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EDITORIAL

**Parental leave for adoption: one aspect of support for adoptive families often left in the dark** 

*The systems of parental leave for adoption vary considerably from one State to another. Irrespective of how essential they may be in questions of support for adoptive families, they do not always adequately respond to the needs of adopted children and their parents.*

**D**espite the importance of investment by adoptive parents in the pre and post adoption phases being recognised by professionals, support services for adoptive families continues to have gaps at certain levels. An example of such a gap is parental leave for adoption, which can be public (depending upon the law) and/or private (according to the job contract or collective agreements). Given that the choice of family policy naturally implies there is an appropriate budget, the latter must also address the crucial period of the child's arrival in his new

family. We note that even though parental leave for adoption is granted by most receiving countries, it is often based on less generous conditions than classic parental leave.

**The responsibility of States**

An adoption is successful if a strong and lasting attachment bond between the adoptive parents and their child has been forged. But as J. Lemieux, the Quebecer social worker and expert in inter-country adoption stresses, it's a matter of a real, organic, emotive, mysterious process that is

slow and often difficult. The latter needs time, sometimes professional support, and adequate resources. Parental leave for adoption is one of the means that allows one of the parents (or both of them) to stay with the adopted child to get this process up and running. Such leave reflects the spirit of articles 4 and 18 of the Convention on the Rights of the Child and 9c of THC-1993, which oblige States to assist parents in raising their children and ensuring their well being, and in the more specific case of adoption to support them efficiently after the child's arrival in the family.

### **Very divergent practices**

Whether it is in terms of duration, financial compensation, the conditions granted, maintaining certain rights (paid leave, pension contributions etc) or the number and age of the children, the systems of parental leave for adoption are more or less generous depending upon the receiving country and even within the country in the case of federal States. In most cases leave is granted to salaried workers, but its scope can vary according to seniority; the allocations can differ considerably from one State to another, and often a ceiling on income is set. Its duration oscillates between approximately one year or even more, generously remunerated in countries like Sweden, Norway, Quebec, and three months or even less, sometimes unpaid or scarcely so in countries such as the United States, the Netherlands, etc. Between these extremes, one finds the United Kingdom, France and Spain, where it is granted under the conditions as set out in the table below. Given the difficulty of identifying an ideal duration, it seems that between six months and a year based on proportional pay to income are necessary to bring about conditions that enable a strong and permanent attachment to be established as in Sweden, Norway or Quebec.

Furthermore, numerous systems distinguish between children according to their age or even their number. Thus a large group of European countries limit the benefits of parental leave to the child's maximum age that could range from five in the lowest cases to 15 or 16 years of age. For example,

Norway provides adoptive parents with a child who is 15 years old benefits fully equal to those adopting a newborn baby. Such a provision is to be warmly welcomed so as to encourage the adoption of older children. On the other hand, in certain countries like France the leave varies according to the number of children: the more numerous they are the more favourable the leave, even if it's a question of multiple adoptions. The same is true in Luxembourg and the United Kingdom, where leave is applied on an equal footing for each child taken into care. In the Netherlands, on the other hand, in cases of multiple adoption, leave is granted in the same manner as for a single child.

### **Evolutions in perspective**

In spite of these highly divergent practices, minimum standards have been adopted at international and regional levels, particularly by the International Labour Organisation (ILO), thanks to the Convention No. 183 on the protection of maternity that numerous countries have extended to parental protection. In Europe, Directive 96/34/CE concerning the framework agreement on Parental Leave sets the minimum duration of parental leave for adoption at three months, specifying -- unfortunately -- that it will be enforced only up until a certain age that may stretch to eight years of age to be defined by Member States, and/or social partners.

These are certainly positive and necessary advancements that deserve to be followed up. With this in mind, the ISS/IRC strongly urges protagonists in adoption to draw their inspiration from the existing best practices so as to put in place a system of parental leave for adoption, of which the duration and quality guarantee greater success for adoptions. Adoption provisions that grant adoptive families at least equal treatment with that of biological families and to children a treatment at least equal, whatever their age and their number, would be particularly welcome. Furthermore it would be appropriate to take better account of the particular needs of families who have adopted children with special needs. To sensitize adoptive parents to the importance of the quality and the length of time spent with their children, and to give them the means there of, remains one of the major challenges of contemporary adoption.

