



International Social Service

International Reference Centre for the rights of children deprived of their family

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Evaluation of prospective adoptive parents¹

Spotlight on solutions

Introduction

Every child has unique needs. A reality that is particularly evident in the field of alternative care and adoption when considering the needs of older children, sibling groups and children with physical or mental health concerns. Increasingly, these characteristics are frequently present amongst children proposed for Intercountry adoption (IA)¹, which consequently presents challenges for receiving countries (RCs). This reality, combined with the fact that IA numbers have constantly been decreasing over the last decade², has led to a need for RCs to adjust not only the number of approvals being granted to prospective adoptive parents (PAPs)³ but also the content of PAP evaluation and preparation.

The evaluation of PAPs, is a process designed to ensure that they can meet the emotional, psychic, physical, social and educational needs of one or several children. This process, along with the assessment of the adoptability of the child in the country of origin (CO) are services designed to benefit children, and are compulsory under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the 1993 Hague Convention).⁴ As emphasised by Patricia Fronckowiak⁵ (PhD and Australian adoption expert), ***“complete, rigorous, independent, transparent evaluations of PAPs, undertaken with sensitivity and empathy by qualified professionals are an essential filtering process in the***

¹ The present study is closely linked with an ongoing investigation requested by the German research institute EFZA (www.dji.de/efza) and for which ISS/IRC is providing its expertise. Therefore, some elements of the present study will also be included in a review which will be published soon by the EFZA.

current IA landscape, so as to meet the unique needs of each child". They are also, *"indispensable when choosing a family environment best suited to prevent adoption breakdowns"*.⁶

For these evaluations to succeed, it is imperative that there is a commitment on the part of PAPs during the process. It is therefore essential that PAPs envisage this crucial stage as a constructive process, which is helping them to develop their adoption project. The evaluation of PAPs goes hand in hand with their preparation – a step that is becoming increasingly systematic and mandatory, both in the RC and the CO. As noted by the French-speaking Community of Belgium⁷, *"the preparation covers two concerns: on the one hand the protection of the child and his/his fundamental rights, and, on the other, support for parents"*. Together with the evaluation, preparation performs an essential filtering role as a result of its self-selective and empowering nature (**see II.1.2.2**).

This new ISS/ICR publication gives you the possibility to explore the different components of the evaluation of the PAP, based on the generous contributions of more than thirty Central adoption authorities (CAs) and four Adoption Accredited Bodies (AABs), and various members of the ISS⁸, as well as several publications of the Permanent Bureau of the Hague Conference (HCCH) and the ISS/ICR. Thus, in these following sections, different aspects of this multidimensional evaluation process will be analysed, including:

- The legal and political framework within which the criteria and conditions for PAPs' evaluation can be established, including if necessary, limits on the number of PAPs who can be approved (**see I.2**);
- The intervention of suitably qualified and well equipped competent authorities and professionals, who can ensure the smooth implementation of the process, including supervision (**see II.1**);
- The development of an effective methodology and tools that can be adapted to implement the above-mentioned relevant criteria, both general and individual (**see II.2**);
- The potential for the process to adapt to the constantly changing environment of IA, for example, the profile of the child and/or CO, or to the nature of the adoption (**see II.3**).

The ISS/IRC hopes that the shared experiences and reflections will provide guidance to governments, professionals, families and children, and offer tools with the aim to constantly improve practice. Even though it is not possible to predict the future of an adoption project – future diagnosis and difficult behaviour cannot be anticipated – we can help to increase the chances of its success.

Table of content

I. Political and legal framework	p.5
1. Political framework	p.5
1.1. Regulating applications, and adjusting to the realities of intercountry adoption.....	p.5
1.1.1 The point of view of receiving countries.....	p.5
1.1.2 The point of view of some countries of origin.....	p.6
1.2. Cooperation mechanisms.....	p.7
2. Legal framework	p.8
2.1. Legal instruments at international, regional and national levels.....	p.8
2.1.1. International framework.....	p.8
2.1.2. Regional framework.....	p.9
2.1.3. Domestic framework.....	p.9
2.2. Characteristics of the approval.....	p.10
2.2.1. Nature of the decision.....	p.10
2.2.2. Period of validity and renewal conditions	p.11
2.2.3. Means of appeal.....	p.13
II. Practical implementation	p.15
1. Actors and evaluation process	p.15
1.1. Competent actors.....	p.15
1.1.1 Appointed bodies.....	p.15
1.1.2. Training of professionals.....	p.16
1.2. The evaluation process	p.17
1.2.1 Process (duration, methods and costs)	p.17
1.2.2. Preparation	p.19
2. Application criteria and tools	p.20
2.1. Criteria applied.....	p.20
2.2 Analysis tools.....	p.22
3. Tailoring assessments	p.23
3.1. Tailoring to the child's profile.....	p.23
3.1.1 General discussions on the profiles of children in need of intercountry adoption	p.23
3.1.2. Wishes expressed by PAPs.....	p.23
3.1.3 Children with specific abilities/special needs.....	p.24
3.2. Tailoring to the country profiles.....	p.24
3.3. Tailoring to the nature of adoption	p.25
3.3.1. Step-child and relative adoptions.....	p.25
3.3.2. Adoption of a second or third child.....	p.25
3.3.3 Domestic vs intercountry adoption.....	p.26
III. Concluding Reflections	p.26
1. Moving towards universal criteria for evaluation in favour of children?	p.26
2. Individualized and participative process, adapted to the objective and individual circumstances (child and PAPs)	p.27
3. Strengthened cooperation between all actors	p.29

Glossary

Approval or non-approval: whilst this terminology varies greatly from one country to another ("aptitude certificate", "permission or authorisation to adopt", etc.), in this document, ISS/IRC has chosen to use the term "approval" or "non-approval" of PAPs, which is also the term used in GGP1.⁹

Evaluation or assessment: refers to the process of assessing the eligibility and suitability of PAPs as a whole, (*i.e.* all the steps leading to the approval or non-approval of PAPs). The two terms are used interchangeably throughout this document.

Evaluation report: refers to the medico-psycho-social and legal investigation(s) preferably carried out by a multidisciplinary team as part of the evaluation process. The final (non-) approval decision is primarily based on this investigation, which is subsequently attached to the decision in question.

Special abilities (special needs): In this document, ISS / IRC has chosen to replace the term "special needs" with "special abilities" in order to avoid any discrimination of children falling into this category and to allow them, like all other children, to benefit from adoption. The term "special abilities" is intended to emphasise the singularity of the child and his or her characteristics.

List of abbreviations

CA	Central adoption Authority
IA	Intercountry adoption
DA	Domestic adoption
CRC	Convention on the Rights of the Child
The 1993 Hague Convention	Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption
SC	Special Commission on the practical operation of the 1993 Hague Intercountry Adoption Convention
Alternative Care Guidelines	Guidelines for the Alternative Care of Children adopted by the UN General Assembly in 2009
RC	Receiving country
CO	Country of origin
GGP1	The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice
GGP2	Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice No 2
HCCH	Hague Conference on Private International Law
AAB(s)	Adoption Accredited Body/ies
PAP(s)	Prospective adoptive parent(s)

I. Political and legal framework

1. Policy framework

1.1 Regulating applications and adjusting to the realities of IA

1.1.1. The point of view of RCs

To adjust to the changing realities of IA, several RCs have developed regulation mechanisms for IA applications at various levels. Some countries have not felt the need to introduce regulation on adoption applications. For example, the French-speaking Community of Belgium considers that the number of PAPs wishing to adopt does not justify regulation at the present time. In addition, New Zealand points out that the quotas imposed by CO's are not filled.

Regulation mechanisms linked to the profile of children

In this perspective, Denmark limited the framework for issuing approvals to PAPs in 2016 based on an analysis of the recent profiles of children proposed for IA.¹⁰ Certain difficulties have however arisen in terms of implementation of this disposal. Similarly, New Zealand has developed a tool that aims to adapt each stage of the adoption procedure in an individual and participative manner –especially the evaluation process – to the realities of the child, and the capacities of PAPs. This tool, called “Parenting plan”, follows PAPs throughout the adoption process; a specific model has also been developed for the adoption of children with specific abilities (see II.2.2.).

Regulation mechanisms linked to the number of adoption applications

In Spain, since the Organic Law 8/2015 of 22 July 2015 and Law 26/2015 of 28 July 2015 came into force, new responsibilities have been given to the General State Administration (the CA at federal level) concerning foreign policy. This includes, in collaboration with the competent public entities, decisions to initiate or limit adoption procedures in certain COs, (competent public entities are those bodies that act as the CA at the level of the autonomous communities). Therefore, and according to the law, each year a limited number of files for IA must be transmitted to different COs. The number is determined based on the average number of adoptions carried out with the country in question during the preceding two years, and also with reference to the number of files waiting the proposition of PAPs. However, these measures do not affect adoptions concerning children with special abilities.

In South Australia, a specific regulation is in place concerning PAPs' applications. PAPs must firstly formally express their adoption interest to the CA, before receiving an invitation from the CA to submit an application dependent upon the IA needs identified by the CO.

In Ireland, the only active AAB (in IA) restricts the number of PAPs registered for each CO, and a new application can only be accepted in the case of a vacancy (in other words when there has been a *matching*).

In Luxembourg, the AAB only carries out the evaluation of PAPs after it is established that their completed file can be sent to the chosen CO.

Once applications are approved, it is common practice to place PAPs on a waiting list, should there be a large number of files waiting for *matching*. These waiting lists are used in many RCs, and seem to often generate frustration among PAPs. One of the consequences of this ever longer period of waiting is that the motivations of PAPs can change, and their approval might become outdated (see I. 2.2.2).

Implicit regulation mechanisms

In Germany, although there is no explicit political framework or orientation, a general quality control of the adoption process is carried out so as to make sure that the IA undertaken do not create a “need for adoptable children” in the CO. In 2014 a working group at federal level published guidelines for the implementation of the national and the international adoption procedures, and in particular of the evaluation of the PAP.¹¹

ISS/IRC reiterates the importance of following the guidance provided in the GGP1, according to which Central Authorities of RCs and Cos should work co-operatively to ensure the number of accredited bodies [and of adoption applications] is linked to the number and category of children adoptable through IA.” Since there is no right to adopt, ISS/ICR accordingly recommends the development of regulatory mechanisms and policies, which limit and adjust the number and profile of applications to the needs of children. Accordingly, the policies developed by COs and RCs, as presented above, are to be supported. As pointed out in the GGP1, these mechanisms, where necessary, help to alleviate excessive pressure on the CO, and also to prevent unrealistic demands being made. For RCs, these policies avoid interminable waiting lists, which are not only totally disproportionate with the number of children proposed for IA, but also use valuable resources and cause frustration for PAPs. From the point of view of the COs, if pressure is not exerted on them, they can then avoid the creation of an environment that could enable illicit practices, as has been pointed out by the Special Rapporteur on sale of children.¹²

1.1.2. The point of view of some COs

Similarly, an increasing number of COs have taken decisions to regulate the flow of adoption applications adoption from abroad. Examples include the establishment of quotas in Thailand¹³, or a moratorium on certain profiles of children, as in Colombia or Latvia.

Promising practices
<p>Colombia</p> <p>According to the Colombian CA (ICBF), three resolutions were approved by the latter, between 2013 and 2017, based on the “<i>lineamiento técnico del programa de adopciones</i>”, with the following main objectives to:</p> <ul style="list-style-type: none"> • <i>Suspend temporarily (for two years) the reception of new adoption applications from abroad for children in good health, between 0 and 6 years of age, without specific characteristics or aptitudes;</i>

- *Forbid the financing of humanitarian aid projects by the AAB authorised in Colombia, with resources coming from PAP;*
- *Request the AAB authorised in Colombia to register the costs of adoption – according to the format established by the ICBF – within the framework of the authorisation process and the renewal of their authorisation;*
- *Reinforce, together with the competent authorities and the AAB, the process of preparation, evaluation and selection of families, and the preparation of psychosocial reports, so as to avoid having to repeat these procedures and thus generate additional costs for the families, and to ensure an improved integration of the child in the adoptive family;*
- *Reinforce the legal ban on donations before adoption or “in return” for a child for adoption.*

Latvia

The Latvian CA has also imposed restrictions on applications for adoption from abroad, which have been published on the site of the relevant Ministry, and the RC have been informed. The Ministry imposes no limitations on applications for children with the following profiles:

- Biological siblings of three or more children;
- Children over the age of nine;
- Children who are seriously ill or who have real problems of mental and/or physical health;
- Children for whom the search for PAP abroad has yielded no result (for the applications already submitted to the Ministry) and for whom the Ministry has already supplied further information to the agencies;
- Children for international adoption, with no limitations concerning age and health, if the person or couple wishing to adopt normally resides abroad, and at least one of them has Latvian nationality (...).

ISS/IRC welcomes the mechanisms adopted by some COs to regulate foreign applications. As a result the procedures give priority to the needs of children, and adoption finds its true meaning as a child protection measure for children deprived of family. Further, these mechanisms help to reduce the pressure exerted by certain RCs on the CO, which in turn avoids the use of significant resources on the part of the CO, and consequently the potential risk of illicit practices. The limited resources of COs should first and foremost be used to help the children, not for the assessment of adoption applications from abroad.

1.2 Cooperation mechanisms

As outlined in GGP1 of the HCCH, the most important priority in any adoption procedure is the best interests of the child, even if the 1993 Hague Convention *“does not imply either a priority choice or a chronological order for the adoption procedure, to register prospective adoptive parents first, and then to search for adoptable children. (...) Unfortunately this priority is not always recognised in practice and too much emphasis may be given to the needs of adoptive parents looking for a child, rather than the child in need for a suitable family. (...) Ideally, when the child’s best interests are given priority, the competent authorities in the country of origin should undertake permanency planning, including a decision on whether a child is adoptable and in need of intercountry adoption. The receiving country may then be informed of the types of children in need of families before being asked for files of suitable prospective adoptive parents for these children. A country of origin which is able to reverse the flow of files in this way will achieve a child-centred intercountry adoption process.”*

ISS/ICR, like the HCCH, strongly encourages CO to establish reversal of flow procedures.¹⁴ Further, cooperation mechanisms, which today often apply only to children with special abilities, should be extended to all profiles of children. What nowadays is the exception should thus become the rule, and should guarantee that adoption procedures are centered

on the child. For the RC, the search for the most adequate PAPs for the child proposed for adoption should be based not on the chronological order of lists, but on the aptitude of PAPs.

2. Legal framework

2.1. International, regional and domestic legal instruments

2.1.1 International framework

At the international level, the [Convention on the Rights of the Child](#) (in particular article 18) recalls the responsibility of parents to raise their child and to ensure his or her positive development. When the resort to alternative care options or adoption is necessary, the Convention reiterates these obligations, in its articles 20 and 21, with regards to those persons, who, temporarily or permanently, have been identified to respond to the needs of the child. The implementation of these obligations is, in particular, the focus of the Guidelines for the Alternative Care of Children¹⁵, and the 1993 Hague Convention.

