

NAME OF COUNTRY OR ORGANISATION: NORWAY\_\_\_\_\_

## **A EXPLANATIONS AND QUESTIONS**

**If a question does not apply to your State, please answer "Not applicable".**

### **1. Description**

- (a) Is your country (primarily) a receiving State or a State of origin? If both, please ensure your answers to the questions clearly distinguish, when necessary, between your role as a receiving State and your role as a State of origin.**

***A receiving state***

- (b) If your country is not yet a Party, please specify if your country is considering becoming a party to the Convention.**

***Not applicable***

- (c) Was your country represented at the 2000 Special Commission? Were the Conclusions and Recommendations of that meeting discussed or implemented by relevant authorities in your country?**

***Yes. The Conclusions and Recommendations of the 2000 Special Commission is a useful document for the operation and interpretation of the Convention in Norway***

### **2. Good practice**

The Permanent Bureau has commenced work on a Guide to Good Practice on Implementation of the Convention. A consultative group met in September 2004 to provide advice to the Permanent Bureau on this project. It is anticipated that the draft Guide will be circulated, in English, French and Spanish, to all Contracting States in June 2005 seeking comments and for discussion at the Special Commission.

- (a) In relation to any aspect of intercountry adoption, what examples of good practice can you report, (i) from your own country or (ii) from another country?**
- (b) Please indicate what topics you would suggest for future chapters in the Guide to Good Practice (in addition to "Implementation", "Central Authority Practice" and possibly "Accreditation").**
- (c) Have you experienced any major concerns or problems (i) in your State and (ii) in another State, associated with implementation of the Convention, such as a lack of implementing legislation, inadequate staffing or funding issues?**
- (d) If your State has signed but not yet ratified the Convention, please indicate whether your State would like implementation assistance from the**

**Permanent Bureau or other States. What type of assistance would be most beneficial?**

***Norway was represented in the consultative group which met in the Hague in September 2004. Reference is made to the comments made by the Norwegian delegate at the meeting of the consultative group.***

### **3. Questions concerning scope**

Please specify any difficulties you have experienced in determining whether certain situations do or do not come within the scope of the Convention.

In particular, have there been any problems in determining whether:

**(a) a child was or was not habitually resident in the State of origin;**

***Yes, in some cases concerning adoption within a family or adoption of step-children***

**(b) a prospective adopter was or was not habitually resident in the receiving State (as e.g. in the case of a short-term or temporary resident); and**

***Yes, in some cases concerning prospective adopters with only a temporary residence in Norway. Even if the temporary stay is rather long-term, but clearly time-limited (for example for students, time-limited working contracts etc) the stay would not qualify as habitual residence under Norwegian private international law***

**c) the removal of the child was or was not "for the purpose of adoption" in the receiving State (as e.g. where the child is initially moved to the receiving country on a temporary basis or for foster care, and later on adoption is considered)?**

***In some cases where the child has initially come to Norway as a stepchild or a foster child and has been granted a resident permit as such (for example for family reunification), a subsequent adoption has been regarded as domestic adoption and not a Convention adoption. In a few cases a woman of foreign nationality has given birth to a child in Norway and has then left the country and the child behind after having given her consent to adoption. Such a case will be regarded as an intercountry adoption, and a Convention adoption if the child (and the mother) are nationals of a state party to the Convention, even if the child has not been moved to Norway for the purpose of adoption (Art. 2. 1).***

### **4. General principles for protection of children**

**(a) What are the different types of care available to a child in need of care and protection in your State?**

***- Assistance measures for children and families with children***

***- Care orders and placement in foster homes***

***- Placement and detention in an institution***

***- Deprivation of parental responsibility/approval for a child to adopted given by the***

***County Social Welfare Board.***

- b) Please specify the procedures or other measures in place to ensure that due consideration is given to the possibilities for placement of the child within the State of origin before intercountry adoption is considered (the principle of subsidiarity - see Article 4 b) and Preamble, paragraphs 1-3).

*Not applicable*

- (c) What are your procedures to establish if a child is adoptable?

