

Questionnaire on the Practical Operation of the Hague Convention and Co-operation in Respect of Intercountry Adoption

Republic of Estonia, Central Authority: Estonian Ministry of Social Affairs

A Explanations and Questions

1. Description
 - a) Estonia has been State of Origin since 1995, every year there are few (1-2) adoptions into Estonia. It means Estonia has very small practice on being receiving State as well.
 - b) Not applicable
 - c) Estonia was not represented at the 2000 Special Commission.
2. Good practice
 - a)
 - b)
 - c) Estonian domestic legislation is too general, not including special paragraphs about intercountry adoption.
 - d) Not applicable
3. Questions concerning scope
 - a) Estonian Family Law Act says that Estonian citizen can be adopted with the consent of Social Minister. There is not said that child should be habitual resident of Estonia. The problem is, Estonia has a large number of not citizen children who are legally free for adoption. According to the legislation this is not correct to adopt them to abroad, but from the other hand child should get possibility to live in family if we do not have family in Estonia child should get possibility to be placed into family in some other country.
 - b) The situation where prospective adopter works temporary in the receiving State has been problematic. What are the principles to specify which State is receiving State the country prospective adopter lives habitually or the Country he or she works temporary.
 - c) Not applicable, Estonia does not allow other forms of family placements, adoption is the only possibility.
4. General principles for protection of children
 - a) Estonia has four types of care available for children in need of care: institutional, foster family, guardian's family and adoptive family. Two first are social services regulated by Social Welfare Act, two others are regulated by Family Law Act.
 - b) According to Child Protection Act it is allowed to consider the intercountry adoption placement only, when there is no adoptive, foster or guardians family in Estonia or some other family similar placement (for example SOS Children Village) in Estonia. According to special regulations about adoption the County child is from (15 Counties and Tallinn City has right and duty to arrange domestic adoptions) has to ask for placement possibilities in Estonia and after getting answers or after 3 months the County child is from can inform Ministry of Social Affairs about child in need of placement through the intercountry adoption.
 - c) Ministry of Social Affairs checks the paperwork about the child legal, health and social background, asks opinions about the possible country and family characteristics which could be the best for the child from local government, county, child welfare institution and 10-years old child, younger if his/her development and ability to understand the situation; prepares the report about the child; contacts the receiving Country's organization and informs about adoptable child.
 - d) To ensure that the article 4 c) and d) has been fulfilled Ministry of Social Affairs:

- checks all the documents including consents (the consent from parents, guardians and other persons should be given at the notary, the consent from some institution, organization should be given in special form and signed by the head of that institution);
- if there is need we speak with parents or guardians or other person who are in close relation with child (relatives, friends);
- meeting with child 2-4 times to be sure that child is willing to be adopted and adopted by concrete family, showing the pictures about new parents, home and the all family, organizing meeting for child with prospective adoptive parents
- e) Not applicable
- f) Not applicable
- g) To ensure that the demand from Article 5 a) has been fulfilled we as State of origin demand certain documents from receiving State, including home study with recommendations and the legal consent for intercountry adoption. According the law we need translated adoption law from the receiving State to check if all paperwork has been done according the law. MSA will evaluate suitability and eligibility of the family mostly from paperwork. As receiving State we prepare the family with special training (PRIDE), County level social worker will give consent for adoption and help to prepare all other documents the State of origin demands, MSA is supervising the process and checks the documents after what MSA gives the consent.
- h) Estonia use PRIDE training (Parent Resources for Information, Development, and Education) since 2002 for all adoptive parents and additional home visits and meetings with family members by County level social worker.
- i) As State of origin we ask to prove with documents, that adopted child can enter and live and has all other rights in receiving State. As receiving State we check the status of prospective adoptive family if they have right to live in Estonia the adopted child will have the same right.
- j) There is no specific post-adoption services in Estonia. Historically adoption has been secret in Estonia and this is reason why such services are not well developed. But nowadays there are possibilities for the families who are more open and interested. There are group counseling, PRIDE and other services available. There is organization formed from adoptive parents. But all social welfare services for families with children are open also to adoptive families.