With regards to adoption, the [1993 Hague Convention](#) does indeed establish a clear obligation to assess the ability of PAPs to adopt a child in its article 5(a), which states that '*an adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State (...) have determined that the prospective adoptive parents are **eligible and suited** to adopt; have ensured that the prospective adoptive parents have been **counselled as may be necessary** (...)*'. In its article 15(1), it provides for the content that should be included in an assessment report, offering an indicative – but not exhaustive – list of the criteria to be analysed.

The GGP1 of the HCCH¹⁶ subsequently added that Contracting States have to determine if the PAPs meet all legal conditions (*eligibility*) and psychosocial requirements (*suitability*) through the assessments undertaken by a competent authority or body. It is worth mentioning that, in accordance with Article 22(1) of the 1993 Hague Convention, preparing the PAPs' assessment report may be delegated to public authorities or AABs, although under the supervision of the CA or other authorities or bodies (Art. 22(5)).

These provisions have been strengthened thanks to the recommendations of the Special Commissions (SCs) of 2005, 2010 and 2015. The 2005 SC recommended that '*the Permanent Bureau (of the HCCH), in consultation with Contracting States and non-governmental organisations, develop (...) model forms or protocols regarding the operation of Articles 15 and 16 of the Convention*'.¹⁷ This recommendation was further complemented at the 2010¹⁸ and 2015¹⁹ SCs, and a model form was made available to States to guide them in the criteria to be applied when assessing PAPs.²⁰

International instruments, in particular the 1993 Hague Convention and its GGP1, therefore offer a clear legal and procedural framework, by putting an emphasis on the importance of the assessment of the PAPs in accordance with the rights and interests of the child, and in this sense, on the need for countries to undertake these assessments with great meticulousness, quality and impartiality.²¹

2.1.2 Regional framework

At regional level, the [European Convention on the Adoption of Children of 1967 \(Revised in 2008\)](#) provides, in its Articles 9 and 10, conditions that adopters need to comply with. Article 9 also addresses the minimum age for the adopter, as well as the age difference required between the child and the PAPs. Article 10 provides for the undertaking of assessments that should be undertaken by accredited and qualified entities/professionals prior to the adoption, particularly regarding the PAPs, and states those elements²² that will be examined during such assessments.

In the Americas, the 1987 [Inter-American Convention on Conflict of Laws concerning the Adoption of Minors](#) states, in its Article 4, that the legislation of the country of residence of the adopter governs the criteria relating to the adopters' capacity to adopt.

In Africa, the [African Charter on the Rights and Welfare of the Child](#), whose Article 24 focuses on adoption, in particular intercountry adoption, requires that '*the placement of the child in another country is carried out by competent authorities or organs*'. Without mentioning explicitly the PAPs' suitability to adopt, one may understand from the latter that this condition is implicit.

A framework regarding the evaluation of PAPs is also growing at the regional level, including in Africa and the Americas, which strengthens the provisions of the above-mentioned international instruments, and sometimes even develops their content. The inclusion of criteria relating to the age and age difference between the PAPs and the child in these instruments is to be welcomed, and may play an important role in preventing inappropriate applications (see II.2.1).

2.1.3. Domestic framework

The obligations enshrined in the above-mentioned international and regional instruments have been incorporated into the laws and other instruments of all the countries surveyed, in various forms.

Some laws remain quite general, such as in New Zealand, where the law requires that each adoption applicant be a trustworthy and good person.²³ In practice, a report must be submitted to the Family Court on the suitability of the applicants, their assessment representing an implicit condition. This is similar in Sweden, where the law requires that families wishing to adopt must obtain the consent of the competent local authority, consent which can only be given if the applicant is considered suitable to adopt.²⁴

The laws of many other countries explicitly describe, in a more or less detailed manner, the legal and psychosocial criteria, which must be included in the PAPs' assessment report, the process, the authorities in charge of their implementation and supervision and even the possibility to appeal the final decision. This is the case in Andorra²⁵, Belgium²⁶, the Canadian provinces of British Columbia²⁷ and Quebec²⁸, Colombia²⁹, Denmark³⁰, Finland³¹, Germany³², Ireland³³, Latvia³⁴, Lithuania³⁵, Luxembourg³⁶, the Netherlands³⁷, South Australia³⁸, Spain (at federal level³⁹ and in the autonomous communities of Extremadura⁴⁰, Minorca⁴¹, Navarra⁴² and Basque Country⁴³), Switzerland⁴⁴ and Togo⁴⁵.

For the implementation of these laws in practice, tools have been developed to help professionals fulfill their tasks to their best ability, whilst also maintaining the needed impartiality (see II.2.2).

ISS/IRC welcomes the development, undertaken by a number of countries surveyed, of laws, regulations and tools aimed at ensuring compliance with international obligations regarding assessment of PAPs. It also welcomes that these initiatives are designed to equip professionals to best undertake multidisciplinary tasks, which is vital for the respect of the rights of the child to grow up in a family environment that is conducive to their positive development. It is worth mentioning that the more specific the laws and other instruments can be on eligibility and suitability criteria, for example in relation to PAPs' age, the more transparent and objective the evaluation process will be (see I.2.2.3), and this will help the concerned professionals in their task (see II.1.1).

2.2. Characteristics of the decision

2.2.1 Nature of the decision

The final decision about whether or not to grant the approval to PAPs may be issued by an administrative or judicial authority, depending on the country.

In some countries, the (non-) approval decision may sometimes take the form of a **judicial decision**. In Andorra, for example, this decision is made by a competent children's judge on the basis of an administrative decision of the Directorate of Social Services. In Belgium's French-speaking community, the assessment of the PAPs takes place in two stages.⁴⁶ The first stage assesses basic psychological and social abilities, and the Family Court is responsible to make a declaration on the PAPs suitability – or not – to adopt. The second stage (psychological and social abilities with a view to matching) is the object of an approval by the AAB, and the signing of an agreement between the latter and PAPs. In Luxembourg and Sweden, the decision is made by judicial authorities. In Ireland, the decision is made by the CA, which is a quasi-judicial authority.

This decision may also be of an **administrative nature**, such as in South Africa – where it is made by the CA on the basis of a recommendation submitted by the AAB, or in British Columbia, Finland, Lithuania⁴⁷, New Zealand, South Australia, Spain and Quebec. In Colombia, the final decision is a judicial decision. It is however made on the basis of an approval previously issued by a regional authority⁴⁸ (ICBF's decentralised bodies) or by a domestic AAB.⁴⁹ In case of an IA, the approval given by the CA of the RC is being confirmed by the Colombian CA.⁵⁰ In Denmark, it is issued by an independent administrative body (*Joint Council*), on the basis of a detailed report prepared by the competent local authority (*Agency for Family Law*). In Latvia, the competent body is the local authority (*Orphans' Court*). In the Netherlands, the CA is responsible for the (non-) approval on the basis of a recommendation issued by the Child Care and Protection Board. Similarly, in Switzerland and Togo, the final decision is issued by the CA, following the examination of a file, approved by decree, considering the suitability to adopt.

In Germany, the approval can be taken either by a CA or an AAB, and is not *per se* a judicial or administrative act⁵¹. PAPs have the right to be evaluated for IA, whereas such a right is not expressly foreseen for domestic PAPs. The result of the evaluation is recorded in a

comprehensive social report/home study report⁵². PAPs are not able to receive a copy of this report, nor do they obtain proof of their approval, but the content of the report is discussed with them. This choice is linked to the fear that once their approval is in hand PAPs may seek to take independent steps to complete an adoption, which is strongly discouraged by the international community⁵³. The law provides that the report may only be received by a competent German authority or a counterpart abroad.⁵⁴

PROMISING PRACTICE
Denmark
ISS/IRC welcomes the Danish practice, which, at the time of a [domestic] matching, selects the profiles of the most suitable PAPs for the child, without taking into account the chronological order on the list. Such an approach should be promoted as a way of meeting the child's unique needs and ensuring that the adoptive family selected is most suitable to meet his/her needs.

Irrespective of the nature of the approval, ISS/IRC recalls that the act of approval itself is an obligation imposed on the States by international standards, and which is applicable to all adoptions, whether they are undertaken by a Contracting State to the 1993 Hague Convention or not. The ISS/IRC recalls, on this point, the prohibition of private and independent adoptions, which do not offer the essential safeguard of the PAPs' assessment.⁵⁵ Further, in line with international standards, this decision should be issued by a competent authority (see II.1), on the basis of sufficiently detailed information (see II.1 and 2).

2.2.2 Period of validity and renewal conditions

The duration of validity of approval varies from country to country, fluctuating from a few months to several years. Sometimes, a period of validity is not even set, such as in Quebec, but periodic reviews or updates may take place.

Countries	Duration of validity	Other revision factors of the decision	Modalities of renewing or withdrawing the decision
Andorra	4 years		PAPs' written expression of their will to renew and supervision by the psycho-social team.
Belgium (French Community)	4 years for the evaluation n°1 ⁵⁶ renewable 2 years in case of signature of an agreement with an AAB. Yearly revision organised by the AAB for the evaluation n°2.		
British Columbia	Yearly update with the PAP.		Every change/new information must be notified. Verification of the PAPs' background and criminal record before the child's placement.
Columbia	Update every 2 years.		Verification of the suitability conditions and of the PAPs' intention to adopt.
Denmark	4 years with a possible 2 years extension by the « <i>Joint Council</i> » if the eligibility criteria are still fulfilled.	Obligation to notify every significant change to the competent local authority (<i>Agency for Family Law</i>).	The « <i>Joint Council</i> » decision may be withdrawn in certain circumstances specified by the law. ⁵⁷
Finland	2 years		Verification by the competent social worker of the change (or not) of the PAPs' conditions.
Germany	Depending of the different <i>Länder</i> . • 6 months (<i>Hessen</i>),	Important changes in life conditions	An interview (or more) is organised with a specialist in order to assess if the renewal is possible. The non-renewal may be linked to the fact that the child

	<ul style="list-style-type: none"> • 3 years maximum (<i>Bayern</i> and <i>Berlin-Brandenburg</i>) ; No maximal validity specified but in average two and a half years (<i>Rheinland-Pfalz</i>) 		proposal does not correspond to the wishes expressed by PAP in the social report. Once the validity deadline completed, an automatic revision of the social report takes place.
Ireland	2 years renewable one year by the CA if a legal declaration states that no change took place.		
Latvia	3 years with yearly verification by the competent body (<i>Orphan's Court</i>) of the PAPs' financial and life conditions, of the PAP and other persons of the household's criminal records and of all other information considered essential. For the foreign PAP, if the duration of validity is not set by the RC, the conditions set by Latvia apply.		
Lithuania	1 year		
Luxemburg	Valid until the matching is pronounced, if the latter takes place during the year following the file deposit. Otherwise, updates of the file are carried out.	Emergence of a new important fact in the PAPs' life; addition to the file, but is not the subject of a new suitability judgement.	
New-Zealand	2 years		New control of the criminal record, medical conditions and references of the PAP. New home visit. The revision is subject to an administrative approval. New decision pronounced by the CA.
Netherlands	n/a		
South Africa	Up to the finalisation of the adoption		Update of the assessment report.
Southern-Australia	3 years		
Spain	3 years	Obligation to notify any significant change concerning the personal and family situation of the PAP(s).	Six months before the expiry of the deadline, deposit by PAPs of a renewal request.
Sweden	3 years	Obligation for the PAP to notify any change and to inform the social services. New evaluation if the changes are major.	
Switzerland	3 years maximum		Renewable at the request of the interested persons ⁵⁸ .
Togo	5 years and renewable each year. The child proposal puts an end to the validity of the agreement.		Yearly notification to the Togolese CA that the applicants are still waiting for the matching.

Countries should ensure that the approvals are regularly updated and in particular when there is new information or a major changes in the PAPs' situation (move, arrival of new child, separation/divorce). Further, it is essential that a new assessment of PAPs' motivations is undertaken when the adoption takes place. Indeed, with waiting periods becoming increasingly longer, it is necessary to proceed to these reviews when the adoption occurs, as a means of preventing potential breakdowns. Further, it is advisable to encourage PAPs to use this waiting period to better prepare and inform themselves, and to not hesitate to resort to professional support when frustration emerges.⁵⁹

2.2.3 Means of appeal

Should the CA refuse to issue the approval, PAPs have, in the great majority of the countries that contributed to this survey, the possibility to appeal the decision before an administrative or judicial body. However, when this option is not granted to PAPs alternatives have been set up by the countries. Irrespective of the system adopted, the more the evaluation process is open and transparent, the less resort there will be to appeal mechanisms.

Appeal to an administrative or judicial body

In the majority of the countries, PAPs may submit an appeal relating to the decision to refuse or grant the approval, either to an administrative or judicial tribunal (Andorra⁶⁰, South Australia⁶¹, French-speaking Community of Belgium – only in relation to assessment no. 1⁶², Colombia⁶³, Germany⁶⁴, Latvia, Lithuania, The Netherlands, South Africa, Spain⁶⁵, Sweden⁶⁶, Switzerland and Togo), or to another body, such as the CA (New Zealand⁶⁷), the AAB (British Columbia) or an independent body (Denmark⁶⁸).

In some countries, such as Spain⁶⁹ or the Netherlands⁷⁰, challenges to a refusal decision may be undertaken at two levels. This is also the case in New Zealand, where it may occur at several levels: if the request for a review of the CA's decision has not been satisfactory, the PAPs may submit a formal complaint, which will be subject to an independent examination, which the PAPs are an active part to. If the latter remain discontent with the outcome, they have the possibility to submit a complaint to the head of the Advisory Panel and the Ombudsperson⁷¹. Finally, it may occur that some PAPs submit a complaint to New Zealand's Human Rights Commission. This Commission determines whether the case has the merits to be heard and, based on the latter, initiates an inquiry on the latter.

It is interesting to note that, in Sweden⁷², the final decision may include some restrictions on the PAPs' wishes regarding any proposed child, which are determined based on their abilities. These restrictions may also be subject to an appeal.

Alternatives to a formal appeal of the decision

In some countries, where it is not possible to appeal the refusal decision, other mechanisms have been established. In Quebec, for example, a complaint may be submitted by PAPs to the competent Director of Youth Protection or to the professional order of the person who undertook the assessment, if the criticisms relate to this person's professionalism. However, such complaints have no impact on the recommendations issued by the person in charge of the assessment.

In Luxembourg, no legal instrument provides for an appeal procedure against a negative opinion issued by an AAB, however the CA indicates that PAPs may be invited to an interview with the AAB in order for the grounds for refusal to be explained to them. Independently of this interview, PAPs are advised of these reasons in writing. In addition, PAPs may register with another AAB, and there is the option for adoption procedures to be put on hold. This possibility is usually used in cases of temporary problems within the couple (loss of employment, death of a relative, etc.). The CA states that it is uncommon in practice for PAPs to challenge the AAB's opinion.