*Not applicable (Procedures for domestic adoptions are not mentioned here)*

- (d) What procedures are in place to ensure that consent to an adoption is given in accordance with Article 4 c) and d) of the Convention?

*Not applicable*

- (e) Do you make use of the Model Form for the "Statement of consent to the Adoption"? See < [www.hcch.net](http://www.hcch.net) >, "Intercountry Adoption", "Practical Operation Documents", "Annex B to the Special Commission Report of October 1994".

*Not applicable*

- (f) Have you applied the "Recommendation concerning the application to refugee children and other internationally displaced children of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption"? See Annex A to the Special Commission Report of October 1994.

*The Recommendation has been referred to in a few cases. Norway has decided*

*to comply with the principles of the Recommendation.*

- (g) How is the eligibility and suitability of prospective adoptive parents assessed in your country (see Article 5 a))?

*By home studies, social reports drawn up by the local authority Social Welfare Office and the advice given by the Social Welfare Office. The actual advance approval to adopt a child from a foreign country is then granted (or denied) by the competent Regional Office for Children, Youth and Family Affairs and – in some cases- by the Norwegian Directorate for Children, Youth and Family Affairs (Central Authority), se point 5(a) below.*

- (h) What preparation (counselling, education or training) is given to prospective adoptive parents to prepare them for the intercountry adoption?

*Preparation and counselling are given and administered by the three accredited adoption organizations, but also during the public approval procedure. The accredited organizations are engaged in parents' education programmes and also give individual counselling during the process of adoption. Preparation and counselling as a government responsibility is now being planned.*

- (i) Please also specify the measures / procedures in place to ensure that the requirements concerning the counselling of prospective adopters are complied with (see Article 5 b)).

*This is controlled through the public approval procedure and the supervision of the accredited organizations*

- (j) Please specify any post-adoption services established or contemplated in your country (see Article 9 c)).

*The accredited organizations have organized post-adoption counselling and guidance services through trained professionals having specialized in intercountry adoption. On government and local authority levels specialised post-adoption services are scarce. Internationally adopted children and their families of course benefit from the general services of the Norwegian welfare and health system, for instance health care services (medical and psychological), social welfare services, child welfare and protection service, the child allowance system, the National Insurance Scheme etc. There is a call for a strengthened national commitment in establishing specialized post-adoption counselling and guidance service.*

## **5. Central Authorities**

- (a) Please specify any of the functions under Chapter IV of the Convention performed directly by your Central Authority or Central Authorities.

*- Appellate instance for decisions on advance approval (denials) made by the regional offices.*

*- Making decisions on advance approval in the first instance in those exceptional cases where an intercountry adoption is arranged outside an accredited organization, and carries out the functions under Articles 16 no 2, 17, litra b, c and d, 18, 19, 20 and 21 in those cases. (In cases of denial the Ministry of Children and Family Affairs is appellate instance).*

- (b) Please indicate the number of personnel employed by your Central Authority to deal with intercountry adoption, their experience and qualifications, and what type of training they have received. (Where personnel undertake other functions, count them only for the amount of time spent on intercountry adoption, for example, if a person spends 50% of their time on intercountry adoption, count them as 0.5 of a person.)

*9 persons, including psychologist, social scientists, lawyers and office staff. Their functions also include domestic adoptions.*

- (c) What procedures are in place to ensure continuity of experienced staff and training for new staff?

*General recruitment policy and procedures directed at the relevant categories of professionals with the necessary experience.*

- d) Have you experienced difficulties with regard to the establishment or operation of the Central Authority, for example, difficulties over funding or resources?

***Shortage of personnel and funds may be a general problem***

- (e) Please provide details of any difficulties you have experienced communicating with "central" Central Authorities in other countries or with provincial Central Authorities (in your own country or other countries)?

***We may have experienced that there are different views on the operation and interpretation of the Convention, but we have not met serious problems in the communication process as such.***

**6. Accreditation**

At the Special Commission meeting in September 2005, the first day will be devoted to an examination of accreditation issues. Your responses to this part of the questionnaire will be very helpful to the Permanent Bureau in the planning and preparations for that day.