5. Central Authorities

- a) MSA as Central Authority did not delegate any of the functions mentioned in Chapter 4 to accredited bodies or to other authorities. All functions are covered by MSA.
- b) There is one civil servant in MSA Social Welfare Department, qualification is social worker, experience since 1993 to work out and implement the arrangements for adoption included intercountry adoption. Among other duties 0.25 % of the general working time has been spent to adoption issues.
- c) Estonia is small country and there is no need for more staff, one civil servant has been enough in our experiences.
- d) No applicable
- e) It has been difficult to understand for other countries that intercountry adoption number is low because of the lack of adoptable children not because of intention to keep children in institutional care. Because of that Estonia has been quite close to new co-operation partners and it has been difficult to explain to possible receiving States.

6. Accreditation

- (1) Estonia does not have any accredited bodies

Estonia has 20-30 intercountry adoptions in a year, to keep the action under the strict control, MSA found no need for other institutions to deal with intercountry adoption.

- a)-m) Not applicable

- (2) MSA has co-operation between 3 State one accredited body from each, MSA never authorized foreign accredited body. MSA recognize accredited bodies on the bases of long

term practice. After ratification of the Convention we continued with the same States and accredited bodies from these States, we did not create new co-operations on the field of intercountry adoption.

a) Estonia has no domestic law about the procedure or conditions to accredit foreign institutions or organizations.

b) MSA demands valid accreditation or authorization, checks that through the Embassy in Tallinn.

c) Not applicable

(3) See 6 (1)

(4) Not applicable

(5) Yes, there should be procedures and conditions to get accredited and renewal.

(6) Not applicable

7. Procedural aspects

(1) operational difficulties

a) The Personal Data Protection Act does not allow receive and send forward personal information (for example concerning health condition), that makes more difficult to prepare the report about the child or prospective adoptive parent. It is easier with children, there is possibility to use the guardians or often the local municipality is guardian and ask their help.

b) With prospective adoptive parents we only can trust them and persons or institutions/ organizations which has given the documents and information. It's difficult to check all that information.

c) Estonia has fee no special fees in accordance of adoption, there are some state taxes for Civil Court (30.- EEK), new birth certificate (30.-) and passport (up to 500.- EEK). MSA does not deal with traveling or other arrangements (hotels,...).

d) Any specific difficulties

e) Difficulties because of Estonian domestic law is too general, no special paragraphs about intercountry adoption.

f) Any difficulties has been met to receive post-adoption reports.

g) Any difficulties has been met in order to get documents translated.

h) Not applicable

(2) As State of origin we do not permit any individual contacts for prospective adoptive parents.

(3) Not applicable

(4) Estonia allows child to receiving State only after adoption has been decided and court decision has been came into force. In our practice there has been two breakdowns, in one case child was adopted to another family and in the other case child (14 years old) game back to State of origin.

(5) Estonia is party of both Conventions and Apostille Convention is obligatory for us.

(6) Estonia has possibility for DNA testing (cost is 3500.- EEK), that could be ordered by judge (for free) or interested person can get the test with consent of other involved persons. DNA testing never found use in adoption cases.

8. Private international law issues

(1)

9. Recognition and effects

(1) Estonia use recommended model form "Certificate of Conformity of Intercountry Adoption"

(2) Not applicable

(3) No

(4) No

10. Payment of reasonable charges and fees

- (1) Estonia has no special adoption fees. Adoptive parent and/or competent authority should cover translation costs, state taxes for court, new birth certificate, travel document (passport). State taxes together not more than 600.- Eek, usually less.
- (2) Not applicable
- (3) Some of Estonian orphanages practice voluntary support (donation) from adoptive parents to make better the environment for other children (play yard, garden, ...). But the sum has been told to the adoptive parents by competent authority in receiving State.
- (4) Not applicable
- (5) Not applicable
- (6) Not applicable
- (7) Not applicable
- (8) Not applicable
- (9) Not applicable

11. Improper financial gain

- (1) adoption can not be connected with any conditions (Family Law Act); selling or buying a child is not allowed (Penal Code);
- (2) Not applicable
- (3) Not applicable
- (4) Adoption is to be handled by County Government (domestic adoptions) or Ministry of Social Affairs (intercountry adoptions), both are government institutions, financed by state budget and not charging from adoptions. So that the number of adoptions or the quality of adopted children does not affect them financially. Other organizations or enterprises can not work with adoption issues.
- (5) According Estonian legislation biological parents has no right to get contact with adoptive parents and adoptive parents has no right get contact with biological parents, as well as they has no right to get personal data about each other. There could be relation between biological parents or relatives and adoptive parents after the adoption comes into force if both parties are agree. Contacts are allowed also when the adoption took place inside the family.
- (6) Not applicable

12. Relative adoptions

Not applicable

13. Children with special needs

Most children adopted to abroad from Estonia has been with special needs. The intercountry adoption itself is activity to provide family for the children with special needs. According Estonian Child Protection Law we can adopt to abroad only these children who never found family (included foster- or guardians family) in Estonia.

