

INTERCOUNTRY ADOPTION
AND ITS RISKS:

A GUIDE FOR PROSPECTIVE ADOPTERS



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INTERNATIONAL SOCIAL SERVICE

International Social Service (ISS) is a professional non-governmental organisation, founded in Geneva in 1924, whose network covers some 140 countries. ISS played an active role in advocating and drafting international texts on the rights of children in need of alternative care and adoption.

International Reference Centre for the Rights of Children Deprived of their Family

In 1993, the International Reference Centre for the Rights of Children Deprived of their Family (ISS/IRC) was established within the ISS, General Secretariat. The fundamental mission of the Centre is to share, disseminate and promote ethical experiences regarding intercountry adoption and more broadly, the protection of children deprived of their family or at risk of being so. The centre also aims to support professionals across the globe.

In collaboration with UNICEF and/or other bodies, the ISS/IRC has also carried out many assessment missions on these issues including in Romania (1991-1993), Albania (1992), Armenia (1998), Rwanda (2002), Ukraine (2005), Moldova (2006-2008), Kazakhstan and Kyrgyzstan (2007-2008), Viet Nam (2009), Ivory Coast, Guatemala and Syria (2010) as well as Laos (2011).

For more information: **www.iss-ssi.org** and refer to section «what we do».

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GLOSSARY

Accredited Adoption Body (AAB):

intermediary designated by the Central Adoption Authority to implement certain stages of the adoption process, such as your preparation and accompanying you in the country of origin.

Adoptability:

determination by a multi-disciplinary team about the child's capacity from a legal, psycho-social and medical point of view to benefit from an adoption.

Central Adoption Authority (or Competent Authority):

authority responsible for implementing and supervising all adoption processes. In practice, it can delegate some of its responsibilities to AABs.

Country of origin:

country where the adopted child comes from.

Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (THC-93) :

the main convention that regulates intercountry adoption procedures and explains the core principles related to this subject.

Matching :

choosing the family that best corresponds to the needs of the child to be adopted.

Principle of subsidiarity :

according to this principle, intercountry adoption should not be envisaged unless the child cannot remain with his/her biological family or no other family can care for the child in the country of origin.

Receiving country :

destination country for the adopted child.

Special needs children :

children whose characteristics make their adoption more difficult, notably older children (above 3 or 4 years), those with an illness or a disability or part of a sibling group.



You will find this symbol throughout this guide, which indicates that further information is available in the resources section at page 19.

INTRODUCTION

Each year across the world, thousands of children without parental care are given the opportunity to live in an adoptive family abroad. At its best, this measure has often provided a positive family environment for the development of children deprived of their family.

Despite considerable progress in improving safeguards in intercountry adoption in recent years, this admirable project is unfortunately still not without risks. In the less well-regulated countries of origin, an adoption can become a source of profit, jeopardising the interests of both the child and his/her biological family.

For example children may be stolen, there can be an inducement to abandon children, corruption, etc. As serious as these problems are, they are not always immediately obvious to prospective adopters. Yet they can have devastating consequences for the child, the birth parents and the entire adoptive family. This is evidenced by the growing number of cases brought before the courts, denounced by the media and by victims of these practices.



How can you avoid the risks and traps that may arise during the adoption process ?

While it is not possible to provide an all encompassing solution to totally protect your adoption, this guide hopes to help you to take measures to evade these problems.

This guide highlights in red the danger signals that you could potentially encounter at each stage of the adoption process.

In orange, representing the need to act with prudence, there are questions that you should ask yourself, your central authority or your accredited adoption body. These questions should not be left unanswered.