***Accredited bodies***

- (1) Please indicate whether your country uses or intends to use accredited bodies in intercountry adoption. If so, please provide details on the topics (a) to (m) below.

***Norway has got three organizations accredited to arrange placement of children from foreign countries for the purpose of adoption. For names and addresses of these organizations, please see the Hague Conference websites.***

- (a) Please provide details (including powers and resources) of the authority or authorities which grant accreditation.

***The Central Authority (Norwegian Directorate of Children, Youth and Family Affairs) grants accreditation and renewal of accreditation.***

- (b) How many bodies have been accredited by your country? Federal States may provide the number for each state or province. If possible, please indicate how many bodies have been refused accreditation.

***Three bodies on national level. No bodies have been refused accreditation***

- (c) Please give a brief outline of your accreditation criteria, guidelines or legislation.

***The Norwegian Adoption Act, Section 16 d, subsections 1 and 2, read:***

***"Organizations may be granted permission by the Ministry to arrange the placement of children from a foreign country for the purposes of adoption. Such permission shall only be granted to organizations whose main purpose is such arrangement. The organizations shall be operated on the basis of what are assumed to be in the best interests of the child and shall not be concerned with financial gain.***

***Such permission shall be granted for a limited period of time and shall specify the foreign country or countries to which it applies."***

***The accreditation process is delegated to the Central Authority.***

***The Ministry of Children and Family Affairs has by more detailed regulations determined further requirements as regards the placement organizations, their activity and their winding up.***

- (d) What is the process by which accreditation is granted?

*Application from the organization to the Central Authority on a detailed, fixed, application form.*

- (e) If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.

*The application form in an unofficial translation into English is attached, and will be presented at the Accreditation Day. The English version of the Adoption Law and the regulations is now being updated and will be sent later on.*

- (f) How is the supervision of accredited bodies carried out in your State (Article 11 c))? Are there regular reporting requirements (including financial reporting) by the accredited body to the supervising authority?

*The management of the accredited bodies are kept under constant review by the Central Authority. The Ministry of Children and Family Affairs has prescribed rules for the bodies' keeping of accounts. The accredited bodies' by-laws and any amendments are to be approved by the Central Authority. The same applies to working agreements which the bodies enter into with the authorities or organizations in the countries of origin. The bodies' annual report and the annual accounts with auditor's certificate are to be submitted to the Central Authority for inspection. Applications for accreditation for new countries of origin are to be accompanied by detailed information on the adoption systems of these countries, legislation, the amount of information given and the quality of health reports etc, expenses, donations, co-operating organizations and persons etc. Any major changes during the accreditation period are to be reported to the Central Authority rapidly. The Central Authority holds regular meetings with the accredited bodies as well as ad hoc meetings whenever needed. Representatives from the Central Authority undertake regularly official trips to selected countries of origin to receive further information on the adoption systems of the countries concerned, to have talks with Central Authorities and other adoption authorities and, co-operating organizations, and to inspect the work of the accredited body in the host country.*

- (g) How is the performance of the accredited body assessed or evaluated?

*As mainly good. Problems of communication/co-operation between the Central Authority and the accredited bodies are rare. Should they occur, they will normally be settled in dialogue between the Central Authority and the accredited body concerned.*

- (h) Has the competent supervisory authority encountered any difficulties in relation to (f)?

*No major difficulties*

- (i) Are you aware of any acts or behaviour by accredited bodies or approved bodies or persons that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?

*They have been very rare. See answer under point (g) above*

- (j) What are the conditions for renewal of accreditation?

*In principle the same as for first-time accreditation. In addition the adoption system and adoption process of the country concerned must have proved satisfactory. In 2003 application for renewal of accreditation for*

***Guatemala was rejected. In a few cases renewal has been denied if there has been no activity or practically no activity for many years in terms of very few children adopted.***

- (k) Have you experienced any difficulties in obtaining assistance or cooperation from other Central Authorities in regard to accredited bodies?**

***No. The accredited organizations may have more experience.***

- (l) Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?**

***There have been some concerns regarding the supervision of accredited bodies in Colombia as to costs, see answers under chapter 10 point (9).***

- (m) Do you consider that standard or model accreditation guidelines would assist countries in developing appropriate safeguards or procedures?