14. Other forms of cross-border child care

- (1) only adoption is allowed in cross-border activity
- (2) Estonia can not accept other forms of placements because of the questions of responsibility. If the child's guardian is in Estonia (usually it is Local Municipality) it can not protect child in other country.
- (3) Estonia does not actively considering the ratification of the 1996 Convention.

15. Avoiding the Convention

Not applicable

16. Additional safeguards and bilateral arrangements

- (a) Estonia does not have cooperation between non-Contracting States.

- (b) Estonia has cooperation with Contracting States as Finland, Sweden and USA (bilateral arrangements). Additionally we have made some adoptions to other Contracting States (Hungary).

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

Estonia has been limited the number of States we co-operate, because of the low number of children available for intercountry adoption. Estonia has 20-25 adoptions in a year, children are usually in school age, even 17 years old and the health condition is not the best. This is not enough attractive to adoptive parents, that is why we do not try to make co-operation with many States.

B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION

18. No special seminars or trainings has been held, but we have seminars and trainings where one part is adoption included intercountry adoption and Hague Convention. In Estonia practically only Ministry of Social Affairs and 15 County Governments are involved in adoption. There is need to arise the knowledge about intercountry adoption.

19. Yes.

20. Not applicable.

21. –

ORGANISATION AND RESPONSIBILITY UNDER THE 1993 HAGUE INTERCOUNTRY ADOPTION CONVENTION

Section A: States of origin

ART 4 a)	CAN, CT
4 b)	CAN
4 b)	CAN, CT
4 c); 16 (1) c)	PA, CAN, CT
4 d)	PA, CAN, CT
8	CAN, CT
9 a); 30	CAN, PA
9 b)	CAN
9 c)	PA, CAN
9 d)	CAN
9 e)	CAN
10; 11	CAN (we do not have such bodies)
12	CAN
16(1) a)	PA, CAN
16(1) a); 22(5)	CAN
16(1) b)-d)	PA, CAN, CT
16 (2)	CAN
17 a)	ABF, CAN
17 c)	ABF, CAN
18	CAN
19 2)	ABF, CAN
19 3)	ABF, CAN
20	CAN

21	CAN
23	CAN
24	CAN
29	PA, CAN, CT
32	CAN, CT

Section B: Receiving Countries

not applicable

Section C: Identification of responsible parties

Central Authority:

Estonian Ministry of Social Affairs
Social Welfare Department
Gonsiori Str. 29
15027 TALLINN
ESTONIA

Phone: +372 626 9220

Fax: +372 699 2209

e-mail: signe.riisalo@sm.ee

web site: www.sm.ee

contact: Signe Riisalo Chief Specialist

Information and addresses of Courts are easily reachable on the web site (www.kohus.ee/2327) in English.

Information and addresses of County Governments (Public Authorities) are easily reachable on the web site (www.riik.ee/et/maakonnad.html) in English.

STATISTICS

Intercountry adoptions in Estonia 1996-2003:

	1996	1997	1998	1999	2000	2001	2002	2003
Intercountry adoption	29	37	30	37	27	20	32	15
Total number of adoptions	269	227	193	168	164	200	131	130

State	1997	1998	1999	2000	2001	2002	2003	2004
Finland	6	6	7	5	5	6	3	4
Sweden	13	3	8	7	8	15	4	3
United States of America	12	4	5	6	4	11	8	9
France	-	2	1	-	-	-	-	-

Italy	2	1	-	-	-	-	-	-
Island	-	1	-	-	-	-	-	-
Northern Irland	1	1	-	-	-	-	-	-
Denmark	3	1	1	-	1	-	-	-
Russia	-	1	-	-	-	-	-	-