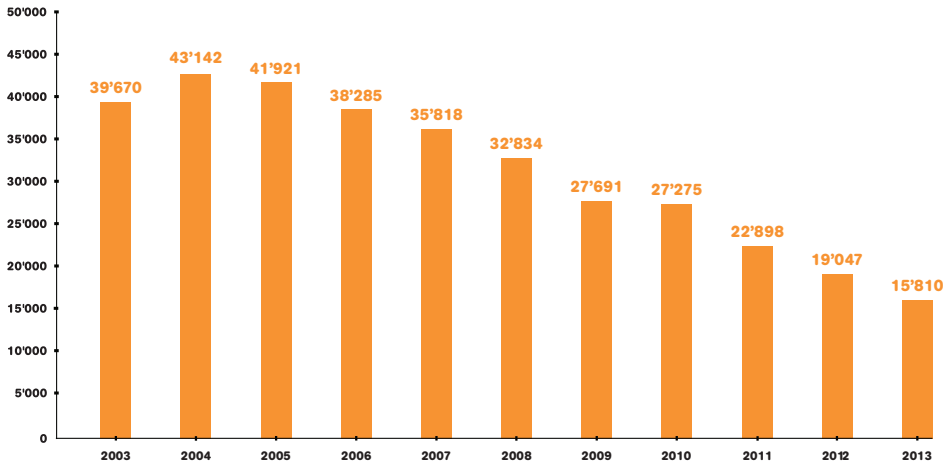
This guide aims to provide ideas and tools to protect you as well as your child. However, in no way does it replace preparation courses organised and carried out by professionals.

INTERCOUNTRY ADOPTION CONTEXT

Contrary to common beliefs, fewer and fewer children are in need of intercountry adoption. Numerous reasons over the last decades have led to this situation, such as the fact that countries of origin are now taking better care of their own children. They have more families ready to care for children, especially those who are young and in good health. For special needs children, it is still difficult to find national solutions and intercountry adoption may be an option. Yet the number of people who are both willing and deemed to have the capacities to care for such children remains limited.

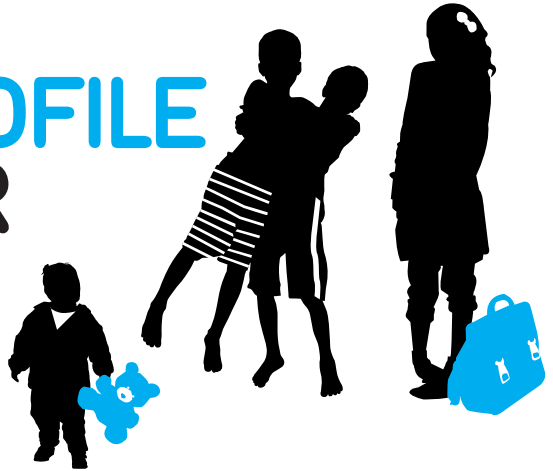
Consequently, overall figures for intercountry adoption have fallen. At the same time, applications by people in industrialised countries wanting to adopt abroad have continued to grow steadily. This has led to an ever-greater imbalance between requests to adopt and the number of children who are both declared “adoptable” abroad and have the characteristics that prospective adopters feel able to cope with.

Total number of children adopted by the 12 main receiving countries / year



It is this imbalance that creates the conditions in which unethical and illegal activities can flourish, through financially-motivated efforts to secure children who meet the desires of prospective adopters.

WHAT PROFILE FOR YOUR CHILD?



If, like most people, your dream is to adopt a baby or toddler in good health, you may have to reconsider. This dream is legitimate but it does not always correspond to the real needs of adoptable children (p.5). Adjusting your desires to this reality is not easy, and professionals should be able to help you through the process of deciding your strengths and your limits. An orientation towards the profile of your child that does not match such realities or your capacity can negatively affect the development of emotional ties and encourage the formation of networks aimed at “producing” adoptable children that correspond to the adopters’ wishes (p. 11 to 13).

DANGER SIGNALS!

You should be wary when :

- the country you have chosen only proposes very young children
- the adoption waiting time is very short (less than six months) without a valid reason (special needs children, etc.)
- a child is directly proposed to you either by his/her parents or a person without official authorisation (p.7)
- no official document can prove the information given about the child's background (p.14 and 16)

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Have you shunned all the above mentioned situations?
- What are the characteristics (age, health, etc.) of the child that you wish to adopt? Are you ready to adopt a special needs child? If yes, how far are you willing to go?
- Does the profile of the child that you wish to adopt correspond with the current needs of adoptable children in the world and, in particular, in the country that you would like to adopt from?

YOUR CHOOSING ADOPTION PATH

There are a number of paths for undertaking an adoption, according to whether the country of origin has ratified the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (THC-93) and whether or not you are accompanied by an Accredited Adoption Body (AAB).



DANGER SIGNALS !