Yes

- (2) Has your country authorised foreign accredited bodies to undertake intercountry adoptions in your country (see Article 12)?**

**No**

- (a) What steps are involved in the process of authorisation?**

***Not applicable***

- (b) What supervision of foreign authorised bodies occurs?**

***Not applicable***

- (c) Have you experienced any difficulties regarding a body accredited in one State and authorised to act in another State?**

***Not applicable***

- (3) If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision.**

***There have been no such applications and no express decision. However, if a foreign accredited body should establish an affiliated organization in Norway according to Norwegian law and under supervision by Norwegian authorities, such organization might apply for accreditation.***

- (4) What particular issues concerning accreditation would you like discussed on the Accreditation Day (17 September)?**

***General guidelines and for instance the use of a standard formula for applications for accreditation, see chapter 6, points (1) (d) and (e) above.***

- (5) Would you like to see a chapter on Accreditation developed for the Guide to Good Practice for Intercountry Adoption? What issues do you think should be covered in this chapter?**

***Yes. Guidelines for accreditation. A standard formula for accreditation might be included as an appendix to the Guide to Good Practice.***

#### ***Approved bodies and persons***

- (6) Please indicate whether your country uses or intends to use approved bodies or persons (see Article 22(2)) in intercountry adoption. If so,**

**No**

- (a) How many bodies or persons have been approved by your country to provide adoption services in accordance with Article 22(2)?**

***Not applicable***

- (b) Do you grant approval to persons or bodies from abroad?**

***Not applicable***



- (c) What are the guidelines by which approval is granted (if different from 1(c))?

*Not applicable*

- (d) What is the process by which approval is granted and renewed?

*Not applicable*

- (e) How is the supervision of approved bodies or persons carried out in your State (Article 22(2))?

*Not applicable*

- (f) Has your country made a declaration under Article 22(4)?

*Yes*

## **7. Procedural aspects**

- (1) Please indicate any operational difficulties that have been experienced, including in particular:

- (a) obtaining accurate and sufficient health and social information on the child;

*It is a general problem that the child's medical and social report under Article 16 is often not accurate and sufficient enough, even if the reporting to some extent has improved since the 2000 Special Commission meeting. Problems have also arisen from the fact that some countries, especially in Eastern Europe, have another way of making and describing neurologic diagnosis than what is usual in western medical tradition. More countries now make the HIV-test of the child automatically, which is an improvement.*

*The quality of the child's medical report is of vital importance to the adoption process to ensure that the applicants agree to the entrustment on the basis of adequate and sufficient information on the child.*

- (b) obtaining accurate and sufficient information on prospective adoptive parents;<sup>1</sup>

*As a receiving country Norway considers it very important that the information on the prospective adoptive parents, which is going to be presented in the country of origin, is accurate and sufficient enough. Cases where the information is insufficient are returned to the local Social Welfare Office for additional reporting before any decision is made and the file sent to the country of origin.*

- (c) obtaining an accurate estimate of fees to be paid by adoptive parents prior to adoption and / or travel to collect the child;<sup>2</sup>

*For adoptions arranged through an accredited organization there are no difficulties. Difficulties may arise in the few cases that are handled outside an accredited organization.*

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<sup>1</sup> The Convention, Articles 15 and 16.

<sup>2</sup> See Report of the Special Commission of 2000, page 42, paragraph 7.

- (d) documentation requirements, including requirements for legalisation or authentication of documents, or the acceptance of documents by the other country;

*See answer under litra (c) above*

- (e) obtaining the agreements required in Article 17;

*See answer under litra (c) above*

- (f) receiving post-placement reports from adoptive parents or Central Authorities;<sup>3</sup>

*Not applicable*

- (g) translation requirements;

*We are not aware of any difficulties*

- (h) time taken to process Convention cases.