The ISS/IRC team

\*Summary table of non exhaustive data on parental leave for adoption

	Duration of leave for adoption and conditions	Remuneration/ Payment
France	-10 weeks for each of the first two children; - 18 weeks for taking into care a third child, and fourth or more - 22 weeks for taking 2 children into care or more at the same time, whether there are other children already in the home or not.	Payment of an indemnity intended for maternity insurance
Luxembourg	6 months full-time or a year at part - time for each child. <i>Leave entitlement for children up to the age of 5.</i>	Paid by means of a monthly allowance totalling 1496 € in the case of full-time leave, and 748 € in the case of part-time leave.
Netherlands	4 weeks maximum In the case of multiple adoptions the leave can only be taken once. If the family has taken the child into care for more than 16 weeks before the adoption order is declared official, it can longer benefit from the leave for adoption. When the adopted child is less than 8 years of age the parents may opt for another type of leave such as "classic parental leave" which is more advantageous.	Paid at 100% with a ceiling fixed at 174,64 € per day.
Norway	41 to 51 weeks in the case of <i>adoption of a child of less than 15 years of age, the adopters receive the same benefits as for a newborn child.</i>	51 weeks paid at 80% of the salary or 41 weeks paid at 100%.
Quebec	37 weeks	The adoptive parents are entitled to 70% of their average weekly earnings for the first 12 weeks and then 55% of their average weekly earnings, for the remaining 25 weeks.
Spain	16 successive weeks In the case of adoption of several children, an extension of 2 weeks will be granted for each child starting with the second. <i>Leave entitlement for children up to the age of 6.</i> Furthermore, thanks to Act 7/2007 on the Basic Statute of public employment, the public officials hired under contract have the right to 2 additional months in the case of inter-country adoption so as to be able to travel in the child's country of origin.	Payment of pre-and post-adoption leave as stipulated by the Code of Basic Spanish Civil Law or by the Civil Laws of each autonomous Community.
Sweden	480 days	390 days paid at 80% of the salary (with a ceiling fixed at SEK 874 per day) and 90 days pay at an average daily rate of SEK 180
United Kingdom	52 weeks	Paid at a minimum rate of £117.18 per week up until 39 weeks.
United States	12 weeks	Unpaid leave

Sources: ILO Convention on the Protection of Maternity of 2000, [www.ilo.org/ilolex/cgi-lex/convdf.pl?C183](http://www.ilo.org/ilolex/cgi-lex/convdf.pl?C183); USA, The Family and Medical Leave Act of 1993, [www.bna.com/bnabooks/ababna/annual/2000/hale.pdf](http://www.bna.com/bnabooks/ababna/annual/2000/hale.pdf).; France, [www.diplomatie.gouv.fr/fr/article-imprim.php3?id\\_article=14526](http://www.diplomatie.gouv.fr/fr/article-imprim.php3?id_article=14526); ; Ministry of Labour and Social Affairs of The Netherlands, [http://internationalezaken.szw.nl/index.cfm?fuseaction=dsp\\_rubriek&rubriek\\_id=391637&lijstm=0.334\\_13211](http://internationalezaken.szw.nl/index.cfm?fuseaction=dsp_rubriek&rubriek_id=391637&lijstm=0.334_13211) Council of Europe Directive 96/34/CE, [http://eur-lex.europa.eu/smartapi/cgi/sqa\\_doc?smartapi!celexapi!prod!CELEXnumdoc&numdoc=31996L0034&model=quichett&lg=fr](http://eur-lex.europa.eu/smartapi/cgi/sqa_doc?smartapi!celexapi!prod!CELEXnumdoc&numdoc=31996L0034&model=quichett&lg=fr); Parental Leave in Council of Europe Member States, [www.coe.int/T/E/Human\\_Rights/Equality/PDF\\_CDEG\(2004\)14%20FINAL\\_E.pdf](http://www.coe.int/T/E/Human_Rights/Equality/PDF_CDEG(2004)14%20FINAL_E.pdf) Norwegian Ministry for Children and Equality, [www.norway.org.uk/policy/family/benefits/benefits.htm](http://www.norway.org.uk/policy/family/benefits/benefits.htm); [www.direct.gov.uk/](http://www.direct.gov.uk/), [www.direct.gov.uk/en/Parents/Adoptionfosteringandchildrenicare/AdoptionAndFostering/DG\\_10029406](http://www.direct.gov.uk/en/Parents/Adoptionfosteringandchildrenicare/AdoptionAndFostering/DG_10029406); Spain, Act 7/2007 del Estatuto Básico del Empleado Público, [www.map.es/iniciativas/mejora\\_de\\_la\\_administracion\\_general\\_del\\_estado/funcion\\_publica/estatuto\\_funcion\\_publica/parrafo/0/document\\_es/Estatuto\\_BOE.pdf](http://www.map.es/iniciativas/mejora_de_la_administracion_general_del_estado/funcion_publica/estatuto_funcion_publica/parrafo/0/document_es/Estatuto_BOE.pdf) Quebec Government , [http://www.formulaire.gouv.qc.ca/cgi/affiche\\_doc.cgi?query=&dossier=10764&table=4&tableOrg=0](http://www.formulaire.gouv.qc.ca/cgi/affiche_doc.cgi?query=&dossier=10764&table=4&tableOrg=0); Sweden, [www.eoc.org.hk/EOC/Upload/UserFiles/File/thingswedo/eng/twdpwm0004.htm](http://www.eoc.org.hk/EOC/Upload/UserFiles/File/thingswedo/eng/twdpwm0004.htm).; Luxembourg, [www.eurofound.europa.eu/eiro/1999/03/feature/lu9903195f.htm](http://www.eurofound.europa.eu/eiro/1999/03/feature/lu9903195f.htm);