In principle, the following types of adoptions are very risky and even prohibited by a growing number of countries :

- Adoptions directly organised between adopters and biological parents of the child without the intervention of a competent authority (i.e.: private adoption)
- Adoptions without an AAB (i.e.: independent adoption)
- Adoptions in countries who have not ratified THC-93

These types of adoptions are without adequate controls and therefore expose you even more to the risks presented in this Guide. When undertaking these adoptions, guarantees do not always exist that the child's needs have been met.

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS :

- Has the country you have chosen ratified THC-93 (p.8) ? This plays an essential role in the protection of children's rights because it places the adoption in the hands of State bodies, thus offering greater safeguards with the process. You should be equally aware that THC-93 does not provide an absolute guarantee, as abuses can also exist within countries that have ratified the Convention. This guide is therefore also applicable in these cases.
- Are you planning to be accompanied either by an AAB or another Authority (Central Authority or public AAB) ? Such support is essential, providing you with indispensable knowledge about the specificities of the country (p.10).

WHAT COUNTRY OF ORIGIN FOR YOUR CHILD?



Adopting a child also means being open to his/her native culture. It is therefore important that you have an interest or affinity with the country that you will eventually choose. In addition to this motivation, you will need to do some research to ensure that sound conditions for the adoption exist. Notably, it is essential that the political, legal and social context in the country is stable. Additionally a competent government authority must supervise the entire procedure and all actors.

DANGER SIGNALS!



Be wary if the country of origin you have chosen :

- has not ratified THC-93 (p.7)
- allows independent and/or private adoptions (p.7)
- does not have programmes that allow children to remain with their families and/or has not developed foster families or domestic adoptions, etc.
- does not register and/or sufficiently monitor its orphanages, as this can open the door to illegal adoptions
- is the object of a suspension of adoptions, even if it is only by one receiving country
- has been denounced for proven and repeated cases of abuse

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:



For the country of origin you have chosen :

- does it find itself in one of the cases mentioned above ?
- does it have a satisfactory legal framework ?
- has it systematically attempted to find an adequate national solution for its children (p.9) ?
- can it provide precise information about the children that it proposes for adoption ?

THE PRINCIPLE OF SUBSIDIARITY EXPLAINED TO THE PUBLIC

Many people question the fact that intercountry adoption is subsidiary to suitable care settings in the child's own country. Therefore, we thought that it would be useful to take up a simple example, which allows one to better understand the principle of subsidiarity.

Imagine the following dialogue :

Mr Smith : "But why is it so complicated to adopt a child when it seems that the world is overwhelmed with children in need?"

The professional: “It is important to first ensure that the children are adoptable, after establishing that the possibility of relying upon alternative care measures in their own country do not exist. To illustrate this point, imagine you have two children and that you die in a car accident. What would you want for your children?”

Mr Smith: “It would be natural that they stay with their mother.”

The professional: “And if the mother also died during the accident?”

Mr Smith: “In that case, I would like the children to be placed in the care of our family: the grandparents, or uncles or aunties for example.”

The professional: “And what if the family cannot look after the children, either because they do not exist or do not have sufficient resources?”

Mr Smith: “In that case, I would like my children to grow up in their country, in as familiar an environment as possible, where they can pursue their schooling in their mother tongue, etc.”

The professional: “And that is exactly how almost all parents in the world would react. Intercountry adoption should therefore only be considered after all the options that you have mentioned are found to be impossible. That is precisely the principle of subsidiarity.”



CHOOSING YOUR ACCREDITED ADOPTION BODY (AAB)

Once you have access to the list of AABs, it is up to you to choose which one will best accompany you and provide safeguards for your adoption process. This partner or your Central Adoption Authority will be your agent in the country of origin. The AAB must be ethical and competent as well as fully knowledgeable about all aspects of the adoption process and the country you have selected.

DANGER SIGNALS!



You should be wary if the AAB you have chosen :

- does not propose a contract that assures that there is transparency in the adoption process and the costs involved (p.12), as well as specifying a complaints procedure
- is not directly and specifically authorised to undertake adoptions by the country of origin
- is not represented on the ground by an officially-approved person or body (p.11)
- is not supervised by the country of origin and the receiving country
- is involved (in)directly in programmes that support parents wishing to abandon their child or all other activities where there could be a potential conflict of interest with the adoption
- has misleading and/or out-of-date information on their website
- has little experience and/or employs no specialist professionals

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:



Does the AAB that you have chosen :

- satisfy all the conditions mentioned above ?
- provide evidence to show that it works only with orphanages officially accredited to undertake adoptions ?
- give an impression that it has profitable objectives (e.g.: luxurious offices, etc.) ?