*May vary considerably. Average processing time from the adoption process starts in Norway until the adoption becomes final is about 2 years.*

- (2) Do you permit prospective adopters, once their eligibility and suitability have been established, to make their own arrangements for contacting directly the placement agencies in the country of origin?

*No. The accredited body, through which the adoption is arranged, is responsible for these contacts. In the exceptional cases where an intercountry adoption is arranged outside an accredited body, the Central Authority itself takes on the role of the accredited body, and establishes contact with the Central Authority of the country of origin. For adoptions within a family, however, this may be different.*

- (3) Has the practice referred to in the preceding question given rise to particular problems of which you are aware?

*No*

- (4) Please provide details on the breakdown of placements in the Receiving State. What steps have been or are being taken in your country to address this problem (Article 21)?<sup>4</sup>

*Until now, the Central Authority has no experience with breakdown of placements.*

- (5) Legalisation of foreign documents can be very time consuming for Contracting States. At the Special Commission on the Apostille, Evidence and Service Conventions in November 2003,<sup>5</sup> a recommendation was made concerning the 1993 Convention. The Report states that:

*"The Special Commission stressed the usefulness of linking the application of the Hague Adoption Convention of 1993 to the Apostille*

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<sup>3</sup> See the Convention, Article 20.

<sup>4</sup> The number of placement breakdowns is sought in the new draft Statistics Form.

<sup>5</sup> See "Conclusions and Recommendations adopted by the Special Commission on the Practical Operation of the Hague Apostille, Evidence and Service Conventions", 2003, page 5, available on the Hague Conference website at < [www.hcch.net](http://www.hcch.net) >.

***Convention [the 1961 Convention Abolishing the Requirement of Legalisation for Foreign Public Documents]. In light of the high number of public documents included in a typical adoption procedure, the Special Commission recommended that States that are party to the Adoption Convention but not to the Apostille Convention consider actively becoming party to the latter.”<sup>6</sup>***

**Would you favour a similar recommendation from the forthcoming Special Commission meeting for the 1993 Convention?**

***Yes, we are clearly in favour of such a proposal***

**6) DNA testing has been used to establish identity (if, for example, a consent is in doubt). Can you provide details of such cases, including the cost and procedures involved?**

***We know that some receiving countries have required DNA testing for adoptions from some countries of origin, among others Guatemala. However, Norway has no experience.***

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<sup>6</sup> See paragraph 6.

## 8. Private international law issues

**(1) The Convention does not determine which authorities have jurisdiction to grant or amend / revoke an adoption nor which law applies to the conditions governing, or the effects of, an adoption.**

- (a) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the jurisdiction of the authorities to grant or amend / revoke an adoption?

*Not exactly, but what we have experienced is that some Convention states may have different views on what is a Convention adoption and what is a domestic adoption. The interpretation of the term "habitual residence" may also differ considerably between states and cause doubt as to whether an adoption is a Convention adoption or not, and so, which state's authorities that have jurisdiction. What is said here is mainly related to some inter-family adoptions from India, the Philippines and Thailand.*

- (b) Are you aware of any difficulties that may have arisen in the application of the Convention concerning the law or laws to be applied to the conditions governing, or the effects of, an adoption?

*What is said above under point (a) will also apply to the choice of law(s)*

**If the answer to either or both of these questions is "yes", do you wish the Permanent Bureau to study these questions further?**

*That would perhaps be a good idea. It is our experience that some inter-family adoptions in particular may cause problems related to private international law.*

**(2) Issues of applicable law may arise when bodies accredited in one Contracting State act in another Contracting State (Article 12), for example:**

- whether and to what extent agents of that body are authorised to act and bind their principal;
- whether they have exceeded or misused their authority.