## ACTORS IN MATTERS OF ADOPTION

Source: Permanent Bureau of the Hague Conference: [http://hcch.e-vision.nl/index\\_en.php?act=conventions.authorities&cid=69](http://hcch.e-vision.nl/index_en.php?act=conventions.authorities&cid=69).

- **Belgium:** This country has updated the contact details of its Central Authority.
- **Brazil:** This country has updated the contact details of its Central Authority and foreign accredited bodies.
- **Ecuador:** This country has designated its foreign accredited bodies.
- **Uruguay:** This country has designated its Central Authority.

## IN BRIEF

### **UNITED KINGDOM: Implementation of the provisions in the Children and Adoption Act 2006 relating to the restrictions of adoptions from abroad**

Since 1st August 2008, section 9 from the Explanatory Notes to Children and Adoption Act has entered into force. In accordance with these provisions the Secretary of State is obliged to publish a list of countries with special restrictions regarding intercountry adoption, known as the “restricted list”. This list includes the reasons for suspending adoptions with specific countries (eg: background information on the suspension of adoptions from Cambodia and Guatemala) and is available in the section ‘Restricted Countries’ on the website from the Department for Children, Schools and Families.

Sources: Explanatory Notes to Children And Adoption Act 2006 ([http://www.opsi.gov.uk/ACTS/acts2006/en/ukpgaen\\_20060020\\_en\\_1](http://www.opsi.gov.uk/ACTS/acts2006/en/ukpgaen_20060020_en_1)). Department for Children, Schools and Families ([www.dcsf.gov.uk](http://www.dcsf.gov.uk));

## COMPREHENSIVE TOOL: Finalisation of the Guide to Good Practice for the THC 1993 on intercountry adoption:

*In August 2008, a comprehensive and multi-purpose Guide was launched in order to help States with the practical implementation of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption of 1993.*

**A**fter 15 years of the Hague Convention being implemented and now ratified in 76 countries, the Permanent Bureau of the Hague Conference on Private International Law has produced a 'Guide to Good Practice,' formally referred to as the Implementation and Operation of the 1993 Hague Intercountry Adoption Convention Guide No.1. The Permanent Bureau has relied upon numerous sources to fabricate this Guide, including but not limited to the recommendations of the 2005 Special Commission meetings, information provided by Central Authorities, accredited bodies and experienced nongovernmental organisations in order to present a wide range of practices and procedures to follow and in some instances, to avoid.

The Guide is an essential tool to assist States with 'identifying important matters related to planning, establishing and operating the legal and administrative framework' in intercountry adoptions. It aims

to promote realistic standards and emphasises the shared responsibility of receiving States and States of origin to develop and maintain ethical intercountry adoption practices. The Guide also includes detailed annexes on how States can ratify the Hague Convention in a methodological manner, provides models for developing an implementation plan, practical examples on creating effective procedures and strategies to assist family preservation.

The ISS/IRC strongly encourages all professionals working in intercountry adoptions to benefit from the concrete and useful guidance found in this new tool, and if necessary adapt, existing policies and practices to fulfil their responsibilities under the 1993 Hague Convention.