In Germany, once the refusal is emitted by a private AAB⁷³, there is no appeal possibility. In such case, PAPs are informed (in person or written) of the refusal and its reasons. However, it might occur that proceedings are initiated by PAPs against the AAB in question in order to obtain reimbursement of paid fees based on civil code provisions. There is no clear case law in this matter until now.

Open communication and active participation of the PAPs

In Finland and in Ireland (see box below), as well as in Denmark, PAPs may express their disagreement at various stages of the evaluation process, although difficulties have arisen in practice.⁷⁴

PROMISING PRACTICES	
Finland	<ul style="list-style-type: none"> • At council sessions, if the PAPs express concerns, the social worker asks them if the element of concern may be discussed by the team of social workers and if a psychiatrist for children/young people may be consulted. If the concern may potentially interrupt the adoption procedure, then the social worker proceeds with the assessment procedure with a second social worker. An assessment report, including negative aspects, must always be drafted by two social workers, and the final decision must be made within a team, including with the presence of the regional Director. The PAPs are informed of the possibility for the latter to be included in the final assessment report. The report is always read, several times, with the PAPs being present, in order for them to input with their potential corrections before being sent to the AAB. • When the final report includes negative aspects, a complaint may be submitted by the PAPs to the competent administrative authority at regional level. This complaint is a note or a report submitted by the PAPs to the superior authority for bad behaviour or neglect, which may suggest advice to the parties concerned. • The assessment process may be interrupted if it appears that aspects having arisen during the council sessions clearly do not meet the requirements to adopt. An appeal of this suspension decision⁷⁵ may be submitted by the PAPs to an administrative tribunal of first instance, and as a last resort, to the administrative Supreme Court⁷⁶. • The final decision on the suitability to adopt issued by the CA may be appealed by the PAPs⁷⁷ before an administrative tribunal of first instance and, as a last resort, before the administrative Supreme Court⁷⁸.
Ireland	<p>In the case of a negative assessment by the social worker, it may be challenged before the local adoption committee before the latter notifies its recommendation to the CA. However, the CA’s final decision cannot be appealed, except for mere legal reasons. Nonetheless, the PAPs may request a meeting with the CA, during which they may provide additional evidence, such as medical information or testimonies. They may also appoint a lawyer to represent them before the CA. The CA undertakes these meetings in a non-adversary manner, and hears the evidence provided by the PAPs and their representative, but also by the body in charge of the assessment and by other professionals, whose opinion may be sought for the case at stake. In practice, the CA may face dilemmas, when, for example, the opinion of an expert rejects the medical condition considered unfavourable in the assessment report or in relation to the PAPs’ age, considered too old by the person in charge of the assessment, but in relation to which Irish legislation sets no limit (see II.2.1).</p>

These example as well as the Swedish example must be promoted. As stated by Sweden, ‘in this way, the assessment turns into a continuous process of reflection, promoting frankness and active participation and it can contribute to the applicants’ overall process towards maturity’.⁷⁹

Support for PAPs following a non-approval

In terms of the support offered to those PAPs whose approval has been refused, some countries such as Germany⁸⁰, Luxembourg and Togo, have set up some form of support. The

latter states that these refusals often relate to PAPs' lack of psychological abilities, e.g. their refusal to reveal the adoption to the child or to be subject to post-adoption follow-up.

In Germany, several CAs at *Länder*-level indicate that a refusal is discussed in detail with PAPs. In certain circumstances, potential obstacles are addressed or remedied to be able to later determine suitability. Several German actors pointed out that the support offered also depended on the openness and the ability of reflection and acceptance of PAPs that they may eventually have to give up their adoption project. The path of renouncing the desire for a biological child is also crucial in this regard.

In New Zealand, the extent to which decisions to refuse an approval can be made, are extremely complex and require a very careful analysis and evidence to justify them. The dialogue set up with the PAPs during the process, which generates trust and self-assessment, must be promoted to prevent difficulties.

Irrespective of whether the (non-) approval of PAPs' suitability is of administrative or judicial nature, it is important for any approval decision to be undertaken by an independent body, different from the one that has carried out the evaluation, in order to ensure impartiality and to respond to any potential for discrimination.

Further, the existence of open communication throughout the process – as seen in the Finnish, Irish and Swedish models, and the promotion of PAPs' self-selection - are all key elements to ensure a transparent, participative and fair process. Despite the potential difficulties faced in practice, these participative models have the advantage of better preparing PAPs for a potential refusal, and to accept this. Whilst the existence of appeal or complaint mechanisms for the final decision contributes to a fair process, it is however necessary for appeal and complaint mechanisms not to be open to abuse and to be based on justified and coherent grounds. Finally, ISS/IRC welcomes the support mechanisms established to support PAPs who have had their approval refused.

II. Practical implementation

In order to undertake comprehensive, meticulous, transparent and objective assessments, attention must be focused on the actors in charge of these assessments, as well as on their training and their respective roles in the process. Further, the sequence of the evaluation process must be clear for all the actors involved, in particular PAPs, from the start and throughout the process. The more varied and adapted tools that are available to the actors, the more efficient, honest and constructive the assessment.

1. Actors and the evaluation process

1.1. Competent actors

1.1.1 Appointed bodies

Competent bodies to undertake the assessment report may be, depending on the country, the CA (French Community of Belgium for the assessment no.1⁸¹, South Australia, Togo); a competent public authority (Andorra⁸², Denmark⁸³, Latvia⁸⁴, Lithuania⁸⁵, The Netherlands⁸⁶, Spain⁸⁷, Quebec⁸⁸, Sweden⁸⁹); or an AAB (British Columbia⁹⁰, Luxembourg, South Africa).

This process may sometimes lead to the designation of a competent local authority or an AAB, such as in Colombia⁹¹, Finland⁹² and New Zealand⁹³. In Ireland, this task may be entrusted to an AAB or an NGO⁹⁴. In Switzerland, this function is usually undertaken by one of the 26 Cantonal CAs, but may be delegated to another Canton, to an inter-cantonal authority, or to a private body.

In Germany, the PAPs' assessment results from the coordination between the AABs, the child protection services competent in adoption matters⁹⁵ and the CAs at *Länder* level⁹⁶. The federal CA is not involved in this process. If the assessment is undertaken by the AAB, the latter has an obligation to notify the competent child protection service⁹⁷, and to take into account the views of the latter.

As for the supervision of the preparation of the report and the final decision on the suitability certificate (**see I.2.2**), in most countries, they are undertaken by one of several bodies different from the one in charge of the assessment report: the CA in South Australia, British Columbia⁹⁸, the French Community of Belgium for the assessment no. 1⁹⁹, New Zealand, South Africa and Switzerland¹⁰⁰; a competent authority in Colombia¹⁰¹, Denmark¹⁰², Latvia¹⁰³, Quebec, Spain¹⁰⁴, Sweden¹⁰⁵ and Togo¹⁰⁶; or both (Ireland¹⁰⁷); the AAB (French Community of Belgium for the assessment no. 2). In Finland¹⁰⁸, supervision is undertaken within the same body, but by a superior.

In Germany, the outcomes of the assessment undertaken by an AAB are not reviewed systematically by the authority competent for supervision according to some of the survey's participants¹⁰⁹. They are however subject to an update in cases of matching proposal or upon a request by the CO.

ISS/IRC wishes to underline the importance that the entity in charge of PAPs' assessment is different from the final decision-making body. Such a system ensures impartiality regarding the PAPs, which is required in a fair evaluation process and for the issuance of a final decision that is as objective as possible (see I.2.2.1). Further, the costs that are potentially generated by the assessments (see I.1.2.1) must not raise a conflict of interests amongst the decision-making bodies. These safeguards are strengthened by the establishment of appropriate legal and political frameworks (see I), as well as the development of tools, and the availability of periodic supervision of the professionals involved (see II.2.2).

1.1.2 Training of professionals

The professionals in charge of the study are usually social workers (e.g. British Columbia¹¹⁰, Finland, Germany, Ireland, New Zealand, South Australia, Sweden¹¹¹, Switzerland¹¹²), sometimes with the intervention of a multidisciplinary team, including: a psychologist (e.g. Andorra, French Community of Belgium for the assessment no. 1¹¹³, Spain); a medical doctor (e.g. French Community of Belgium for the assessment no. 2); and/or a lawyer (e.g. Colombia, Latvia, Lithuania, Luxembourg, the Netherlands, Togo¹¹⁴). Couple and family therapists are also part of these teams in Quebec, or professionals from the educational sector in Latvia and Lithuania. In The Netherlands, the main professional in charge of the assessment must be registered on the register of professionals working with children, young people and families. In some countries, such as Ireland, professionals from the police or the medical sector are occasionally requested to undertake relevant checks.

In addition to a general diploma and experience being required in their respective fields, it is often required that these professionals have specific knowledge in adoption (e.g. Andorra, Colombia, Finland, South Africa), as well as additional abilities in related fields gained through periodic training (e.g. Andorra¹¹⁵, Denmark¹¹⁶, Finland¹¹⁷, Ireland¹¹⁸). In addition, a number of tools are available to the relevant professionals to equip and help them in the implementation of the process (**see II.2.2**).

ISS/IRC wishes to emphasise the importance of the training of those professionals in charge of assessments as well as on the periodic development of their skills in relation to relevant aspects. Whilst primarily these aspects include adoption, they should also cover other relevant fields such as trauma in children and attachment issues. These professionals often work within a multidisciplinary team – a practice that can only be promoted – and attention must be drawn to the management of refusals by concerned professionals (see I.2.2.3).

1. 2. The evaluation process

There are specific stages to the evaluation, which vary from country to country and often include preparation for PAPs. There tends to be an initial consideration of what are the known basic requirements, prescribed by law and relating to objective aspects such as the age or civil status of PAPs. These are assessed through documentation provided by PAPs. It is quite common for PAPs to be called to attend mandatory preparation sessions at this (or another) moment in the process. The second level of assessment involves looking into PAPs' individual circumstances, through a multidisciplinary investigation carried out by competent professionals (**see II.1.1.2**). Once the information has been gathered and analysed, it is usually recorded in a written report, which is used as the basis for a statement (or recommendation) on the suitability of PAPs. The final (non-) approval decision on adoption is subsequently taken by the relevant competent authority (**see I.2.2.1 and II.1.1.1**).

1.2.1. Process (duration, methods and costs)

As the 1993 Hague Convention and its practical guides only provide general guidelines in this field (**see I.2.1.1**), the duration of the evaluation process, the methods used, and how it is financed, are left up to each country and to the policies they have chosen to adopt (**see I.1**). As a result, there are significant differences between countries, although certain patterns can be identified, for example in terms of the criteria applied and methods used.

In terms of duration, there is quite a wide gap between the shortest form of the process, lasting *one month* (in Spain, although it can be longer) and the longest form, lasting *a year or more* (South Australia¹¹⁹, Finland, Ireland). Between these extremes, the duration varies from two months or more in the Netherlands and Sweden; to three to four months in British Columbia, Lithuania and New Zealand; around six months in Andorra, Colombia, Denmark, Germany, Latvia and Luxembourg - where it can be extended to nine months¹²⁰; seven months in the French-speaking Community in Belgium¹²¹; and around eight months in Togo. In Switzerland, the process can last from six to twelve months, depending on the canton.

The methods used by the professionals to carry out this assessment also vary from State to State and even within some States, although here again certain common patterns emerge. For instance, all assessments include the following stages:

- **File preparation**, where the documentation requested from PAPs (birth/marriage certificate, proof of residency, curriculum vitae, deed of consent where applicable, etc.) is received by the competent professional(s)¹²². Some countries of origin, such as Latvia, request translations of all the documentation, which are certified in accordance with any international agreements ratified by the country (1961 *Apostille* Convention or others). Incidentally, at this stage Latvia also asks PAPs to submit their preferences as to the number, age, sex and other characteristics of the child(ren) they would like to adopt.
- **Individual and/or joint interviews**¹²³: Interviews are held once or several times during the evaluation process. At the request of the couple, they can be conducted both separately and jointly. If there are children in the household, they are also interviewed in an age-appropriate way (for example, as in the Netherlands or in Quebec). Other persons close to the PAPs may also be interviewed.
- **Home visits**¹²⁴: Professionals visit the PAPs' home to gain a true picture of the family's living situation, in terms of accommodation, quality of the environment, daily running of the household, hygiene, etc.
- **Medical tests** (British Columbia, Germany¹²⁵, Latvia, New Zealand, etc.) or even **psychological tests/assessments** (Andorra, Germany¹²⁶ or Minorca in Spain, Latvia, Togo, etc.) may also be requested. Psychological tests are sometimes requested by the countries of origin (e.g. Colombia or the Philippines).
- **Additional reports on the economic or professional status** of PAPs (e.g. Spain) or even **police reports** from the RC and other relevant countries (e.g. Ireland, New Zealand) may be requested.

Whatever the country's choice, ISS/IRC recommends that the process should take sufficient time to allow the PAPs to absorb the information imparted – in particular, through the preparation but also through the various interviews. It is also important to use a range of methods, and to spread out the interviews to enable PAPs to progress and develop their adoption project. ISS/IRC welcomes the involvement of other significant individuals in interviews, such as any other children living in the PAPs' household. Their perspective and level of involvement in the adoption project can play a significant role in its success.

Finally, in terms of the costs incurred through the evaluation process, in some countries this service is fully financed by the State and therefore free to PAPs (Andorra, Colombia, Denmark, Spain¹²⁷, Finland, Ireland, Latvia¹²⁸, Lithuania, Luxembourg¹²⁹, Netherlands and Sweden). In other countries, some level of cost is partially¹³⁰ or fully¹³¹ charged to the PAPs. Indeed, in some countries this depends on the route chosen by the PAPs. If they use an Adoption Accredited Body (AAB) (Germany¹³²; New Zealand¹³³) or another private organisation (Spain¹³⁴), they will be charged, however the process may be faster. On the other hand, if they choose to use a public authority, they will have nothing to pay. In Togo, for example, these costs are included in the general procedural fees.

The ISS/IRC sees the cost issue as a political decision specific to each country, as international norms are silent on this point. For example, some countries such as Denmark consider that such a process should be accessible to all citizens and thus entirely financed by the State. In other countries such as Australia, where IA is not actively encouraged, the full costs are the responsibility of PAPs, who are asked to consider this a personal choice. Where there are two routes and the paid route is faster, the issue of inequality arises. This

is likely to favour those with greater economic means, which is not always in the interests of the child.

1.2.2. Preparation

The preparation for PAPs is part of the actual evaluation process, and therefore mandatory in various countries (Colombia, British Colombia¹³⁵, Denmark¹³⁶, Finland¹³⁷, Germany¹³⁸, Ireland, Latvia¹³⁹, New Zealand¹⁴⁰, South Africa, Switzerland¹⁴¹). Sometimes it is even required before the evaluation process can begin (Andorra¹⁴², French Community in Belgium, British Colombia¹⁴³, Colombia¹⁴⁴, Spain¹⁴⁵, Luxembourg, Netherlands¹⁴⁶, South Australia, Sweden). In other countries, such as Lithuania, preparation starts once PAPs have been approved.