ADOPTION ACTORS IN THE COUNTRY OF ORIGIN



In addition to your AAB and central authority (p.10), you will deal with numerous other actors in the country of origin, notably, the person in charge of the institution and his/her staff, the judge, the interpreter, etc. To prevent risks especially unwarranted payments, the role of each actor, including their network, must be clearly identifiable and established (p.12).

DANGER SIGNALS!

Great caution is required when interacting with intermediaries in the country of origin to avoid:

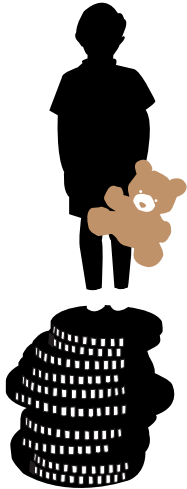
- being confronted with persons that are neither accredited nor qualified to act in adoption matters. Such problematic situations are becoming more frequent as the internet is now often used to find adoptable children.

To avoid entanglement in a network that may well prove to be unethical and even criminal, all adoptions proposed by this means must be refused.

- having direct contact with local actors without the intervention of your AAB or your central authority (p.7)
- the payment of money outside the official established fees

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Are the intermediaries in the country of origin you are dealing with in a position to provide references, a contract with an AAB as well as an official authorisation for their activities?
- Are the requested fees justifiable? Can they be paid by a bank transfer and/or with an invoice (p.12)?



MONEY AND ADOPTION

Money is often the driving force behind abuses. Intermediaries of all kinds will not hesitate to take advantage of the “demand for adoptable children”, thereby using whatever means to create a “market” for children. It is therefore important to be particularly attentive to the amounts that are being demanded throughout the adoption and their justification.

DANGER SIGNALS!

The risks of abuse and corruption are greater when :

- you agree to make on-the-spot payments in cash without a receipt or witness, in cases, where proceeding by way of a bank transfer is not possible
- your AAB is requesting fees in the country of origin that lack transparency with regards to their final purpose and/or are disproportionate to the local cost of living
- you are obliged to make a donation in favour of the institution where the adopted child is staying, which is not foreseen by a law. Such an obligation can be a sign that the adoption is a source of profit for the institution

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS :

- Are the administrative fees established by an official decision ? Can they be accounted for by a competent authority in the country of origin and the receiving country ?
- Is the final use of the sums that you have paid to your AAB transparent ? Are the fees roughly the same as those charged by other AABs active in the country ?

The websites of AABs or your central authority should provide further information regarding this subject

- What is the final purpose of the donations that you potentially have made ? Are they officially authorised and controlled ? Have you acted without pressure or obligation and after the adoption has been finalised ?





THE ESSENTIAL CONSENT OF BIOLOGICAL PARENTS

To some degree, the ability of the child to integrate into his/her adoptive family depends on how the ties with his/her family of origin are severed. It is therefore essential to ensure that biological parents or all other persons responsible for the child have agreed to the adoption in a manner that is independent, free and where they are aware of its full consequences. Any consent that is obtained under pressure or that takes advantage of the ignorance or vulnerability of biological parents can have disastrous consequences on the child and your future. It will be difficult for you to verify how the consent was obtained, which is why it is even more important that you are working with duly authorised and competent partners (p.10 to 11).

DANGER SIGNALS!