*Source:* Permanent Bureau, Guide to Good Practice  
[http://www.hcch.net/upload/adoguide\\_e.pdf](http://www.hcch.net/upload/adoguide_e.pdf)

## GUATEMALA: Latest adoption measures implemented by the Government

*The Guatemala Government has made an official announcement that they will not authorise any intercountry adoption organisation to operate in the country for the time being.*

**A**ccording to official information provided by the Central Authority for adoption in Guatemala (Consejo Nacional de Adopciones, CNA), the country is not currently in a position to authorize intercountry adoption bodies for the following reasons. On the one hand, they are currently dealing with approximately 900 cases which were initiated before the Adoption Law of the 31st of December 2007 entered into force pending their verification. On the other hand, the CNA is dealing with the demands of national families as a priority. At the moment, 19 national adoptions are being processed. On this point, it is interesting to mention that

up till now 156 Guatemalan families have already made a request to the CNA for adoption and 85 children have been declared adoptable (last year, at the same period, and before the entrance into force of the law, it is estimated that approximately 3,000 children were already adopted).

For children who can not be placed with a family in Guatemala, and for whom an intercountry adoption has been considered as an adequate solution, the latter will be processed by the CNA who will send the file of the adoptable child to the Central Authority of the receiving country, or in some cases, to an accredited body. With this purpose, the CNA will only ask for a limited number of files

of suitable families for the child waiting for a family from abroad. ISS/IRC welcomes these new measures such as the reversal in the flow of files with enthusiasm as they represent an important step forward in the implementation of the principle of subsidiarity for intercountry adoption. According to this particular measure, the files of the adoptable children will now be transmitted to the

receiving countries, which will then be responsible for proposing some suitable families. On basis of this proposition, the CNA will proceed to make an appropriate match.

Source: Consejo Nacional de Adopciones, <http://www.cna.gob.gt/Adopciones%20Internacionales.html>

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## INTERDISCIPLINARY RESOURCES

### **A study that looks into children adopted in difficult circumstances**

*French government services have commissioned research for obtaining a better grasp of the difficulties that adopted children may encounter. This detailed study sheds light on the different features that might lead to situations that are often very difficult to manage.*

**C**atherine Sellenet, university professor in educational science, has led the study (research into children adopted in difficult circumstances) during the years 2005 and 2006. This work is based on two complementary approaches: the first is based on the questionnaires sent out to the departmental services responsible for adoption, and the second on the analysis of 81 individual files completed by interviews with families who present with problematical situations. It should be noted that it is not simply a matter of inter-country adoption cases, but also domestic adoptions. Existing studies on this subject have served as a reference and inspiration for French research.

#### **A majority free from problems, and some with risk factors difficult to identify**

Immediately, the authoress underlines that it is a matter of recalling that "in the majority of cases, it seems that the upbringing of children adopted abroad, and their adaptation to their new environment ends positively, in such a way that inter-country adoption could not be called a social problem" (1) Earlier studies on this delicate subject, have tried to bring out certain elements which could constitute "risk factors." for adoption, but it's true that individual situations continue to be very specific, and that the data on the paths of children are sometimes insufficient for precisely identifying the origin of these problems. Nonetheless, certain tendencies do

stand out. Thus, boys always show greater vulnerability when it comes to school and society integration: they bond with less security with the adoptive parents than the girls, and are more prone to attention and opposition problems, but they also seem more anchored to the enlarged family.

The question of age at the time of adoption is still, on the other hand, very difficult to assess: if adoption at a very early age constitutes additional protection, it remains nevertheless that a third of the difficult cases studied involve children adopted before the age of two. Children adopted after the age of four are also well represented in this group. Finally, the place of an elder child or that of an only child can also constitute an added difficulty for the adopted child. But the contradictions between the different studies on this topic show clearly that a consensus has not yet been reached on this theme.

More generally, the study also underlines that determining the adoptability of a child is a crucial aspect of the process, but one which very often lacks professionalism. And when the child arrives in his receiving country, the professional services, which the new family needs do not always cater for the difficulties encountered.

#### **The services responsible for adoption and the adoptive parents can also increase the risks**

Contrary indeed to existing ideas, the simple fact that the child comes from elsewhere and is adopted, does not always

explain the origin of the problems. The study also underlines the fact that numerous parents find themselves in difficulties after they have adopted a child, even several of which who do not correspond to their initial wishes, or to their approval, or who were beyond the care they were capable of. Social assessments are sometimes inadequate; the fear of not seeing themselves proposed another child for a long time, a premature relationship between the adoptive parents and the child are some of the many features which prevent a solid footing for the adoption from the very beginning. Adoptions stained by irregularities, even illegal steps, are also addressed in the study. The so-called humanitarian adoptions (not motivated for the health conditions of the prospective adoptive parents) or those brought about by single women are not, on the other hand, at greater risk than others.