PAPs are also encouraged to attend additional courses offered by the competent authorities or AABs, as in British Colombia and New Zealand. It is notable that some countries of origin, such as Latvia, require the content of the preparation provided in the receiving country to meet requirements set by law of the country of origin.

In New Zealand, the lessons learned and observations expressed by PAPs during preparation sessions are discussed during the assessment interviews and added to the final report, alongside an analysis by the professionals of the PAPs' understanding of IA.

In several countries, where parents have already adopted once, for a new adoption they are exempt from attending the preparation courses that would normally be part of the assessment procedure (**see II.3.3**).

Preparation is constantly evolving, as in Quebec for example, where it is under development and becoming mandatory¹⁴⁷. In addition, there is an increasing array of tools being used to improve quality, for example PRIDE which is used in Finland and also in Lithuania (where it has been renamed GIMK¹⁴⁸). ISS/IRC is trying to regularly keep professionals abreast of significant developments in this area through its Monthly review. For example, as reported in Monthly Review No. 191 in May 2015, various actors are constantly trying to adapt the preparation to fit the profile of children offered for IA, to equip the future parents as well as possible and to avert the risk of failure. By the same token, in Luxembourg, in addition to sessions that provide general information¹⁴⁹ and raise awareness of the main challenges in adoption¹⁵⁰, information sessions are offered which are specific to the adoption of an older child, siblings or a child with a disability, or on relative adoption (**see II.3.3**). Once matching has been approved, PAPs must also attend sessions designed to prepare them for meeting the child, before they travel to the CO. Interestingly, in Denmark, preparation occurs several times during the evaluation process: after assessment of the general criteria (**see II.2.1**); at the end of the evaluation process, just before and just after the child joins the household¹⁵¹. These efforts should be pursued as highlighted by some COs as PAPs are still insufficiently prepared for some of the complexities of provide support in case of the adoption of children with special abilities.

In terms of preparation costs, some countries such as Denmark¹⁵², Finland and the Netherlands have emphasised that these must be paid by PAPs.

ISS/IRC commends countries who have introduced mandatory preparation courses/activities as part of the evaluation, whether prior to it starting - which can have the effect of enabling some PAPs to realise the unsuitability of their adoption project at an

appropriately early stage - or during the process. These two stages effectively go hand in hand, partly because the information provided to PAPs during preparation sessions will play a key role in the development of their plan, their motivation and their understanding of adoptive parenting and its challenges, including at the international level. High-quality, mandatory preparation should be systematically provided in all countries, from the start of the process and on an ongoing basis, in the interests of both the child and PAPs.

2. Application criteria and tools

2.1 Criteria applied

The table below provides a summary of the many criteria given by countries in their responses to the questionnaire. They have been grouped by topic, in the interests of clarity in presenting the information.¹⁵³ In some countries, a full list of this criteria is available, sometimes through their laws or regulations on adoption¹⁵⁴, through guidelines¹⁵⁵ or through guidebooks and other tools (**see below**). It should be noted that, in addition to criteria set by the RCs, some COs also demand their own psychological tests, blood tests or a financial statement (Colombia, Philippines).

General criteria (legal)
Civil status (marital status and years of marriage/cohabitation, single, etc.) ¹⁵⁶
Age (max, min, age difference) ¹⁵⁷
Nationality
Criminal records ¹⁵⁸
Habitual and legal residence ¹⁵⁹
Individual criteria (medico-psychological and social) ¹⁶⁰
Life history/personal circumstances ¹⁶¹
Conditions and values within which PAPs have been raised
Own life history
Family composition, quality relationships and of communications
Good morals
Religious belief, ethnic origin and spoken language
Relations between the members of the couple (quality, stability) if the application concerns a couple or with the family and social environment if the applicant is single.
Knowledge in child development, attachment and adoption
Experience with children
Attitude regarding questions asked on disciplining the child
Ability to take care of the child and to guarantee and promote his/her physical, intellectual, emotional, educative and social well-being
Ability to handle difficult and stressful situations and family/social support
Approach to the child's familial, cultural, religious, linguistic origins (capacity/willingness to keep him/her informed of his/her origins, etc....)
Attitude towards the possible maintenance of the child's link with his/her birth family or other persons
Approach as to the child's profile (special needs, ethnic origin, openness about gender, etc.)
Drugs or alcohol abuse by PAPs or by any other member of the household
Limited personal capacities (if applicable)
Psychological conditions
Personality, values and interests
Educational capacities ¹⁶²
Capacities to adopt a child with special needs (if considered appropriate)
Personal balance/stability
Communication skills
Social skills (ability to establish stable bonds)
Availability
Flexibility
Sensibility

Empathy and ability to put themselves in the child's position and to understand his/her needs
Capacity for self-criticism and reflection
Emotional capacities and maturity
Behaviour towards personal emotions such as aggression, deception, etc.
Attitude towards infertility (if pertinent)
Desire for child, and expectations
Sufficient autonomy
Tolerance to frustration
Capacities linked to the waiting period and to the legal and administrative required procedures
Motivations to become an adoptive parent (unconditional commitment towards the future child, acceptance by the extended family)
PAPs' health and of their friends/relatives¹⁶³
Physical health
Psychic health
Family and social circumstances¹⁶⁴
Favourable environment
For any other children in the household: social and behavioural development, adoption effect, etc.
Social and financial conditions¹⁶⁵
Financial situation
Employment (schedule, seniority, work conditions)
Budget management
Adequate housing
Access to community services
Pre- and post-adoption obligations/considerations
Participation in training sessions (see II.1.2.2)
Participation in support groups
Engagement with respect to the post-adoption requirements
Desire/Willingness to accept external/expert help
Other(s)
Having fulfilled the post-adoption requirements during a previous adoption
In case of the child's medical treatment, desire to ensure the treatment/follow-up irrespective of any religious convictions
Exclusion Criteria¹⁶⁶
Residence
Refusal during a past adoption procedure (with due reconsideration of the change of situation)
Breakdown of a past adoption
Persons placed under guardianship
Persons with a criminal record, in particular for indecency, etc.
Persons who have been deprived of a child's care or of parental authority
Assessment process already initiated as part of a foster care placement (with due explanation of the complexity of the situation and a reflection process in this regard)
Persons recognised as unfit/unsuited
Persons with mental disabilities or specific diseases ¹⁶⁷
When both parents intend to work at a rate superior to 160% during the first year after the child's arrival ¹⁶⁸

ISS/IRC advocates for continuing improvements to the quality of assessment content and the establishment of precise criteria, which closely reflect the identified needs among children in need of IA. Cooperation with COs is therefore essential. As indicated by the Special Commission 2010, *“States of origin may assist receiving States in establishing their criteria for the selection of prospective adoptive parents by providing information about the characteristics and needs of adoptable children”*. In addition, to ensure reasonable harmony and consistency both within and between countries, ISS/IRC endorses the introduction of a template, including at the international level (as has been suggested by the HCCH¹⁶⁹ or by Patricia Fronck in a recent ISS/IRC publication¹⁷⁰). This would ensure, for example, the use of key criteria such as age and/or maximum age gap between the child and PAPs¹⁷¹, thus avoiding the submission or processing of applications that are not appropriate for the child. This is because too large an age gap between PAPs and the child constitutes a significant risk factor.

2.2. Analysis tools

To best equip professionals and ensure a degree of harmonisation between procedures, standard formats (or templates) for home study reports have been developed in Spain¹⁷², Germany¹⁷³, Ireland¹⁷⁴ and New Zealand¹⁷⁵, and in the French Community in Belgium¹⁷⁶, where the template is accompanied by a document clarifying suitability for adopting and how this is assessed. In the same vein, a standardised methodology for home assessments, SAFE, has been introduced in British Columbia by the organisation Consortium for Children¹⁷⁷. In South Africa and New Zealand, psychologists also have various types of psychometric and other tests at their disposal.

In New Zealand for instance, professionals and PAPs can use the “Parenting Plan”¹⁷⁸ tool, in a standard format or in a format tailored to children with special abilities. This tool, which was outlined in a recent ISS/IRC publication¹⁷⁹, introduces a very valuable participatory aspect to the assessment process, putting PAPs in the driving seat in developing their plan. In the same spirit, social workers in Ireland use an ‘assessment homework tool’ to help PAPs reflect on their ability to take on children with special abilities.

Other innovative approaches are regularly disseminated to the relevant professionals, such as the “mentalisation” method¹⁸⁰ in Denmark which aims to help PAPs put themselves in the child's shoes, so they can understand the impact of painful experiences in their past. In Finland, the organisation Save the Children has developed a series of topics to cover during assessment interviews with PAPs. The PAPs are then asked to complete a homework task before each interview, using various techniques: creating a family tree to present their personal history; a chart of loss to discuss bereavements and losses they have experienced; or a social network diagram to portray the PAPs’ social circle, especially in the case of a single candidate.

Lastly, guides have also been produced to develop the capacity of professionals assessing and preparing PAPs, such as in Colombia¹⁸¹, Finland¹⁸², Spain¹⁸³ and Switzerland¹⁸⁴. There are also numerous courses, workshops and task days, as held for example in Spain, for the professionals responsible for assessments.¹⁸⁵

The promotion of practical tools such as those described above must be commended and encouraged, as they provide professionals with better guidance for conducting their interviews. In addition, to avoid the assessment feeling excessively intrusive into PAPs’ private lives, professionals should also receive regular training in various communication techniques, as well as supervision sessions where they can discuss particular situations they have experienced (see I.2.2.3 and II.1.1.2). These are essential tools for initiating and cultivating an open and constructive dialogue with PAPs throughout the evaluation process, which will enable them to develop their plan, whatever the outcome. This is critical for the well-being of the child and to reduce the potential for failure.

3. Tailoring evaluations

Another finding to emerge from the survey is the distinction between assessments of a general nature and those focusing on a specific CO or child profile. In the first example, which represents a minority of the countries responding to the survey, assessments are carried out without reference to a specific CO (Finland, Netherlands, Sweden¹⁸⁶) or child profile (Germany¹⁸⁷, British Columbia for adoption of a specific child, Finland, Sweden¹⁸⁸, Latvia, Quebec - except in the case of inversed flows, where an appropriate child is sought). By contrast, in many other countries, the assessment is tailored to reflect the profile of the child (**see II.3.1**) or CO (**see II.3.2**) chosen by the PAPs.

In addition, in some countries, assessments also vary according to the type of adoption. For example, the evaluation process may be less involved in the case of relative adoption, or the adoption of a second child (**see II.3.3**). Certain differences, although minor, have been identified between domestic and intercountry adoption (**see II.3.4**).

3.1 Tailoring to the child's profile

The general characteristics of children in need of IA are always discussed during the assessment interviews and preparation sessions (**see II.1.2.2**). However, depending on the situation, the assessment may either have a general scope or focus on a specific child profile, whether implicitly¹⁸⁹ or explicitly as in Denmark (**see I.1.1.1**), or as in the French Community in Belgium, where the profiles of children in need of adoption in the countries of origin form the focus of the second assessment¹⁹⁰.

3.1.1 General discussions on the profiles of children in need of IA

The characteristics of the adoptable child are discussed in most countries, including those that have opted for general assessments applicable to any child profile. This topic is addressed during preparation or information workshops (e.g. Finland, British Columbia) or through discussions between the competent professional(s) and PAPs. The CA of Quebec emphasises here that the professional responsible for the evaluation should have specific knowledge of the profiles of children who may be adopted from certain COs, and should share this information during interviews with PAPs, in order to assess their capacity to accommodate this. In New Zealand, the assessment focuses on the general profile of a child PAPs would be prepared to adopt (age, sex, medical needs, siblings). The assessment report includes an analysis of this child profile, with the CA highlighting in particular the issue of older children. In Colombia and South Australia, the CA carries out a comparison of the PAPs' capacity and resources with the specific profile of the child at a later stage (i.e. at the time of matching).

3.1.2 Wishes expressed by PAPs

In some countries, such as Spain (e.g. CA for Basque Country), PAPs are asked to specify, in their application for approval, the profile of the child they would like to adopt, and thus to indicate whether they would be prepared to adopt an older child or one with a medical condition. This proposal is subsequently assessed, with discussions about their expectations, hopes and motivations. In Latvia, details of the child's profile are provided later, based on wishes expressed during the home study. In its final ruling, the competent authority in Latvia ('Orphan's court') will specify the number, age and sex of the adoptee(s).

3.1.3 Children with specific abilities/special needs

There is another level of consideration where the child being adopted has special abilities. In these cases, many countries adapt the assessment and tighten the requirements. Meanwhile, in many countries¹⁹¹, the child's profile is addressed in depth by the professional(s) responsible for the assessment. In Ireland, the couple's thoughts on their capacity and limits for accommodating the special abilities of a child, along with the professional's opinion, are recorded in the assessment report. The competent authority for the canton of Solothurn in Switzerland stipulates that, in this scenario, the assessment should focus on other aspects or criteria, such as PAPs' availability, any experience or knowledge in fields such as teaching, their accommodation and their social network. The assessment aims to determine, above all, their resilience and their capacity to react to difficult situations. The competent authority for the Swiss canton of Vaud stipulates that a child psychiatrist should also be involved, and that individual sessions should be provided during preparation (see II.1.2.2).

To encourage adoption plans which match the realities of IA, ISS/IRC recommends the methods developed by several RCs, including to restrict the range of adoption plans approved to match the profiles of children currently in need of IA (see I.1.1.1). Many of these are featured in a recent ISS/IRC publication¹⁹². Such approaches enable prior elimination of any inappropriate applications, for example specifically requesting a very young child in good health, and help to mobilise resources and avoid putting unhelpful pressure on both the CO and RC. The more the scope of applications approved is limited to children's real needs, the better the process will be aligned with their rights and needs and the more constructive it will be for PAPs. However, it remains important to offer PAPs some degree of flexibility in expressing their wishes, while being aware that these will not always be deciding factors.

3.2 Tailoring to country profiles

As before, two types of cases emerge from the responses to this survey relating to aspects specific to COs in terms of profiles and needs of children offered for IA, the criteria required of PAPs (see II.2.1) and intercultural aspects. On one hand, in a few countries such as Finland, the Netherlands and Sweden, the specific characteristics of the CO do not form an integral part of the assessment, which remains generic although there are discussions about the CO during the process. In Finland, specific information about the CO involved is featured in an additional report issued at a later stage, once the application has been approved. On the other hand, a significant number of countries tailor PAP assessment to the CO, or even grant approval only for a specific CO (Switzerland¹⁹³). The criteria stated by the CO are thus taken into consideration during the evaluation process (Germany¹⁹⁴, Andorra, Belgium¹⁹⁵, British Columbia, Ireland¹⁹⁶, Luxembourg¹⁹⁷, New Zealand¹⁹⁸, Quebec¹⁹⁹, South Africa, South Australia²⁰⁰ and Spain²⁰¹). Notably, in the Community of Extremadura in Spain, fulfilling the criteria of the CO is required by decree²⁰². In New Zealand, assessment interviews focus on the importance of knowing about the culture of the CO (traditions, religion, food, language, customs, etc.), maintaining contact with the birth family (if possible), taking care of an older child, and on awareness of the effects of institutionalisation.