**Have you experienced any difficulties in this respect (see also the *Hague Convention of 14 March 1978 on the Law Applicable to Agency*)?**

*Regarding Article 12, we have not experienced any difficulties in this respect*

## 9. Recognition and effects

**(1) Have your courts used the Recommended Model Form "Certificate of Conformity of Intercountry Adoption"? See < [www.hcch.net](http://www.hcch.net) >, "Intercountry Adoption", "Practical Operation Documents", "Annex C to the Special Commission Report of October 1994".**

*The Recommended Model Form "Certificate of Conformity of Intercountry Adoption" will be used by the Central Authority for adoption orders made in Norway under the Convention whenever requested by other Contracting States, other authorities or interested private persons.*

**(2) Have you knowledge of any difficulties that have arisen in obtaining certificates under Article 23(1)?**

***It is our experience that only few countries of origin give a certificate provided for in Article 23.1. The Central Authority receives the final Adoption Order and other documents, like a new Birth Certificate for the child etc, but rarely sees the Article 23.1. certificate. The adoptions are still recognized in Norway and are registered here because domestic law provides that foreign adoptions are recognized in Norway when the Ministry (delegated to the regional offices and the Central Authority) has granted the advance approval referred to under chapter 5 point (a).***

**Do you have information about any case in which recognition of a Convention adoption has been refused under Article 24?**

**No**

**(4) Are there any circumstances in which you would recognise the validity of a foreign adoption coming within the scope of the Convention despite Convention procedures or requirements not having been followed?**

***According to domestic law (the Norwegian Adoption Act) it is possible to recognize a foreign adoption on an overall discretionary basis even if Convention procedures or requirements have not been followed. The best interest of the child will be the paramount consideration, and it will be taken into consideration why and to what extent the Convention was disregarded***

Please specify any other difficulties that have arisen in relation to Chapter V of the Convention.

#### **10. Payment of reasonable charges and fees**

**(1) Please quantify the costs and expenses charged or fees paid in your country in respect of intercountry adoptions (Article 32(2)). Is this information freely available and accessible to prospective adoptive parents and competent authorities?**

***Figures are given in the statistical forms. The information on costs, expenses and fees is freely available and accessible to prospective adoptive parents and competent authorities, and is supervised by the Central Authority.***

**(2) Have you had any experiences with the use of fee caps, established and publicised appropriate fees, established expediting fees, or other similar controls?**

***All the Norwegian accredited adoption organizations have now a way of calculating adoption costs which is probably quite unique, at least in the Nordic Countries. All adoption-related expenses borne by each organization during a calendar year are distributed evenly on all families that have adopted through that organization no matter from what country the child was adopted.***

***(Further information was given by the Norwegian Central Authority in its letter of 22. September 2004 to the Free University of Amsterdam in connection with the Pilot Project on Costs and Fees).***

**(3) Do you have any comments on the practice in some countries of requiring a mandatory contribution by adoptive parents for the support or development of child protection services in such countries?**

***Such mandatory contributions are widely accepted, but it is a matter of doubt whether such contributions are in compliance with Article 32(2) of the Convention. For Colombia see point (9) below.***

**(4) Do you have any comments on or experiences of uneven processing amongst countries due to large disparities in fees (for example, applications from countries that offer higher fees may be processed more quickly)?**

***Or for example babies and younger children or the most healthy children are entrusted to applicants who offer higher fees. For these reasons intercountry adoptions from Romania were stopped several years ago. If such practice should be disclosed, Norway would withdraw accreditations for adoption from the country concerned or deny renewal of accreditation***

**(5) Are you aware of any instances of disparity between professional salaries or fees charged for adoptions compared to other forms of legal work? (For example, large legal fees may be charged for adoption, while standard or lower fees are paid for other family law matters such as divorces – see Article 32(3).)**

***No. Private-practising lawyers are seldom engaged in adoption matters, and, if so, mainly in appellate cases where advance approval has been denied***

**(6) Are you aware of any significant differences in fees charged for intercountry adoption by regional or provincial authorities?**

***Processing of adoption cases by regional and local authorities is free of charge.***

**(7) To what extent, if any, are intercountry adoption fees used (a) to support or develop the national childcare and protection system; or (b) to contribute to funding resources of Central Authorities or accredited bodies?**

***A certain part of the adoption fees paid by the prospective adoptive parents is used to cover the necessary operating costs of the accredited adoption organisations.***