### **Further paths for thought**

This research offers many paths for thought that are unfortunately impossible to list here. It has to its great merit asked the difficult questions and sheds light on the variety and the complexity of cases where an adoption "turns sour", but without giving a dogmatic

reply. As emphasized by the authoress "wanting too much to idealise adoption and to present it in its magical and happy form, we have forgotten to reflect upon problematical cases, and of what they could teach us about the psychological processes marked by abandonment (...). With the distress of some parents that echoes the shortages of supported, checked and validated knowledge. And yet, we are not short of theories that can be kept to encourage reflection. The problem is, they are poorly known by the professionals for children (...) the poor representation of psychologists in the services concerned and the fact that there is no specialisation on this theme".

There can be no doubt that this research constitutes another step in the right direction.

### *Sources:*

"Research On children adopted in difficult circumstances", Catherine Sellenet, volume 1 and 2, 2005 to 2006

(1) Ouelette and Belleau (Family and Social integration of children adopted abroad"; a new listing of what's been written, April 1999, INRS culture and society; Quebec.

## FORTHCOMING CONFERENCES, SEMINARS, SYMPOSIA AND COURSES

- **Argentina:** *Seminario Anual de la Red Latinoamericana de Acogimiento Familia- RELAF (Annual Seminar for the Latin American Network of Foster Families- RELAF)*, 26-28 March 2009, Buenos Aires. The seminar aims to provide a space for reflexion and exchange of regional efforts, lessons learnt, strengths and weaknesses and contribute to the implementation of the right to a family life and community. RELAF invites all persons and organisations interested in presenting their work to submit their proposals by 10 November 2008. For more information about the seminar, please consult the internet site: [www.relaf.org](http://www.relaf.org).
- **France:**
  - a) *Connaître et comprendre l'approche piklérienne et l'expérience de Lóczy aujourd'hui (Know and understand the piklérienne method and experiences of Lóczy today)*, Association Pikler Lóczy, 6-8 Octobre 2008, Paris. This training will be provided over three days and presented by the staff of Lóczy from Budapest in order to explain and disseminate the methods created and developed by Emmi Pikler. For more information, see Association Pikler Lóczy de la France, [www.pikler.fr](http://www.pikler.fr); Email : [pikler-loczy@wanadoo.fr](mailto:pikler-loczy@wanadoo.fr).
  - b) *3<sup>e</sup> Journée provençale de la Santé Humanitaire, Enfance précaire d'ici et d'ailleurs (3rd Provincial Day of Humanitarian Health, Children at risk here and elsewhere)*, Centre Européen de Santé Humanitaire, 20 Novembre 2008, Marseille. This conference will provide a round table to address the issues of adoption and child sponsorship. Professionals with a psychological background, medical doctors and adopted persons will be present and together bring an interdisciplinary approach to the conference. For more information: [www.cesh.org/evenement/journeeprovencale/2008/prog.htm](http://www.cesh.org/evenement/journeeprovencale/2008/prog.htm).
  - c) *Programme de Formations (Training Program)*, 6 days, 21 October 2008 et 24-28 November 2008, Enfance Familles & D'Adoption (EFA), Paris. EFA is proposing a 6 days training program comprising of six modules which will address the following issues: adoption of children under the care of the State, intercountry adoption, potential difficulties of the adopted child, the challenges faced by the adoptive parents, assessment of the adoption project and follow-up of children living in care of the State. For more information: [www.adoptioneafa.org](http://www.adoptioneafa.org); Email: [laure.delaporte@adoptioneafa.org](mailto:laure.delaporte@adoptioneafa.org)
- **Royaume-Uni:** *The right decision at the right time. Making good decisions for children in care*, BAAF, 18 November 2008, London. This conference will provide a valuable opportunity for participants to learn about the importance of the decision making, encouraging professionals to work together to deliver services and to improve outcomes for children and young people, making the best decision at the right time. The conference will include the views of children in care, local authorities and research on good decision-making. For more information: [www.baaf.org.uk](http://www.baaf.org.uk); Email: [conferences@baaf.org.uk](mailto:conferences@baaf.org.uk).

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*Table of contents of the Bulletins 1997 - 2008:*

[www.iss-ssi.org/Resource\\_Centre/Resource\\_Center\\_EN/About\\_ISS-IRC/about\\_iss-irc.html](http://www.iss-ssi.org/Resource_Centre/Resource_Center_EN/About_ISS-IRC/about_iss-irc.html). See *Activities*.

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