It is interesting that in South Australia, there is an interview before the evaluation process even starts, to identify the countries of origin for which PAPs are eligible. The assessment report will subsequently comment on PAPs' suitability for a specific CO. In addition, some PAPs choose to be assessed in response to general appeals launched by COs for the adoption of children with special abilities. There is then an additional assessment of PAPs' suitability for the CO concerned. Lastly, in Germany, an additional assessment report is produced about the CO concerned, often by the German AAB working in that country.

Whatever option receiving countries choose in tailoring assessments to the countries of origin, the crucial factor is that these countries are made aware as early as possible of the intercultural challenges of IA, and of the circumstances in which children live in the other country. Such information is key to assessment, including assessment of PAPs' ability to maintain contact after adoption with the CO concerned, or even with significant individuals for the child (see II.2.1).

3.3. Tailoring to the nature of adoption

Regardless of whether it is a domestic or intercountry adoption, relative adoption, or the adoption of a second or even third child, the evaluation process remains essentially the same in some countries (South Africa²⁰³, British Columbia, South Australia and the Netherlands²⁰⁴). By contrast, in other countries there can be significant differences.

3.3.1 Step-child and relative adoptions

For example, in adoptions of the step-child, the CA for the canton of Bern in Switzerland requires a home study only in exceptional cases.

For relative adoptions, the focus is mainly on the specific characteristics of the child (British Columbia, Finland, New Zealand) and the type of adoption (Spain, Ireland²⁰⁵, Luxembourg²⁰⁶). There are adjustments to the evaluation process in the French-speaking Community in Belgium²⁰⁷, Quebec and Germany²⁰⁸. In addition, the CAs for Ireland and the canton of Vaud in Switzerland indicate that, in the case of a pre-existing family relationship with the child, much less attention is paid to criteria relating to the health and age of the PAPs. New Zealand requires analysis of the nature of the relationship with the child, the reasons and motivations of PAPs, and the grief caused to the child by separation or loss resulting from adoption abroad. There are some problems that frequently arise²⁰⁹. For example, the CA for the canton of Vaud has identified that some PAPs who have been authorised to adopt a family member would never normally have been approved, due to not meeting the necessary criteria.

3.3.2 Adoption of a second or third child

- *New assessment, addressing specific aspects, including:* dynamics of nuclear family; opinion of biological/adoptive children on the planned adoption; integration of first adoptee; problems encountered; best interests of all children involved (Germany²¹⁰, South Africa²¹¹, Andorra, South Australia²¹², canton of Bern²¹³, French Community in Belgium, British Columbia, Latvia²¹⁴, Quebec).
- *Update to previous assessment in light of new aspects, including:* experience of adoptive parenthood; mutual accommodation; experience of caring for existing child; teaching skills;

resources; availability; stability of first child; level of bonding (Basque country in Spain, canton of Vaud, Ireland, Netherlands, Sweden).

- *Amendments to criteria or procedures (e.g. required time frames):* reversed flow adoption (Germany); genuine capacity to care for a child (New Zealand); stricter requirements (Central Authority for canton of Thurgau²¹⁵); additional training (Finland²¹⁶); exemption from preparation (Spain²¹⁷, Latvia²¹⁸, Lithuania); or evaluation report and opinion of first child (Togo). In British Columbia, Latvia²¹⁹ and Quebec, a 12-month gap is required between a previous adoption (or the birth of a biological child) and the arrival of a new adoptee.

3.3.3 Domestic vs. intercountry adoption

In most of the countries responding to this survey²²⁰, there are no major differences between the assessment procedures for national or intercountry adoptions. Some variations can be observed, in terms of costs and of rights invoked (Germany²²¹), competent authorities (Latvia²²², Sweden²²³) and specific requirements (Luxembourg²²⁴).

In some countries such as Finland²²⁵, there are significant differences in terms of preparation for PAPs. In addition, countries distinguish between aspects specific to domestic adoption (ethnicity of child²²⁶; geographic proximity to birth parents²²⁷; greater awareness-raising on supporting the child in identity building and/or search for origins²²⁸; openness/open adoption²²⁹; management of uncertainty in the face of potential withdrawal by the birth parents²³⁰; etc.) from those specific to IA (profiles of children in need of intercountry adoption²³¹; language, ethnic and cultural differences²³²; views on adoption in the CO²³³ and functioning of the protection system²³⁴; impacts of institutionalisation²³⁵; importance of life story work²³⁶; additional support in event of problems²³⁷; risks in relation to certain medical conditions²³⁸, etc.).

It is interesting to see that, in the vast majority of countries, including in Germany, the evaluation process for PAPs is tailored according to the specific type of adoption involved. Care should be taken, however, to ensure that any procedural adjustments are in the interests of both the child and PAPs, i.e. that international standards are still applied. In this respect, the Special Commission 2015 underlines the need to observe the safeguards laid out in the Convention in the context of relative adoption, and to individually assess each child's situation. It emphasises that "it should not be automatically assumed that either an in-country or in-family placement is in a child's best interests".

III. Concluding reflections

1. Moving towards universal criteria for evaluations in favour of children?

As mentioned in the GBP1, the CO "underline the importance of having access to exact reports on the PAP, and they have expressed their concern as to the heterogeneity of these reports, the lack of information and inaccurate facts contained therein". Further, certain CO have mentioned to the ISS/IRC during missions that certain applications from PAP were not appropriate, for example the PAP were too old.

When confronted with these problems, the ISS/IRC stresses the importance of supplying standard forms and outlines to professionals and entities in charge of the evaluation process of PAP, both on a national and on an international level (see II.2.2). In fact these precious tools provide identical guidelines for everyone and therefore lead to improved harmonisation – as promoted by Luxembourg²³⁹– in the files submitted to the CO. As underlined by the SC of 2010, the COs can help the RCs in the establishment of selection criteria for prospective adoptive parents by supplying information on the characteristics and needs of the children for adoption in their countries. It should be noted that all the information supplied by the CO concerning the profiles and needs of the children can only serve to enrich the development of ever more suitable tools for the evaluation, preparation and accompaniment of PAP in their waiting period (II.2.2). In fact, certain COs have developed their own list of criteria, which the RC must bear in mind during the evaluation process (see II.2.1).

A PAP evaluation of quality is a service rendered to the children and to themselves. If this process is well conducted, it will be a first major step in the apprenticeship of parenthood. Integrating the preparation into the evaluation process, even making it obligatory before initiating the process (see II.1.2.2), is a further guarantee of quality. The more knowledge of international adoption and of children that the PAP are able to acquire, the more they will understand the relevance and implications of their evaluation. It is the first opportunity to put themselves in the place of the child.

Moreover, the time taken for the process (see II.1.2.1), the qualification of the professionals involved, and the mechanisms of supervision of the inquiries concerning the PAP (see II.1.1) all mean that the exactitude of the information provided and the impartiality of the process can best be confirmed and guaranteed. At the same time it is important to establish the duration of the validity for the authorisation, to set up a mechanism for keeping information up-to-date regularly, and to oblige PAP to inform the competent authorities of any significant change (see I.2.2.2).

2. Individualised and participative process, adapted to the objective and individual circumstances (child and PAPs)

The success of an evaluation process largely depends on the commitment and honesty of PAPs. PAPs must understand from the very beginning the importance of honesty, not only for the child, but also for themselves. Adoptive parenthood requires adoption eligibility and suitability, justifying specific factors which the professionals conducting the evaluation must both analyse and take steps to ensure that the PAPs to recognise their importance. As pointed out by Dr. Patricia Fronck "a profound professional evaluation is indispensable in the choice of family environments of quality and will help to avoid separation, breakdown, or, in extreme cases, the death of the child". Many of these extreme cases have occurred during the first 12 months of the adoption and reveal the high risks involved. Such risks include for instance: looking after several children or young children at the same time, when the parents have mental health concerns, isolation, inability to manage difficult behaviours, a handicap or health problems, or the incapacity to ask for help.²⁴⁰

COs have established a wide range of conditions for PAPs' applications that they are willing to consider. These conditions often diverge from those prevalent in RCs. Indeed, persons who suffer from illness, are older, single or homosexual, have the opportunity to apply for adoption in a number of RCs. This will however not necessarily be the case in the great majority of the COs. Therefore, it is a matter of informing PAPs from the outset when they do not correspond to the conditions fixed by a particular CO, and who therefore cannot adopt from that CO even if the legal criteria in fulfilled in the RC.

A non-approval can also result from an assessment of PAPs' psycho-social aptitude deemed unsuitable by the responsible professional. Such situations are sometimes experienced by PAPs as arbitrary and discriminatory, and may raise difficulties in practice. The professionals in charge of evaluation can therefore be faced with delicate situations, in particular when ensuring the respect for the specified criteria and the cultures of the two countries involved, while maintaining the required neutrality.

When there is transparent communication with PAPs, their confidence will grow and they will be able to discuss openly their strengths and weaknesses, their motivation and doubts, their expectations and their apprehensions. Tools such as the "Parenting plan" (see II.2.2) will enable PAPs to feel truly part of the process and to be actors in the development of their project. The process takes the form of a personalised, individualised support of the PAPs, and consequently helps them to adapt little by little the profile of a child that they would be able to welcome into their home, and to envisage the concrete planning and investment involved.

The methods used will also play a key role in the individualised evaluations: interviews and home visits must be sufficiently numerous and conducted at a pace which leaves time for the PAP to nurture their project (see II.1.2.1). The process should also be adapted to the reality and conditions fixed by the CO, to the profile of the children in need of IA and to the nature of the adoption (see II.3). If the latter are described and presented with precision to the PAP, either at the beginning or during the process, the PAP will understand more easily the constraints and the intrusion involved in the evaluation, for example when analysing their own style of bonding. This essential aspect can in fact be a factor of protection, or, depending on the case, an important risk²⁴¹. As pointed out by the 2010 SC, a preparation specific to each country is necessary so that PAPs have sufficient knowledge of the culture and language of the child, and can communicate more easily with their child at the time of matching.

Constant dialogue with PAPs and transparent recommendations concerning them will give them the opportunity to express their potential disagreement, without having to wait for the final evaluation decision. The more involved PAPs are in the process, the easier it will be for them to accept the decision, should their application be refused. These are difficult situations which require professional accompaniment, which, as we have seen, can occur before or after the outcome (see I.2.2.3). In this way appeals may be avoided – processes which use significant resources and can sometimes lead to the inappropriate granting of approval, with consequences for the CO (see I.1.1.1).

Professionals must be trained and given tools and support through sessions of supervision (see II.1.1.2 and II.2.2) in order to provide a process which is of this high quality. Such tools should be adapted to the specificities of each of the adoption types. If the majority of

adoptions concern, for instance, relative adoptions or step-child adoptions, then targeted tools/methods should be widely promoted.

3. Strengthened cooperation between all the actors

The spirit of cooperation as promoted by the 1993 Hague Convention is essential when addressing the question of PAP's evaluation. The absence of cooperation can create significant problems for the RC, through the lack of a clear strategy for regulating the number of approvals granted to PAPs. As a result the RC's may end up with long waiting lists, and approvals which are not adapted to the realities of the CO and the needs of the children. This generates frustration and incomprehension for PAPs and exerts pressure on the RC to carry out a significant number of IA. For the CO, problems also arise when the number and the type of approvals are not fixed, creating pressure and delicate situations, which can lead to illicit practices.

In order to guarantee that adoption procedures are centered on the child and his/her needs, and to refute any potential right to adopt solely based on the submission of an adoption application, RCs and COs must possess a legal and political framework, as well as a mechanism to regulate the approvals given, which are adapted to the needs of adoptable children. The experiences of several countries in this field (**see I.1.1**) should be replicated, and at the same time the recommendation of the Special Commission of 2015 should be implemented. Namely that, *“the countries of origin are encouraged to stipulate, through the Central Authority, their limitations on the number and type of applications for IA which they can accept, bearing in mind the number and profiles of the children for adoption in their State. The receiving countries must respect these limitations. Further, even when no limitation has been established, the number and type of applications for IA sent to CO must be in proportion to the number and profiles of children for adoption in the State concerned”*.

The GGP1 clearly emphasises (**see I.1.2**) that if the interests of the child are the true priority, it is for the CO to decide, through a thorough legal and medico-psycho-social study, which children are suitable for, and need IA; and then to inform the RC. The role of the RC is to find the family most apt to welcome, love, protect and care for the child in question. This type of cooperation mechanism, called reversal of flow, should become widespread so as to respect the very nature and definition of adoption. In order to implement this strategy the RC and CO must also cooperate so as to adapt the number of AAB to the number and profile of the children in need of IA, as developed by the GGP2.²⁴²

Finally, a strong system of evaluation necessarily includes close cooperation between all the relevant actors in the RC. To guarantee high quality evaluations multidisciplinary teams need to be involved, including therapists, pediatricians, etc. Occasional meetings between professionals and the authorities responsible for the different stages of the evaluation, so as to discuss problems and potential disagreements between the final approval/non-approval and the result of an appeal, are also opportunities to improve and reinforce the system.

¹Editorial of ISS/IRC Monthly review n°226, November 2018, available at: <https://www.iss-ssi.org/index.php/fr/ressources/formation-et-sensibilisation>.

² Statistics available at ISS/IRC.

³ Despite being used in its plural form, this term includes both single PAPs and couples.

⁴ Articles 4, 5 a) and b) and 15 (1) of the 1993 Hague Convention (see I.2.1.1).
(see I.2.1.1).

⁵ Patricia Fronek, B.SocWk., PhD, School of Human Services and Social Work, Griffith University, has thirty years practice experience that includes assessing PAPs and working with adoptive families and adoptees. Patricia publishes her research and contributes to state, national and international policy development through committees, inquiries and other forums.

⁶ See Fronek, P. Assessment of prospective adoptive parents. Jeannin, C. (Ed.) (2018). Towards a greater capacity: Learning from intercountry adoption breakdowns. Geneva: Switzerland. International Social Service, p. 110.

⁷ Extract of annual report 206-2017. Available in French at :
http://www.adoptions.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=ae77cc3c64f5e7f9f10cd33fa3e7a30999438eb8&file=fileadmin/sites/saac/upload/saac_super_editor/saac_editor/documents/Rapports_d_activites/Rapport_d_activites_2016-2017.pdf.