**(8) Do you have any other comments about reasonable or unreasonable costs and expenses or fees?**

***In countries of origin, where fixed and not variable levels of costs underlie the adoption work, the costs of the individual adoptions may turn out to be unreasonably high if there are only a few adoptions from that country.***

**(9) Are you aware of any other problems arising from the payment of fees or charges in your country or in other countries with which you have adoption arrangements?**

***The high level of costs, charged for adoption of children from the Colombian "casas,"(which are also accredited bodies) has been a matter of concern to the Norwegian adoption authorities. The amount of charges has also caused international concern. On the other hand, the costs of adoptions arranged through the Central Authority, ICBF, itself are very reasonable. The Norwegian Central Authority was in doubt as to whether we should renew the accreditation for the adoption organization working in Colombia to go on with arrangement of adoptions from the "casas". In 2003/2004 the Norwegian Central Authority raised this matter with the ICBF and also visited Colombia for further talks. Our Central Authority has established a very good dialogue with ICBF and is grateful for the way the ICBF has responded to our concern. The ICBF has expressed as***

***their view that it is not in compliance with the Convention to receive, charge, agree on, or even propose, donations. Donations should only be given on a completely voluntary basis.***

## **11. Improper financial gain**

**(1) Please indicate the laws (including criminal sanctions), measures and procedures in place to give effect to the principle that no one shall derive improper financial or other gain from an activity related to an intercountry adoption (Article 32(1)).**

***Should an accredited body derive improper financial or other gain from an activity related to intercountry adoption, the Central Authority would investigate the matter and try to solve the problem in dialogue with the accredited body or other organizations or persons involved. The first reaction would probably be a warning combined with an extended financial control of the body. In grave cases or by repeated violations of Art 32(2) the appropriate reaction would be suspension or even withdrawal of accreditation, a reaction prescribed by the Adoption Act. We would like to emphasize the fact that this description is hypothetical, as grave malpractices have not occurred or been reported.***

***Deriving improper financial or other gain from an activity related to intercountry adoption might well be a criminal offence according to the general provisions of the Penal Code relating to economic crime. As there is no case law, we are not able to give further information.***

**(2) Are you aware of any instances of success in enforcing penalties to discourage improper financial gain?**

***No case law until now***

**(3) Are you aware of any difficulties in the enforcement of laws or regulations or in prosecution of criminal activity?**

***No, but no case law until now***

**(4) Apart from the measures referred to in Question 11(1) above, have any other preventive measures been taken in your country to combat improper financial gain?**

***Not on government level, but we would like to refer to the Ethical Codes of the accredited bodies***

**(5) Please provide details of any measures taken to prevent solicitation (e.g. through inducements to consent) of children for adoption (Articles 8 and 29).**

***See answer to chapter 7 (2) above. Otherwise not applicable***

**(6) Have you experienced any difficulties in obtaining co-operation or assistance from other States in eliminating practices that lead to improper financial gain?**

***We would have appreciated more co-operation and open-mindedness from Russian adoption authorities in these matters. However, Russia is still not a party to the***

## 12. Relative adoptions

Do you have any comments on the application of the Convention procedures to relative (inter-family) adoptions?

*Some aspects on the application of the Convention to relative (inter-family) adoptions are commented on under chapter 8 (1)*

## 13. Children with special needs

What policies or programmes do you have to ensure that children with special needs are given the same opportunity to find a family through intercountry adoption as other children?

*Cases concerning entrustment of children above 5 years of age, of groups of siblings and of children with special medical, psychological or social needs are to be submitted to the Professional Board for Adoption before the Article 17, litra c-agreement can be made. Owing to the fact that reports on the child are often insufficient, it may sometimes be difficult to identify children with special medical, psychological and social needs. The Professional Board for Adoption is a centralized and independent public administrative body with three members, one medical doctor (general practitioner), one psychiatrist and one psychologist. The Board makes the final decision on entrustment of the child in these cases, and its decision is binding on the other adoption authorities and the accredited organizations. Prospective adoptive parents, however, may say no even if the entrustment has been approved by the Board.*

## 14. Other forms of cross-border child care

International foster care, transnational *kafala* and other forms of child care with a cross-border element are not covered by the 1993 Convention, but by the *Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*: See for example its Articles 3 e) and 33(1).

