunidad de Madrid (Consejo Económico y Social), *La adaptación familiar en adopción internacional: una muestra de adoptados mayores de tres años en la Comunidad de Madrid*; Andalucía ha llevado a cabo un estudio elaborado por la Universidad de Sevilla en mayo de 2015 sobre "Rupturas en adopción y acogimiento familiar en Andalucía", aún no publicado, que se puede utilizar para consulta, referencia y uso de datos, no para su publicación.

**France:** CREAI (2013), *Etude relative aux devenir des enfants adoptés en France et à l'international*; Sellenet. C. (2006), *Recherche sur les enfants adoptés en difficulté*; Enfance & Familles d'adoption (2015), *Le Devenir des jeunes ayant grandi dans une famille adoptive: enquête sur les adoptés et leurs frères et sœurs*. For more information see: <http://www.adoptionefa.org/index.php/component/content/article/36-generalites/731-le-devenir-des-adoptes-15-30-ans> (consulted 11 October 2016).

<sup>69</sup> FinAdo study, also in English: <http://finado.fi/index.html> (consulté le 11 Octobre 2016). The aim of the FinAdo study is to determine the physical and psychosocial factors, related to background, adoptive families and service use that associate with physical and psychological development of international adoptees. Our aim is to provide new knowledge on the health status and development (psychological, cognitive, social) of international adoptees, psychosocial factors buffering or intensifying the negative effects of adoptees' risk factors. The results can be applied in projects and planning of special services which aim to reduce health problems of international adoptees and their families, personnel planning, and education.

- Supervisory groups;
- Recourse to a foster family or an institution following separation of the adoptee from the adoptive family or even national adoption in case family reintegration is impossible.

## 2. Central Authorities

- Support/advice offered by post-adoption services established within the ACs (see below) or through an independent body;
- Relations/contacts with the CA of the Receiving State or State of Origin.

## 3. AAB

Certain AABs provide families with post-adoption support services for the short, medium or sometimes long-term, such as the Italian AAB CIAI. The latter has activated for more than 10 years, a psychotherapy specialized service composed of highly professional and psychologists, experts in adoption, working as a team and being under periodical and constant supervision. The AAB adds that it works as network with public services or with other private professionals involved, depending on the situation.

## 4. Recourse to local resources

- Specialised adoption consultations ;
- Medico-psychological centres (specialising in adoption);
- Specialists (doctors, psychotherapists, child psychologists);
- Professional Counsellor/Therapists;
- Health Service Consultations and/or assistance for people with disabilities;
- Establishment of family groups who have experienced or are in the process of going through a similar situation;
- Associations of adoptive families and adoptees.

## 5. Legal bodies

Judges/courts are also involved in situations of adoption breakdowns, on the one hand, from delivering a temporary or permanent protection measure for the child, and, on the other hand, when a decision to revoke the adoption is delivered in the State of Origin and the latter must be implemented in the Receiving State.

### Improve the prevention and management of intercountry adoption breakdowns:

- Adaptation of each stage in IA context and to the specific needs of children (respect of national indeed international standards at each stage)
- Harmonising practices particularly in respect of the assessment of candidates and the matching
- Obligatory and continuous pre- and post-adoption support, accessible geographically and financially and granted by professionals competent in intercountry adoption and ICA breakdowns;
- Information from PAP on the preparation of locations and professionals for post adoption support;
- Qualification and supervision of the professionals involved.



## CONCLUSION/REFLEXIONS/STRATEGIES

### DEFINITION

- A **uniform definition** of adoption breakdowns, both at national and international level, must be proposed (see recommendation page 10);
- Such a definition should take into account the **practical and legal indicators** detailed in I.

### COLLECTION OF STATISTICAL DATA AND TRANSMISSION TO CENTRAL AUTHORITIES

- **Rules for the collection of statistical data** should be established at several levels:
  - Identify the appropriate **stakeholders** (post-adoption services, AAB, child protection service) and their respective role;
  - Develop a process of collection:
    - ✓ **Involve** post-adoption monitoring bodies, the governing body and the child protection authorities via **legislation or specification** requiring the collecting of data;
    - ✓ create a **reporting procedure** for all the independent professionals involved;
    - ✓ **divide the collected data** into several categories:
      - Intercountry adoptions – national adoptions
      - Birth child – adopted child
  - **Transmit and centralise** data collected for the Central Authority at a domestic level, then between Central Authorities at an international level for example by including them in the **Statistics Table of The Hague Conference**;
- **Raise awareness** among all the stakeholders concerned on the importance of **providing information** on critical situations with the aim of improving their prevention and management.