⁸ Central authorities: Andorra, Australia (South Australia); Belgium (*Communauté française*); Canada (British Columbia, Québec); Colombia; Denmark; Finland; Germany (Zentrale Adoptionsstelle Köln, Zentrale Adoptionsstelle Sachsen-Anhalt, Bavarian Zentrale Adoptionsstelle, Zentrale Adoptionsstelle Berlin-Brandenburg, Gemeinsame Zentralstelle Rheinland-Pfalz und Hessen GZA, Zentrale Adoptionsstelle LWL Landesjugendamt. *Freie Träger*: AdA e.V., FiF e.V., Eltern-Kind-Brücke, Help A Child e.V.); Ireland; Latvia; Lithuania; Luxembourg; New Zealand; South Africa; Spain (Comunidades autónomas de Extremadura, Menorca, Navarra, País Vasco); Sweden, Switzerland (Federal CA, CA of Cantons of Bern, Zurich, Vaud, Thurgau, Solothurn) and Togo. Accredited adoption bodies: Germany and Finland (Save the Children). International Social Service: Germany, Spain and the Netherlands.

⁹ See Chapter 6.4.5.

¹⁰ The requests for approval concern “children aged between 0 and 4 years with the potential of having a physically and mentally common development, eventually with limited recourse to support” (for instance: children with HIV but who received treatment in the PO, premature children, etc.)

¹¹ See *Empfehlungen zur Adoptionsvermittlung*, 2014. Available in German at :

http://www.bagljae.de/downloads/120_empfehlungen-zur-adoptionsvermittlung_2014.pdf.

¹² See §§ 41 and 73, Special Rapporteur 2017 annual report,
http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/55.

¹³ Thailand usually sets quotas for the number of children each PAP can adopt, which varies and depends on the number of children adopted annually and the number of pending adoption cases at HQ. HQ examines whether the work for an IA has been successful, including the period during which the two Contracting States were linked. In 2014, Thailand introduced quotas for more than 20 host countries. These quotas do not apply to children with special needs. See: MAI (France), http://www.diplomatie.gouv.fr/fr/actions-france_830/adoption-internationale_2605/pays-origine_3233/fiches-pays_3895/thailande_9634.html and the US Department of State, <http://travel.state.gov/content/adoptionsabroad/en/country-information/alerts-and-notice/thailand-1.html>;

HCCH, Country Profile, http://www.hcch.net/upload/wop/adop2015cp_th.pdf (question 16).

¹⁴ See GGP1, Chapter 7, §§ 314 to 316; ISS/IRC Monthly review N°6 June 2005. *Brazil: Reversing the flow of files, a practice that respects the rights of the child and the ethics of inter-country adoption*.

¹⁵ See Paras. 12, 71 and 73 of the Guidelines for the Alternative Care of Children; available at: https://www.unicef.org/protection/alternative_care_Guidelines-English.pdf.

¹⁶ *Supra* 14, Paras. 399-404 and 413-417 of the HCCH. *Guide to Good Practice No. 1*; available at: <https://assets.hcch.net/docs/bb168262-1696-4e7f-acf3-fbbd85504af6.pdf>.

¹⁷ Recommendation No. 7 of the 2005 Special Commission; available at: https://assets.hcch.net/upload/wop/concl33sc05_e.pdf.

¹⁸ Available at: https://assets.hcch.net/upload/wop/adop2010_rpt_en.pdf.

¹⁹ Available at: <https://assets.hcch.net/docs/858dd0aa-125b-4063-95f9-4e9b4afd3719.pdf>.

²⁰ Available at: <https://assets.hcch.net/docs/b6be0608-ee2b-4882-81e5-02056d41759d.pdf>.

²¹ See *Guide to Good Practice No. 1*; available at: <https://assets.hcch.net/docs/bb168262-1696-4e7f-acf3-fbbd85504af6.pdf>.

²² a) the personality, health and social environment of the adopter, particulars of his or her home and household and his or her ability to bring up the child; b) why the adopter wishes to adopt the child; c) where only one of two spouses or registered partners applies to adopt the child, why the other does not join in the application; d) the mutual suitability of the child and the adopter, and the length of time that the child has been in his or her care; e) the personality, health and social environment of the child and, subject to any limitations imposed by

law, his or her background and civil status; f) the ethnic, religious and cultural background of the adopter and of the child.

²³ Adoption Act 1955, s. 11: ‘every person who is applying for the (adoption) order is a fit and proper person to have the custody of the child and of sufficient ability to bring up, maintain and educate the child’.

²⁴ Swedish Social Services Act, Ch. 6, s. 12, <http://www.mfof.se/Global/English/swedish-laws-concerning-adoption-july2016.pdf>.

²⁵ *Ley cualificada de la adopción y de las otras formas de protección del menor desamparado*, 21 March 1996 (BOPA, No. 29 –Year 12 – 24 April 1996) and *Decreto de modificación del Reglamento de adopciones*, 3 January 2013 (BOPA, No. 2 – Year 25 – 9 January 2013), <https://www.aferssocials.ad/infancia/servei-d-adopcions>.

²⁶ The first stage of the assessment (Assessment No. 1) is set in Belgium’s federal legislation (Civil Code and Civil Procedural Code); the second stage (Assessment No. 2) is set in the Communities’ legislation (*Décret du 5 décembre 2013 modifiant le décret du 31 mars 2004 relatif à l’adoption*, http://www.adoptions.be/index.php?eID=tx_nawsecuredl&u=0&g=0&hash=3582812d6cd81aaded65cba8ccedc67935c33aa5&file=fileadmin/sites/saac/upload/saac_super_editor/saac_editor/documents/Legislation/Coordination_officieuse_-_05.12.13.pdf).

²⁷ Adoption Regulations No. 291/96, as amended in 2017, http://www.bclaws.ca/Recon/document/ID/freeside/291_96#section3.

²⁸ *Code civil*, Art. 563, <http://legisquebec.gouv.qc.ca/fr/showdoc/cs/CCQ-1991/20140501>; and *Loi sur la protection de la jeunesse*, chapitre P-34.1.

²⁹ *Ley 1098* of 2016 (partially amended by *Ley 1878* of 2018), Arts. 11, 68 and 124; *Lineamiento Técnico Administrativo del Programa de Adopción aprobado mediante Resolución 2551/2016* (pp. 31-45); Colombia’s case-law; additional documents developed by the ICBF (Colombian CA), and whose implementation is mandatory for all public services and institutional partners – *Trámite de Adopción nacional/doméstica* and *Trámite para casos de Adopción por Residentes en el exterior*.

³⁰ Adoption (Consolidation) Act No. 1821 of 2015, Arts. 4a (1), 25a (1) and 30e (1); and Executive Order on Adoption No. 1863 of 2015, Part 5, Arts. 17-38.

³¹ Finnish Adoption Act, s. 30, ‘Report on provision of adoption counselling’, <https://www.finlex.fi/fi/laki/kaannokset/2012/en20120022.pdf>; Government Decree (copy available at the ISS/IRC), s. 3, which refers to the report referred in s. 30 81) of the Adoption Act.

³² In Germany, Section 1741 of the BGB (German Civil Code) stipulates in general terms that an “adoption is admissible if it serves the best interests of the child and it is to be expected that a parent-child relationship will arise between the adoptive parent and the child”. This provision is complemented by Section 7 Adoptionsvermittlungsgesetz (AdVermiG) https://www.gesetze-im-internet.de/advermig_1976/BJNR017620976.html), that provides for an evaluation to be undertaken regarding the child’s characteristics and the PAPs suitability to cater for the specific needs of an adoptable child (para. 1), as well as specifying requirements for the assessment report (e.g. personal and family circumstances, health status, social environment and adoption motivations; para. 3). Procedural and competencies matters related to adoption applications are addressed in Sections 189 and 195 Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) https://www.gesetze-im-internet.de/englisch_famfg/index.html, and Section 4 para. 2 number 2 and paragraphes 4 and 5 Adoptionsübereinkommens-Ausführungsgesetz (AdÜbAG) http://www.gesetze-im-internet.de/ad_bag/index.html. For further regulation and sanction possibilities, please see p. 101 EFZA report, *Empfehlungen des Expertise-und Forschungszentrum Adoption zur Weiterentwicklung des deutschen Adoptionswesens und zu Reformen des deutschen Adoptionsrechts* (2017), https://www.dji.de/fileadmin/user_upload/bibs2017/EFZA_Empfehlungen.pdf.

³³ Adoption Act 2010, ss. 34, 37, 39 and 40.

³⁴ The Cabinet Regulation No. 667 of 30 October 2018, ‘Procedures for Adoption’, in force since 8 November 2018 (replaces the Cabinet Regulation No. 111 of 11 March 2003).

³⁵ Civil Code of the Republic of Lithuania, Procedure for registry of PAPs and children eligible for adoption approved on 14 November 2018, Resolution No. 1135 of the Government of the Republic of Lithuania; *Order No. BV-66 of the Director of the Service*, which approved the GIMK programme (training and consultancy programme for foster parents (guardians), carers on call, adoptive parents, the staff members of the Community Foster Home).

³⁶ *Loi du 14 avril 2002 portant approbation de la Convention de La Haye du 29 mai 1993 sur la protection des enfants et la coopération en matière d’adoption internationale, modifiant certaines dispositions du Nouveau Code de Procédure Civile et introduisant l’article 367-2 du code pénal*.

³⁷ *Adoption Act (Wobka*; 8 December 1988), Art.5, Para. 1.

³⁸ South Australia, *Adoption (General) Regulations* 2018, at Reg. 10, [https://www.legislation.sa.gov.au/LZ/C/R/ADOPTION%20\(GENERAL\)%20REGULATIONS%202018/CURRENT/2018.227.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/R/ADOPTION%20(GENERAL)%20REGULATIONS%202018/CURRENT/2018.227.AUTH.PDF).

³⁹ *Ley 54/2007 de Adopción Internacional*, as amended by *Ley 26/2015 de modificación del sistema de protección a la infancia y a la adolescencia*, Chap. III “*Capacidad y requisitos para la adopción internacional*”, Art. 10 “*Idoneidad de los adoptantes*”; *Código Civil*, Arts. 9.4, 9.5 and 175-180; *Ley de Enjuiciamiento Civil* (R.D. of 3 February 1881). Articles in force in accordance with the provisions 1.1^a and 2^a of *LEC 1/2000*, Arts. 1829-1832.

⁴⁰ *Decreto vigente y específico en materia de adopción, Decreto 101/2018 de 3 de julio por el que se regula la actuación de la Administración de la Comunidad Autónoma de Extremadura en materia de adopción de menores.*

⁴¹ *Decreto 40/2006, de 21 de abril, por el que se regulan los procedimientos de acogimiento familiar, de adopción y de determinación de idoneidad de las Islas Baleares.*

⁴² *Ley Foral 15/2005, de 5 de diciembre de promoción, atención y protección a la infancia y adolescencia*, Art. 77; *Decreto Foral 111/2014, de 26 de noviembre, que regula el procedimiento para la adopción en Navarra*, Art. 19.

⁴³ *Ley 3/2005, de 18 de febrero, de Atención y Protección a la Infancia y Adolescencia*; *Decreto 114/2008, de 17 de junio, por el que se regula la actuación que deberán seguir las Diputaciones Forales en materia de adopción de personas menores de edad.*

⁴⁴ *Code civil* (CC, RS 210), Arts. 264, pt. 2 and 268a; *Ordonnance sur l’adoption* (OAdO, RS 211.221.36), Arts. 4 and 5.

⁴⁵ *Décret N° 2008-103/PR du 29 juillet 2008 relatif à la procédure d’adoption d’enfants au Togo.*

⁴⁶ Assessment No. 1: Assessment of basic psychological and social abilities; Assessment No. 2: Assessment of psychological and social abilities with a view to matching.

⁴⁷ Except in those IA cases, where approval for foreign PAPs and their preparation must be confirmed by the regional court in Vilnius.

⁴⁸ Based on articles 68 and 124 of the *Ley 1098 of 2006*, ICBF Regional Directorates and District Centres: <https://www.icbf.gov.co/instituto/puntos-atencion>.

⁴⁹ Institutions authorised by ICBF (known as ‘casas de adopción’), <https://www.icbf.gov.co/bienestar/proteccion/programa-adopciones/instituciones-en-colombia>.

⁵⁰ In conformity with article 41.9, *Decreto N°987 de 2012*.

⁵¹ Indeed, according to the German legal system, the approval decision only becomes an administrative act if it has external effects, which solely occurs in case of non-approval. See *Empfehlungen zur Adoptionsvermittlung*, 2014 (pp. 64 and 65). Available in German at : http://www.bagljae.de/downloads/120_empfehlungen-zur-adoptionsvermittlung_2014.pdf.

⁵² Called « Sozialbericht » and « Eignungsbericht » for domestic adoptions.

⁵³ See recommendations 22 and 23 of the 2010 Special Commission. Available at: https://assets.hcch.net/upload/wop/adop2010_rpt_fr.pdf.

⁵⁴ See AdVermiG, Section 7 al. 3.

⁵⁵ *Supra* 19, « *Recalling 2010 SC C&R Nos 22 and 23 and the fact that private and independent adoptions are not compatible with the Convention,39 the SC encouraged Contracting States to move towards the elimination of private and independent adoptions..* » (Recommendation n°46 of the 2015 SC, <https://assets.hcch.net/docs/858dd0aa-125b-4063-95f9-4e9b4afd3719.pdf>).

⁵⁶ *Supra* 46

⁵⁷ Executive Order on Adoption N°1863 of 2015, art. 38 :

(1). *The joint council of adoption may make a decision to withdraw an approval of an adopter where:*
i) the conditions for being approved as an adopter are no longer fulfilled or ii) the applicant is otherwise not considered to be suitable as an adopter, cf. Section 25 a(2) of the Act.

(2). *The applicant shall be obliged to notify the State Administration in case of relevant changes in the applicant’s circumstances.*

⁵⁸ OAdO, art.6 al.3. *Supra* 44.

⁵⁹ See: ISS/IRC Monthly Review No. 171, April 2013.

⁶⁰ *Código de la Administración*, Art. 124, <http://www.coprince-fr.ad/fr/code-administration>.

⁶¹ South Australian Civil and Administrative Tribunal, Reg. 17 of the *2018 Regulations*.

⁶² *Supra* 46.

⁶³ *Código Contencioso Administrativo Ley 1437 of 2011*, Art. 74. The request for a review is submitted to the Adoption Committee, and subsidiarily, an appeal may be submitted to the ICBF Directorate’s main office.

⁶⁴ In Germany, in case of a non-approval (Nichteignung), the refusal is considered as having external effects, and takes the form of an administrative act (see I.2.2.1). It can therefore be appealed before an administrative court in accordance with applicable deadlines. Given the federal nature of the country, administrative rules are

regulated under each Bundesland. In Bavaria for instance, according to an amendment to the Administrative Court Rules of 21.06.2007, the court's final decision cannot be opposed in the field of adoption.

⁶⁵ PAPs may challenge an administrative decision in accordance with the conditions set in Art. 780 of the *Civil Procedural Code*. Once this stage has been completed, they may also appeal the administrative decision before the courts within two months from the day following their notification at the Court of First Instance.

⁶⁶ See *Adoption Handbook for the Swedish social services*, p. 19.

⁶⁷ PAPs are able to have the decision reviewed if there is a decline outcome and have 10 days to provide any new and different information to be considered. PAPs seek their own support through this process and they are encouraged to bring any support person they wish to any meetings held in respect of their case.