(1) Is your country involved in international placements of children other than for purposes of adoption?

No

(2) Are you aware of any difficulties concerning such placements?

*The Directorate of Immigration is the competent authority for recognition of foster placements established abroad with a view to residence permit in Norway for the foster child.*

(3) If your country is not yet a Party to the 1996 Convention, is your country actively studying ratifying or acceding to it?



*As this is a question of a political nature, it has been submitted to the Ministry of Children and Family Affairs and will be commented on answered later on*

## **15. Avoiding the Convention**

Are you aware of any attempts to circumvent the Convention or to avoid protections afforded to children, including the moving of children or birth parents to other countries?

*No*

## **16. Additional safeguards and bilateral arrangements**

Please describe any additional safeguards, requirements or procedures, which you apply to Convention adoptions (*i.e.* over and above those which are set out in the Convention itself). Are these applied generally, or only in relation to particular States?

*Not applicable*

Have you made agreements with one or more other Contracting State (see Article 39(2)) with a view to improving the application of the Convention? If so, please specify with which States and what matters are covered by the agreements.

*An agreement with the Philippines on government level was entered into in 1982, but this agreement is no longer of practical importance. It is Norwegian policy that bilateral agreements should be avoided, as we think the Convention itself is the appropriate international instrument for intercountry adoption. However, we do not reject bilateral agreements altogether when it is a strong and well-founded wish from the other country to enter into such agreement. At present we are preparing a draft bilateral agreement with Vietnam, still not a party to the Convention.*

Do you have any comments on the efficacy of bilateral arrangements:

### **(a) with non-Contracting States? Are Convention safeguards applied?**

***See answer above. It is a prerequisite for entering into such agreement that Convention safeguards are applied***

### **(b) with Contracting States? Do they improve the operation of the Convention? Have they caused any difficulties?**

***Not applicable***

## **17. Limits on number of States with whom co-operation is possible**

In making arrangements for intercountry adoption (whether as a receiving State or as a State of origin), have you found it necessary to confine co-operation under the Convention to a limited number of other Contracting States? If so, please explain the reasons (e.g. no appropriate accredited body, lack of resources to process applications from large number of States, etc) and indicate what has influenced the choice of these States.

*There is in principle no upper limit for number of Contracting States of origin with which Norway would make adoption arrangements. Practical and financial considerations, however, might make it necessary to confine co-operation under the Convention to a limited number of states. Until now we have met no problems in this respect.*

*As mentioned above, renewal of accreditation has been denied for some states, once for lack of an adequate adoption system and Convention safeguards (Guatemala), for a few other states because of very limited adoption activities.*

## **B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION**

**18. Do you regularly hold seminars, training sessions or workshops on the Adoption Convention in your State? Would you welcome participants from other countries? Would you find it helpful if there was a consistent way to announce such activities to other States? Do you have suggestions?**

*Seminars for the regional offices, where also Convention-related topics are discussed, are held at regular intervals, appr. every 3 months. Other seminars on national level are rare, mainly because of shortage of personnel and funds.*

*We would like to draw your attention to the Nordic and European informal meetings for Central Adoption Authorities which are held every year, and which mainly focus on topics related to the Convention. In our opinion these meetings are very useful and instructive with a view to a common understanding and interpretation of and attitude to the Convention.*

**19. In the current negotiations for a new Convention on the International Recovery of Child Support and other Forms of Family Maintenance, an Administrative Co-operation Working Group has been established to examine and report on practical problems and issues of administrative co-operation between authorities. Would you favour the establishment of a similar group for the 1993 Convention?**

*In principle, yes, but as this is a matter of a political and budgetary nature, any proposal must be submitted to the Ministry of Children and Family Affairs.*

**20. Please indicate which topics you consider priority issues for the Special Commission in September 2005, and their degree of importance.**

***Accreditation and related topics***

***Guide to Good Practice***

***Costs and Fees, included the status of the Pilot Project and future work***

**21. Any other suggestions, comments and observations are welcomed.**