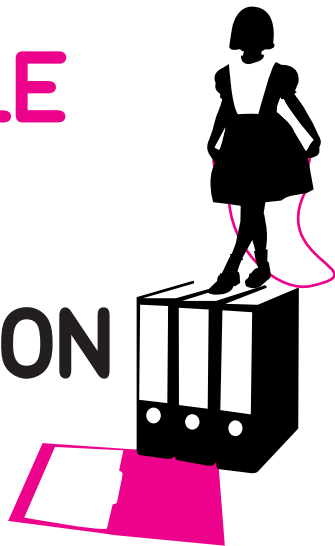
With these considerations in mind, you should have serious doubts concerning the validity of the consent of biological parents or all other persons responsible for the child if:

- there is no retraction period for biological parents to change their minds
- the consent was given before the birth of the child
- the consent was not validated by a competent authority

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Was the consent obtained and then validated by a competent and independent authority?
- Can the procedure for obtaining consent guarantee that the biological parents have fully understood the consequences of their decision and that it was not given under pressure?
- Were real alternatives to adoption proposed to biological parents enabling them to care for their child (p.8 to 9)?
- Were the biological parents given an acceptable time to retract their decision (at least three weeks)?

THE CHILD'S FILE AND HIS/HER PREPARATION FOR THE ADOPTION



The quality of the information in the file of the child whom you intend to adopt may vary considerably depending on the circumstances and country. It may include considerable detail about his/her past and situation (p.16), but equally it may be minimal. The same could be said about the preparation for your child. These elements could influence your future family life and therefore require specific attention.

DANGER SIGNALS!

You should be wary if:

- the child's file does not contain sufficient or credible information about the circumstances and reasons for why s/he is in an institution or foster family. Even if the child is "abandoned" and his/her exact origins are said to be unknown, the file should at least specify what steps were taken to find his/her biological parents
- the child's file does not fully clarify his/her current legal, psycho-social and medical status. In this case, there is a far greater risk that you will discover an undisclosed or undiagnosed issue following the adoption
- official documents required by local laws are missing, such as the birth certificate or consent form (p. 16)
- your child has not at all been prepared for his/her adoption. If s/he has little understanding about the adoption plans, there are greater possibilities that s/he will be traumatised and have difficulties in integrating into your family and new environment

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Does your child's file contain (adequate) information about his/her past and present situation?
- What kind of preparation did your child receive? Was s/he consulted and listened to, if s/he was of an appropriate age?

MATCHING: YOU HAVE BEEN CHOSEN FOR A GIVEN CHILD



Once you have been approved to adopt by an authority where you live, your file will be sent for consideration by the country you have chosen. The country may or may not accept your file depending on the criteria they have set. For each child, specially-qualified professionals should then make a decision about whether you are the parent that best corresponds to his/her specific needs. This decision will be based on the child's file, your file and the files received from other applicants. If your file is selected for a given child, you can either accept or decline the proposal.

DANGER SIGNALS!

Greater risks exist that the child's specific needs and your capacities do not adequately correspond if you :

- are proposed a child by anybody other than your AAB or your adoption authority (p.6)
- select a child without a professional assessment
- can give money and/or a gift to directly choose a child
- have contact with a child before the authorities have made a decision to make a proposal
- are pressured to adopt a child that you do not feel you have the resources or capacity to care for

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS :

- What was the procedure for selecting your file ?
- Were the child's legal, psycho-social and medical needs assessed ?
- Is the person who undertook the assessment qualified ?
- Did your authority or AAB give you justified reasons why you were selected as a suitable parent for this specific child ?

OFFICIAL DOCUMENTS

NEEDED IN THE

COUNTRY

OF ORIGIN



Before an adoption decision is made, in principle, the child's file should include a number of official documents (p.14), notably:

- birth certificate
- police report (if child was abandoned)
- consent documents (i.e.: parent(s), guardian, child, director of orphanage, etc.) – (p.13)
- child's background report, including information on why s/he is living in a foster family or an institution, his/her development, his/her adoptability, etc.
- medical certificate (age, health, etc.)

DANGER SIGNALS!

Forged official documents are unfortunately common and you should be wary if:

- the child's file is missing official documents
- missing documents can be obtained, or obtained more quickly, by paying more or cutting corners
- document does not have authentic government seal
- amount paid is not the published official fee (p.12)
- document and/or file is not prepared by a professional
- documents are not verified by a competent authority
- documents provided make you feel uneasy (identity of the child is unclear, etc.)

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Who prepared the documents? Were they authorised? Did they receive any illegitimate benefit?
- How did you receive the official documents? Were any procedures skipped?
- Are the documents original? Who verified their authenticity and by what means?