⁶⁸ Complaints may be submitted first by PAPs, as mentioned in Arts. 74 ff. of the *Executive Order on Adoption No. 1863* of 2015. In cases of refusal, the latter may appeal the decision before the National Board of Adoption, as stated in Art. 25b (1) of the *Adoption (Consolidation) Act No. 1821* of 2015.

⁶⁹ *Supra* 58.

⁷⁰ First level (appeal of the decision issued by the CA): Council for the Administration of Criminal Justice and Protection of Juveniles. Second level (if PAPs' objection rejected): Court or the Administrative Jurisdiction Division of the Council of State.

⁷¹ The *Advisory Panel* is an independent committee, which receives the complaints of persons, who are not satisfied with the formal complaint process, which they have been involved in. The Ombudsperson (mediator) is an independent governmental body, which may be resorted to by persons, who are not satisfied with the services received, in particular decisions taken in relation to them. The Ombudsperson may undertake a separate inquiry.

⁷² *Adoption Handbook for the Swedish social services*, p. 110. *Supra* 65.

⁷³ Called « Freie Träger », eight of these AABs operate currently in Germany.

⁷⁴ According to the Finnish AAB *Save the Children*, 'it appears, however, that in practice, the reports including negative aspects are difficult to challenge. In order to challenge these reports, PAPs must, first, submit a request to adopt to the CA, via their AAB, by paying a certain amount. Even if the CA issues a decision that is different from that recommended in the report, PAPs will not be able to adopt, as the AABs do not send assessments with negative aspects to the CO'.

⁷⁵ *Adoption Act*, s. 29.

⁷⁶ *Administrative Judicial Procedure Act (586/1996)*.

⁷⁷ *Adoption Act*, s. 50.

⁷⁸ *Supra* 75.

⁷⁹ *Adoption Handbook for the Swedish social services*, pp. 19 and 43.

⁸⁰ Proposed for instance by the AAB AdA e.V. or certain CAs for instance.

⁸¹ *Supra* 46.

⁸² *Service des Adoptions* – A unit placed under the *Direction des Affaires sociales du Ministère des affaires sociales, de la justice et de l'intérieur*. This is the only accredited team in Andorra to develop the capacities linked to adoption.

⁸³ Agency for Family Law (local authority).

⁸⁴ Orphans' and Custody Court, competent in accordance with PAPs' place of residence.

⁸⁵ Territorial divisions of the State Child Rights Protection and Adoption Service (intervention of staff authorised by this service).

⁸⁶ Child Care and Protection Board, commissioned by the CA of the Ministry of Justice and Security.

⁸⁷ Competent authorities at the level of each Autonomous Community (competent service in child protection in Extremadura and Navarre, *Consells insular of the Balears Islands*, *Diputació Foral de Gipuzkoa* in the Basque Country). These may be professionals of the public administration or private professionals contracted by the Administration through the signature of an agreement of collaboration with professional colleges or professional teams authorised to fulfill this task.

⁸⁸ Director of Youth Protection of the sector of residence of PAPs, or a person commissioned by them (Art. 71.7 of the *Law on youth protection*).

⁸⁹ Municipality (local authority).

⁹⁰ The consultation of an accredited responsible person during the preparation of the social study report, and once the social worker has issued his or her recommendation. The suitability is then declared by the Director of the AAB.

⁹¹ *Defensorías de Familia* of the ICBF (multidisciplinary teams) or AABs (bodies authorised to carry out the adoption programme).

⁹² Municipal social welfare organs or adoption agencies licensed by the National Supervisory Authority for Welfare and Health to provide adoption counselling.

⁹³ *Adoption (Intercountry) Act 1997*, s. 6, which provides for the delegation of some functions from the AC to an AAB, including the assessment of PAPs. *Adoption (Intercountry) Act*, Reg. 4, however, requires that the functions

delegated to the AABs are separated, in order to avoid any tension within and amongst AABs. Thus, of the three existing New Zealand AABs, one is accredited to undertake PAP assessments, and two are accredited to facilitate the placement of children adopted internationally. *Exception (Adoption (Intercountry) Act, Reg. 2 (a),(b) et (c))*: some functions cannot be delegated to an AAB, and are incumbent on New Zealand's CA, such as the medical and police reports and the review of the applicant referee.

⁹⁴ Child and Family Agency (TUSLA) or the NGO PACT (Protestant Adoption Society).

⁹⁵ *Adoptionsvermittlungsstellen*.

⁹⁶ For some Länder, the CAs known as Zentrale Adoptionsvermittlungsstellen des Landesjugendamt, have joined their efforts and have established a sole competent public body for several of them (e.g. Gemeinsame Zentrale Adoptionstelle Rheinland-Pfalz and Hessen, Gemeinsame Zentrale Adoptionsstelle der Länder Freie Hansestadt Bremen, Freie and Hansestadt Hamburg, Niedersachsen and Schleswig-Holstein).

⁹⁷ AdVermiG, Para. 2, pt. 3; AdübAG, Para. 4, pt. 4.

⁹⁸ The audit of the final assessment report may also be entrusted to the *Consortium for Children*, commissioned by the CA.

⁹⁹ The final decision is incumbent on the Family Court (see I.2.2).

¹⁰⁰ Cantonal Central Authority.

¹⁰¹ *Comité de Adopciones*, i.e. ICBF's regional body.

¹⁰² Joint Council.

¹⁰³ Ministry of Welfare.

¹⁰⁴ Appointed competent authority at the level of the Autonomous Communities.

¹⁰⁵ Local social welfare committee.

¹⁰⁶ Ministry of Justice and Ministry in charge of child protection.

¹⁰⁷ Reviewed by the local adoption committees (which are multidisciplinary teams of child protection professionals), followed by the multidisciplinary team within the CA. The CA's committee is in charge of the final decision.

¹⁰⁸ The final report is then attached to the general adoption request submitted by PAPs to the CA.

¹⁰⁹ Child protection service of the PAPs' place of habitual residence or CA of the Land.

¹¹⁰ As described in the Adoption Regulations: 'social worker' means: (a) in the case of an adoption agency, a person who: (i) is employed by or under contract to the adoption agency, and (ii) is registered by the British Columbia College of Social Workers.

¹¹¹ The social studies include, amongst others, aspects relating to psychology, social work, sociology and law.

¹¹² The assessment is undertaken by a social worker or a psychologist.

¹¹³ *Supra* 42.

¹¹⁴ The assessment is undertaken by the CA, i.e. the *Comité national d'adoption des enfants au Togo* (CNAET), made up of seven members: two representatives of the Ministry in charge of child protection (a lawyer and a social professional); two representatives of the Ministry of Justice; a representative of the Ministry of Foreign Affairs; a Child Psychologist; and a Pediatrician.

¹¹⁵ Child trauma.

¹¹⁶ See *Information on the mandatory pre-adoption prepared course and the post adoption services provided in Denmark* available in English on request.

¹¹⁷ Attachment Theory.

¹¹⁸ The CA provides updated information and training sessions for professionals involved in assessments, twice a year, on the medical aspects and other issues relating to ICA of interest for the assessments and on parenting children with special needs.

¹¹⁹ Eighteen months after the date on which the application was submitted to the CA. Previously, the applicant must have filed a declaration of interest with the CA. It may take a few months or more for the CA to invite the person(s) to apply.

¹²⁰ Preparation of PAP included.

¹²¹ Four months for evaluation n°1 and three months of evaluation n°2.

¹²² Noted in particular by Extremadura (Spain) and Togo.

¹²³ South Africa, Germany (4 to 5 interviews), Andorra (every week or two weeks), French Community of Belgium (evaluation N ° 1: minimum two social interviews and three psychological interviews, evaluation n ° 2: minimum social interview, two psychological interviews and a medical interview); British Columbia, Quebec (two separate interviews then two joint interviews if a couple, three interviews if single person, interview of children present at PAP home, if applicable); Spain (minimum two in the Extremadura Community, four to five in the Basque Country, five in the Minorca Community, Finland: six to seven, Ireland, Luxembourg, New Zealand, the Netherlands (two interviews); Sweden (between four and five), Switzerland (between two and six), Togo (one or more).

¹²⁴ Germany (minimum 1 to 2 visits), Andorra, Spain, Finland, Luxembourg, New Zealand, Netherlands and Québec (one visit); South Australia (all interviews are conducted at the home of the PAPs and their total duration is 10 to 20 hours depending on the case); French Community of Belgium (evaluation n ° 1 and evaluation n ° 2: among the social interviews, one takes place at the home of PAPs); Spain; South Australia (all interviews are conducted at PAP homes); Sweden (one to two); Switzerland (at least one and, possibly, telephone interviews).

¹²⁵ Help a child e.V.

¹²⁶ Help a child e.V. seems to indicate that the psychological opinion is always requested, while FiF e.V. notes that this requirement depends on the country of origin's conditions.

¹²⁷ Except if they choose to go through a private body.

¹²⁸ Latvia: for national adoption, only participation can be requested from PAPs when specialists are used (psychologist, doctor, specialist for sleep disorders, etc.); for the AI: no cost.

¹²⁹ The request to the Tribunal to obtain the judgment of suitability must however be introduced through a lawyer and the relative costs are to be borne by the PAPs.

¹³⁰ French-speaking Community of Belgium (evaluation n ° 1: 375 euros for psychological interviews, the rest is financed by the State and evaluation n ° 2: 800 euros); New Zealand (medical and psychological reports as well as potential translation costs for PAPs).

¹³¹ South Africa: R10,000; Germany: € 1200 to the relevant local authority, € 2000 to the CA for the whole procedure and potential additional costs of the FAO; South Australia (\$ 12,085); British Columbia (based on agencies' costs); Quebec (between \$ 950 CAN and \$ 1,200 CAN); Switzerland (between CHF 850 and CHF 4,500 depending on the case and the cantons).

¹³² Costs at the discretion of the AAB.

¹³³ PAPs can choose to go through the CA or the AAB.

¹³⁴ Except if PAPs opt for a faster process (without waiting list) through the professional colleges, in which case the costs can be up to 1000 euros according to the Autonomous Communities.

¹³⁵ Information meetings are available for PAP prior to submitting the application through the AFABC: <https://www.bcadoption.com/>.

¹³⁶ A detailed description of this preparation is available in the document "Information on the mandatory pre-adoption preparation course and the post adoption services provided in Denmark" available in English on request.

¹³⁷ The amount and the form of the preparation may vary from one organisation to another but the basis remains the same. At *Save the Children*, it is provided by two social workers and lasts 15 hours. The PRIDE method is used. In addition to this, *Save the Children* organises once a year a training course in adoption counseling for PAPs and adoptive families. The agency *All Our Children Finland* also organises preparation courses. These courses are not related to evaluation and participation is voluntary.

¹³⁸ Seminar of a weekend or several after-work seminars.

¹³⁹ Content being described in Annex 3 of "Procedures for Adoption", Regulation No.667, 30 October 2018.

¹⁴⁰ Duration of three days.

¹⁴¹ All cantons provide information to applicants for adoption, whether individual or collective, extensive or restricted. In addition, applicants for adoption are only granted approval if they have been sufficiently prepared for adoption. Preparation courses for adoptive filiation are provided by private AABs by the cantonal authorities. In addition, Guidelines for Accreditation of Adoption Preparedness Workshops have been adopted in Switzerland and are available upon request.

¹⁴² Conducted by the psychosocial team of the Adoption Service; duration of 10 hours spread over 5 weeks; recommendation of readings and bibliographies.

¹⁴³ See Adoption Regulations, Part. 3, section 3 (2) providing details on the content of the preparation.

¹⁴⁴ Detailed contents of the preparation available at ISS / IRC. The latter begins with a legally informative session and then continues - in the event that it has been verified that PAPs meet the criteria set by law - by three thematic preparatory workshops ; at the end of these workshops, a few days of reflection are left to PAPs before starting the psychosocial assessments).

¹⁴⁵ The program includes group information sessions with adoption professionals. They deal with different issues related to the life of families and adoptees such as attachment, revelation of adoptee status, expectation, and biological origins. In the Extremadura Community, this preparation lasts for 16 hours, 15 hours in the Autonomous Community of Minorca. In the Basque Country, it takes place in four sessions of three hours spread over four consecutive semesters. In Navarre Community, an informative session of five hours precedes preparatory sessions of 12 hours in total.

¹⁴⁶ Preparation consists of an information session followed by five actual preparation sessions. It is provided by *Stichting Adoptievoorzieningen* (Foundation Adoption Services).

¹⁴⁷ Preparatory training and regulation to make it mandatory should be in force at the beginning of 2020.

¹⁴⁸ Further information on this program is available at : Plus d'information sur ce programme est disponible à : www.vaikoteises.lt

¹⁴⁹ Organised by the CA, AABs or the *Maison de l'Adoption* (<http://www.croix-rouge.lu/objectifs-de-la-maison-de-ladoption/>).

¹⁵⁰ Organised by the *Maison de l'Adoption*.

¹⁵¹ Further information available in the pamphlet «*Information Brochure on mandatory preadoption preparation courses and post adoption services in Denmark* », available in English at ISS/IRC.

¹⁵² 2,500 DKK is to be paid for participation in an adoption preparation course. Pre and post adoption consultation fees are DKK 100 per hour.

¹⁵³ The lists of examples provided in each category are a non-exhaustive list, because not all countries have evenly detailed the criteria they have developed.

¹⁵⁴ Andorra: adoption law and its regulations, arts. 2, 3, 4, 5, and 7; South Australia: Adoption (General) Regulations 2018, Regulation 10; British Columbia: Adoption Regulations, Part 2, Section 3 (2); Spain: Civil Código, arts. 175 and 176, Ley 26/2015 of 28 de Julio y Decreto 40/2006 de 21 de Abril (Decree 114/2008 of 17 June, arts.11 and 12 for the Basque Country); Denmark (Executive Order on Adoption, Arts 21-23); Ireland: Adoption Act 2010, section 34; Latvia, Civil Law, art. Lithuania, Civil Code, Book 3; Netherlands: Placement of Foreign Children for Adoption Act (Wobka, Law of 8 December 1988), Art.5, para.1.; Switzerland: Civil Code, art. 264a al.1, and al.2, art.264d and Ordinance on adoption, art.5

¹⁵⁵ Colombia: *Lineamiento Técnico Administrativo del Programa de Adopción* (pp. 31-35); Québec: "Psychosocial assessment of the adopter" available on the SAI website (an update is expected by the end of 2019): <http://adoption.gouv.qc.ca/evaluation-psycho-sociale-de-ladoption-internationale-1?highlight=%E2%80%99C3%A9valuation%20psycho-sociale%20adoption%20internationale>

¹⁵⁶ E.g. Germany, Andorra.

¹⁵⁷ E.g. Germany, Andorra, Colombia, Denmark, Latvia, the Netherlands, Switzerland.

¹⁵⁸ E.g. Germany, South Australia, British Colombia, Colombia, Denmark.