### COOPERATION

#### International cooperation:

- **Regulate reports between Receiving States and States of Origin and clarify their obligations** (assessment of adoptability and the files of the child and candidates, preparation of parents and the child adapted to the characteristics of the child, consultation between State of Origin, Receiving State and the AAB in order to improve the quality of the matching etc.);
- **Exchange information in a reciprocal, transparent and regular manner** particularly when seeking a solution for the child concerned by a breakdown situation;
- **Develop minimum standards** for the management of breakdowns at national level (e.g.: policy implemented in one of the States of Australia) and at international level (e.g.: protocol in case of the return of the child to the State of Origin);
- **Promote the organisation of seminars** in this field;
- Apply to **relative ICA** the same guarantees provided by the 1993 HC as for other ICAs as specified by Recommendation n°32 of the 2015 Special Commission on the Practical Operation of 1993 HC<sup>70</sup>;

<sup>70</sup> Extracts of the Conclusions and Recommendations adopted by the 4th Special Commission on the practical operation of the 1993 HC (<https://assets.hcch.net/docs/858dd0aa-125b-4063-95f9-4e9b4afd3719.pdf>):

- Address the issue of **the recognition in a State of decisions to revoke an adoption order delivered by another State** (outside the field of the 1993 HC but covered by 1996 HC).

#### Internal cooperation in the Receiving Country:

- Strengthen the cooperation between child protection services, AAB, CA and Courts in the case of a problematic situation in order to avoid inappropriate decisions when assessing the best interests of the child.
- Designate a 'pilot' from all the stakeholders involved in the management of an adoption breakdown (AAB, CA, adoption services, child protection services, courts, etc.) in order to improve the coordination of their actions and foster the search for a consensus, for example with the help of a mediator.

#### PREVENTION

- **Sharpen the determination of the child's adoptability** in accordance with his/her singularity;
- **Harmonise the assessment procedure** for candidates and **adapt them to the profile of children** entrusted in intercountry adoption;
- **Prepare the child and the PAP appropriately** by giving specific attention to the needs and characteristics of the child;
- Improve the **quality of reports on adoptable children and the PAPs**, essential for a good matching;
- **Strengthen the matching process** undertaken by a **multidisciplinary team** for adoption projects in respect of children presenting with special needs;
- Guarantee the supervision and **professional support** during the probationary period and the initial period of life together;
- Develop and improve the **mechanisms for post-adoption monitoring** so they are known to the PAPs and accessible both geographically and financially as well as diversified;
- Strengthen the **training of all interested professionals** via for example:
  - o The inclusion of this topic in the trainings provided;
  - o The promotion of round tables and annual days;
  - o The development and diffusion of didactic tools, an objective targeted by the future ISS guide for professionals on intercountry adoption breakdowns.

#### MANAGEMENT OF BREAKDOWNS

- Promote **the best interests of the child** over and above any differences through decision-making by consensus at both national and international level;
- Adopt a **case-by-case** approach;

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In-familiar adoption («relative adoption»)

32. Concerning in-family adoption the CS:

- remember that in-family adoption falls within the scope of the Convention;
- recall the need to respect the guarantees envisaged by the Convention in particular counselling and preparing the prospective adoptive parents;
- Recognise that the process of matching can be adapted to the specific circumstances of in-family adoption;
- Recommend the examination of the motivation of all parties in order to determine the needs of the child in terms of adoption;
- Recognise the need to assess individually the situation of each child. It should not be considered automatically that a national or in-family placement is in the best interest of the child.

- **Enable the child and adoptive family to be supported** during and after the breakdown;
- **Enable parents to benefit from a support programme;**
- Raise awareness in the services responsible for the care the child on the **importance of retrieving all the administrative, legal and personal documents** of the child before the total and definitive separation with the adoptive parents.