OBTAINING THE PASSPORT AND/OR VISA FOR YOUR CHILD

After the adoption decision, understandably you will want your child to join you as soon as possible. Before the child can leave his/her country you will require a passport and/or visa for him/her. You should allow the authorities the necessary preparation time, which will include the verification of official documents (p.16) and adoption records. Speeding up the process may result in problematic issues being overlooked, resulting in dilemmas such as the adoption not being recognised in your country.

DANGER SIGNALS!

Risks arise for establishing the true identity of the child and his/her legal passage into your country when :

- Official documents (p.16) and other adoption records needed for processing the visa/passport cannot be verified by your Embassy
- Passport and/or visa can be obtained (quicker) by paying more or cutting corners
- Passport and/or visa were not prepared by the mandated person in the competent authority
- Amount paid is not the published official fee and/or without a traceable receipt (p.12)

QUESTIONS TO ASK (YOURSELF) TO AVOID THE ABOVE RISKS:

- Were the official documents (p.16) and adoption records needed for processing the visa and/or passport verified? By what means were they verified?
- Who prepared the passport and/or visa? Were they authorised? Were any procedures skipped? How was the authenticity of the passport and/or visa verified?
- Was an amount paid for the passport and/or visa in line with published fees?

EMERGENCY SITUATIONS AND INTERCOUNTRY ADOPTIONS

As a result of natural or man made disasters, such as earthquakes, floods or civil wars, children may become separated from their parent(s). Such separation is very often temporary, even if it lasts for several years. Before adoption is considered for these children, priority must be given to meeting basic needs, registration and achieving some sort of stability. Adoption abroad can only be envisaged on the basis of a subsequent professional decision that there are no possibilities for a given child to live with his/her parents or extended family and no suitable opportunities for remaining in the country exist (p. 8 to 9). In the immediate aftermath of an emergency situation, intercountry adoption is therefore not an appropriate measure.

DANGER SIGNALS!

Insisting on trying to adopt a child during or immediately following an emergency situation is likely to result in :

- taking him/her out of the country without him/her needing to be adopted or being adequately prepared
- resources being used to speed up the adoption process at the expense of meeting the basic needs of the wider community
- authorities not being in a position to guarantee the true identity of the child and his/her adoptability
- authorities in the country of origin and/or from your country not having the resources to obtain and/or verify documents (p.16)
- encouraging corruption by taking advantage of vulnerability in a state of emergency
- not having been adequately prepared to adopt a child who has experienced a traumatic event



RESOURCES

BETTER CARE NETWORK (<http://www.bettercarenetwork.org/>):

information and documents about children deprived of their families in multiple countries.

CENTRAL AUTHORITY:

Your interlocutor for all questions related to the adoption, various actors, choice of a country and its situation, etc. You can find the contact details and addresses of the Authorities of Hague Convention Contracting States at:

http://www.hcch.net/index_en.php?act=conventions.authorities&cid=69

COMMITTEE ON THE RIGHTS OF THE CHILD

(<http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>):

you can find the text of the **convention** and in the section “**sessions**”, information about the situation of children in countries and possible concerns that are raised during the Committee’s examination. This information is usually found in the State’s periodic report and the Committee’s recommendations.

HAGUE CONFERENCE OF INTERNATIONAL PRIVATE LAW

(www.hcch.net):

you can find the text of **THC-1993**, documents related to its applications, information about procedures in various countries, etc.

INTERNATIONAL SOCIAL SERVICE

(www.iss-ssi.org):

general information about intercountry adoption and the protection of children deprived of their families, regarding legal, ethical and practical questions, etc.

See sections «**Documentation and Training**»

(<http://www.iss-ssi.org/index.php/en/resources/training>)

and «**Free Downloads**»

(http://www.iss-ssi.org/venteonline/category.php?id_category=5&id_lang=1).

SCHUSTER INSTITUTE FOR INVESTIGATIVE JOURNALISM

(www.brandeis.edu/investigate/about/index.html):

information about illegal adoption cases denounced before courts or in the media.

UNICEF (www.unicef.org):

general information about the situation of children in the country.

PERSONAL NOTES

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32, quai du Seujet
1201 Geneva
Switzerland

Authors:

Hervé Boéchat, Mia Dambach, Cécile Maurin, Stéphanie Romanens-Pythoud

Design and illustrations:

monokini.ch