¹⁵⁹ E.g. Germany, Spanish Autonomous Community of Extremadura.

¹⁶⁰ In Québec for instance, the criteria for psychosocial assessment are agreed between the two professional orders, the directors of youth protection and the Minister of Health and Social Services ; Denmark (a detailed list of psychosocial criteria was developed by the competent local authority).

¹⁶¹ E.g. Germany, Andorra, South Australia, British Colombia, Colombia.

¹⁶² E.g. Andorra, South Australia, Colombia.

¹⁶³ Criteria mentioned by all countries that participated in the survey.

¹⁶⁴ E.g. Germany, Andorra, South Australia, British Colombia, Colombia.

¹⁶⁵ E.g. Germany, Andorra, South Australia, Colombia, Québec.

¹⁶⁶ E.g. South Australia, British Colombia, Colombia, Spain.

¹⁶⁷ In Lithuania, for example, a list of these diseases was approved by Order No. V-402 / A1-152 of the Ministry of Health and the Ministry of Social Security and Labor, 24 March 2015.

¹⁶⁸ E.g. Canton of Vaud (Switzerland).

¹⁶⁹ Available at: <https://assets.hcch.net/upload/wop/ica2015pd05fr.pdf>.

¹⁷⁰ See Annex 5 in Jeannin, C. (Ed.) (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns* Geneva, Switzerland. International Social Service (p.219). Available at : https://www.iss-ssi.org/images/Publications_ISS/ENG/ICA_Breakdowns_ENG.pdf.

¹⁷¹ See ISS/IRC (2014). *Comparative analysis on the age prescription of prospective adoptive parents*. Available on request.

¹⁷² See http://www.adopcion.org/joomla/index.php?option=com_content&view=article&id=46:certificado-de-idoneidad&catid=25:conceptos-clave&Itemid=58 and <https://www.mscbs.gob.es/ssi/familiasInfancia/docs/manualIntervencionesProfesionales2008.pdf>.

¹⁷³ At national level: In 2014, the Federal Working Group of State Youth Offices at Länder level issued guidelines on how to implement adoption procedure, both domestically and internationally, including the evaluation of PAPs („Empfehlungen zur Adoptionsvermittlung“). For instance, in Adoption Recommendations Chapter 7.4.2 Requirements for applicants and ANNEX 1, guidance is provided on the structure of a social report. Accessible in German at: http://www.bagljae.de/downloads/120_empfehlungen-zur-adoptionsvermittlung_2014.pdf.

At regional level: Several Länder have also issued their own working aids. For example, in 2006 Bavaria Landesjugendamt developed the Arbeitshilfe zur „Eignungsüberprüfung von Bewerbern“, published by Bayerisches and, in 2008, an Interview Guide, Gesprächsleitfaden und Arbeitshilfe für Fachkräfte der Adoptions- und Pflegekindervermittlung Adoptions- und Pflegekindervermittlung Accessible in German at: https://www.blja.bayern.de/imperia/md/content/blvf/bayerlandesjugendamt/adoption_gespraechsleitfaden.pdf. A sample questionnaire for the adoption of a foreign child has been developed. Accessible in German at: https://www.blja.bayern.de/imperia/md/content/blvf/bayerlandesjugendamt/verwandtenpflege_information

en_18.01.10.pdf. Other regional tools include: Praxisleitfaden für Fachkräfte der Adoptionsvermittlungsstellen zur Feststellung der Adoptionseignung nach AdVermiG – Methodik der Datenerhebung und Beschreibung der Kriterien für die Erstellung des Sozialberichtes, published by the Gemeinsame Zentrale Adoptionsvermittlungsstelle Rheinland-Pfalz und Hessen (2009) or the Bewerberverfahren- Eignungsfeststellung - Arbeitsweise im Bereich der Fremdadoption im nationalen Verfahren; Handlungsempfehlung zur Erstellung einer fachlichen Äußerung, developed by a regional working group of adoption specialists in the Federal States of Berlin and Brandenburg.(das Bewerberverfahren- Eignungsfeststellung; Hier: Arbeitsweise im Bereich der Fremdadoption im nationalen Verfahren; Handlungsempfehlung zur Erstellung einer fachlichen Äußerung ZAAB/AG der Adoptionsvermittlungsstellen (11/2018).

¹⁷⁴ Assessment carried out within Guidelines, template and a framework in compliance with national and best practice.

¹⁷⁵ Assessment framework Social workers, available in English upon request.

¹⁷⁶ A sample outline of the social survey report and document explaining what are the skills to adopt and how (document provided and explained to PAPs during the preparation) was developed for evaluation no. 1 as well as other internal documents developed by CA social workers. A template for a medico-psychosocial evaluation report will soon be submitted to the FAO for evaluation no. 2. Available in French on request.

¹⁷⁷ See <http://www.safehomestudy.org/Home.aspx>.

¹⁷⁸ Soft copies available on request.

¹⁷⁹ See *Parenting plan tool for special needs assessment: an innovative 114 tool developed by the New Zealand Central Authority*, Jeannin, C. (Ed.) (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns* Geneva, Switzerland. International Social Service (p.114). Available at: https://www.iss-ssi.org/images/Publications_ISS/ENG/ICA_Breakdowns_ENG.pdf.

¹⁸⁰ "In psychology, mentalisation is the ability to understand the mental state, of oneself or others, that underlies overt behaviour. Mentalisation can be seen as a form of imaginative mental activity that lets us perceive and interpret human behaviour in terms of intentional mental states (e.g., needs, desires, feelings, beliefs, goals, purposes, and reasons). It is sometimes described as "understanding misunderstanding." Another term that David Wallin has used for mentalisation is "Thinking about thinking". Mentalisation can occur either automatically or consciously. Mentalisation ability, or mentalising, is weakened by intense emotion." (Wikipedia, <https://en.wikipedia.org/wiki/Mentalization>).

¹⁸¹ *Guía de Orientación para la Preparación y Evaluación de Persona, Cónyuge o Compañeros Residentes en Colombia and Guía de Preparación para Niños, Niñas y Adolescentes para la Adopción*. Available at: www.icbf.gov.co.

¹⁸² In addition to the law and government decree a written adoption counselling practical guidance prepared by the Ministry of Social Affairs and Health, is in use (only in Finnish).

¹⁸³ See <https://www.msccbs.gob.es/ssi/familiasInfancia/docs/manualIntervencionesProfesionales2008.pdf>.

¹⁸⁴ Guide to the social inquiry provided for in a request for adoption of a child and KJA guidelines developed by the Canton of Berne (electronic copy available on request).

¹⁸⁵ See <https://www.comillas.edu/es/uninpsi-cursos/362-uninpsi/17095-ciclo-de-conferencias-sobre-adopcion-y-familia>; https://adoptantis.org/?page_id=1116 and <http://www.vinculalia.es/actividades-talleres-1/>.

¹⁸⁶ Swedish CA states that the CO might change throughout the adoption process

¹⁸⁷ The profile of the adoptable child in all its aspects forms an integral part of the evaluation.

¹⁸⁸ Swedish CA indicates that the comparison between PAPs' resources and the profile of the specific child occurs at the matching stage.

¹⁸⁹ Germany (ZA Köln and ZA Sachsen-Anhalt), CA of Andorra, Spain (ISS Spain Red Cross, CA Extremadura, CA Menorca and CA Navarra) and New Zealand (the profile of the child will depend on the PAPs choice).

¹⁹⁰ See 2015 Special Commission, available at: https://assets.hcch.net/upload/wop/adop2015concl_fr.pdf.

¹⁹¹ Germany (ZA Köln, Zentrale Adoptionstelle Sachsen-Anhalt), Federal CA of Switzerland (child older than 4 years or affected in his/her health or several children at once or several children already living in the concerned family), British Colombia, Spain, New Zealand (see Parenting Plan), the Netherlands.

¹⁹² Jeannin, C. (Ed.) (2017). *Towards a greater capacity: Learning from intercountry adoption breakdowns* Geneva, Switzerland. ISS. Available at: https://www.iss-ssi.org/images/Publications_ISS/ENG/ICA_Breakdowns_ENG.pdf.

¹⁹³ *Ordonnance sur l'adoption* (OAdo, 29 June 2011, art.6 al.2).

¹⁹⁴ The national requirements of the CO are taken into account when issuing the evaluation report (ZA Köln and ZA Sachsen-Anhalt). As per FiF e.V. the report is not country-bound. However, the report can only be transmitted towards one country.

¹⁹⁵ Evaluation No. 2 is in relation to the potential for a CO accredited in certain COs; the requirements and / or specificities (eg profiles of children in need of adoption) of these countries of origin are therefore included in this assessment..

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- ¹⁹⁶ PAPs apply for adoptions in the country of their choice. The criteria of the CO are discussed with the Irish mediation agency, which keeps PAPs informed and updated of country-specific knowledge through training days at the CA.
- ¹⁹⁷ The CA indicates that evaluations are adjusted to the specific demands expressed by the COs, but also the profile of the children in need of an adoption of the given country.
- ¹⁹⁸ Assessments are adjusted to the country concerned with a discussion of issues such as knowledge of the CO's culture (traditions, religion, food, language, customs, etc.), maintaining links to birth family (if possible), parenting a child who is older than a baby, effects of institutionalisation, attachment and bonding.
- ¹⁹⁹ The evaluator can refer to the IA information sheets on the CO, so s/he is aware of the specific conditions of the CO.
- ²⁰⁰ Prior to the assessment, an interview with PAPs is intended to identify the OP for which PAPs may be eligible. The evaluation report then takes into account this particular CO.
- ²⁰¹ ISS Spain indicates that compliance with OP criteria can sometimes make the assessment more complex.
- ²⁰² *Decreto 101/2018* of 3 July on the implementation of the Administration of the *Comunidad Autónoma de Extremadura* in adoption matters.
- ²⁰³ Same process for all adoptions, including expatriate or open adoptions for instance.
- ²⁰⁴ Except in case of open adoptions or adoption of the second/third child.
- ²⁰⁵ The following elements are taken into account: knowledge of PAPs of the child's needs, attachment and motivation to adopt, opinion of biological parents.
- ²⁰⁶ CA of Luxembourg indicates that the evaluation is always adjusted to the personal project of PAPs: special awareness raising on the child's specific needs, the adoption of siblings or a second child, etc.
- ²⁰⁷ In the French Community of Belgium, the social survey carried out takes into account their general abilities as well as the specificity of their project and the related difficulties (e.g. underestimation of the difficulties of family and social integration).
- ²⁰⁸ FIF e.V. and Zentrale Adoptionsstelle Berlin-Brandenburg (ZABB): the procedure is sometimes inversed as in Germany (the evaluation of PAPs is based on the child's report).
- ²⁰⁹ See recommendation n°32 of the Special Commission of 2015, available at: https://assets.hcch.net/upload/wop/adop2015concl_fr.pdf.
- ²¹⁰ OAA Help e.V., Zentrale Adoptionsstelle Cologne, GZA Rheinland Pfalz nd Hessen, Zentrale Adoptionsstelle Berlin-Brandenburg.
- ²¹¹ The success of the previous adoption is an advantage in the evaluation that follows the same pattern.
- ²¹² The assessment also includes: how did the family respond to new children placed? Are his already placed children well integrated?
- ²¹³ Best interests of the child examined from the point of view of the child proposed to be adopted, and those already adopted.
- ²¹⁴ The final decision is valid only for an adoption procedure; the evaluation process must be renewed in case of new adoption (preparation aside: not required).
- ²¹⁵ OAdO, art. 5 al. 3
- ²¹⁶ These courses deal primarily with: adoptive parenthood as an experience, the possible change in family dynamics with the arrival of a new adoptive child, or the impact of this new adoption on the previously adopted child.
- ²¹⁷ Except if more than 5 years have passed.
- ²¹⁸ Except in case of an IA
- ²¹⁹ For domestic adoptions, this requirement is only waived in the case of adoption of the (half) brother or (half) sister of the adoptive child or if the adoptive child already lives with the adoptive family (undivided household) and this is in his/her interest.
- ²²⁰ For example, South Africa, Germany, South Australia, Andorra, French Community of Belgium, Quebec, British Columbia, Spain (ISS, CAs of Extremadura and Navarra), Latvia, Netherlands, Canton of Bern, the Netherlands.
- ²²¹ No costs required for domestic adoptions in Germany. In addition, there is no right for evaluation for PAPs applying to a domestic adoption, as is the case for an IA (AdVermiG, para. 7, section 3 al. (1)
- ²²² Orphans Court for domestic adoptions and foreign competent authorities for intercountry adoptions.
- ²²³ National Board of Health and Welfare for domestic adoptions and Family Law and Parental Support Authority (MFoF) for intercountry adoptions.
- ²²⁴ A judgment of aptitude is not required in case of domestic adoption, the opinion of the multidisciplinary team of the AAB suffices.
- ²²⁵ Save the Children states that separated groups are organised for PAPs in case of domestic adoptions.
- ²²⁶ In Belgium, for example, more than 40% of children adopted domestically are of non-European origin. The CA of Menorca also highlights ethnic differences in the field of domestic adoptions .
- ²²⁷ Noted as an example by Canton of Vaud, French-speaking Community of Belgium and Andorra.

²²⁸ As mentioned by the CA of Extremadura and the Basque Country in Spain.

²²⁹ Canton of Vaud, Finland, Netherlands. The AAB Save the Children in Finland promotes open adoptions and the support that is required for this type of adoption from the onset onwards.

²³⁰ ISS Netherlands.

²³¹ New Zealand.

²³² Finland, Basque Country and ZA Berlin-Brandenburg (ZABB).

²³³ Basque Country.

²³⁴ Basque Country.

²³⁵ New Zealand.

²³⁶ New Zealand.

²³⁷ New Zealand.

²³⁸ Basque Country mostly refers to feotal alcohol syndrome

²³⁹ Au Luxembourg, les trois OAA œuvrant dans l'adoption appliquent des critères d'évaluation généraux élaborés d'un commun accord. Des réunions régulières permettent d'harmoniser les procédures.

²⁴⁰ Hegar, R. L., Verbovaya, O. & Watson, L. D. (2015). Child fatality in intercountry adoption: What media reports suggest about the deaths of Russian children in the US. *Children and Youth Services Review*, 55, pp. 182-192 ; Miller, L. C., Chan, W., Reece, R. A., Tirella, L. G. & Pertman, A. (2007). Child abuse fatalities among internationally adopted children. *Child Maltreatment*, 12(4), pp. 378-380 ; Miller, L. C., Chan, W., Tirella, L., Reece, R. & Pertman, A. (2007). Family and research context of internationally adopted child abuse fatalities. *Child Maltreatment*, 12(4), pp. 385-386.

²⁴¹ Voir Le style d'attachement sécurisé chez le parent : un facteur de protection par Johanne Lemieux dans Jeannin, C. (Ed.) (2017). *Vers une plus grande compétence : Apprendre des échecs de l'adoption internationale*. Genève, Suisse p.115).

²⁴² See GGP2, Chapitre 3, section 3.4.