

Regional workshop on intercountry adoption

Sharing experiences on the effective implementation of the 1993 Adoption Convention in Africa

Lomé, 13-15 November 2024

Conclusions & Recommendations

- 1 From 13 to 15 November 2024, the **fifth francophone workshop** on "Sharing experiences on the effective implementation of the 1993 HCCH Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption" (1993 Adoption Convention or Convention) was held in Lomé (Togo).
- 2 This meeting, organised by the Permanent Bureau of the HCCH with the technical support of the Ministry of Social Action, Solidarity and the Promotion of Women of Togo, the financial support of the *Mission de l'Adoption Internationale* (France) and the financial participation of the Norwegian Directorate for Children, Youth and Family Affairs (Norway), brought together approximately 60 participants from 12 States (namely: Angola, Benin, Burundi, Cape Verde, Cameroon, Congo, Côte d'Ivoire, France, Guinea, Madagascar, Senegal, and Togo), two organisations (UNICEF Togo and ISS Côte d'Ivoire), and the Permanent Bureau of the HCCH.
- 3 The formal opening of the workshop was attended by the Minister for Social Action, Solidarity and the Advancement of Women, the Minister for Justice and Legislation, the First Counsellor representing the French Ambassador to Togo, the Secretary General and Director of Cabinet of the Ministry for Social Action, Solidarity and the Advancement of Women and the Secretary General of the HCCH.
- 4 The **general aim** of the workshop was to provide the States invited with a framework for exchanging experiences on the international adoption of children, **with the specific objectives** to:
 - take stock of the implementation of the recommendations of the fourth Francophone workshop held in Abidjan (Côte d'Ivoire) in 2019;
 - provide feedback on the implementation of the 1993 Adoption Convention; and
 - bring together experts from French- and Portuguese-speaking States Parties in Africa, and from a State in the same region interested in becoming a Party to the Convention, to discuss good practices and challenges in the field of adoption.
- 5 The participants shared information on how the authorities in their respective countries have **implemented the Conclusions and Recommendations (C&R) of the workshop held in Abidjan**, on the progress made since then, but also on the challenges that remain. Many countries have

reformed their legislation (e.g., codes, laws, regulations) and have drawn up procedural handbooks, brochures and other documents to help implement the Convention, among other initiatives.

- 6 The participants were able to share **their respective progress in** implementing the Convention and the main challenges they currently face. They were able to see that many countries face similar challenges. Participants had the opportunity to discuss the ways in which their countries were tackling the current challenges, as well as the projects that their respective countries intended to implement in the short and / or medium term. They noted that it was important to report on the **challenges** associated with adoption, but also to affirm **successful** adoptions.
- 7 The participants recalled that adoption is a **child protection measure** and that it was therefore necessary for adoption to be taken into account as part of the global child protection system, in order to ensure that the protection measure chosen for a child is in their best interests, whether it be adoption or another protection measure.
- 8 The participants expressed the importance of having qualified human resources and material and financial resources for better implementation of the Convention and for the child protection system.
- 9 The participants stressed the need to **build the capacities** of the various parties through training, and the need to raise awareness in society and to publicise the HCCH and its Conventions, which have a significant impact on the lives of children and their families.
- 10 Some participants reiterated the importance of the **stability of Central Authority staff** for the development of good practices. In the event of staff changes, they recommended guaranteeing the transmission of knowledge and skills.
- 11 The participants reiterated **the primacy of international law** over national law, as well as the obligation and need for countries to harmonise their national legislation with the 1993 Adoption Convention.
- 12 The participants discussed the difficulty of determining the **habitual residence** of prospective adoptive parents who live in the adoptee's State of origin but are of a nationality other than that of the State of origin. To help determine habitual residence in such cases, it is recommended that reference be made to the HCCH's [*Note on habitual residence*](#). This Note includes a non-exhaustive list of the following elements to be taken into account: the length of the stay; the conditions of their stay in the State; the reasons justifying their settlement in that State; their intention with regard to residence; their place of work; their ties to the State, including personal, social, cultural and economic ties; any other ties with the State in which they are living; and any relevant ties with other States.
- 13 Some countries shared their experiences with **reducing the length of** the adoption procedure, whether in the administrative or judicial phase, while ensuring that the principles and guarantees of the Convention are respected.
- 14 The participants discussed the relationship between **the best interests of the child and the principle of subsidiarity** in practice. They stressed the importance of having clear and objective criteria in order to avoid abuses in the interpretation of the best interests of the child and to ensure that it is indeed the primary consideration.
- 15 The participants discussed measures to prevent children entering the alternative care system, the importance of de-institutionalisation, and the need for gradual implementation of these measures.

- 16 The participants stated that **poverty** should not be the only criterion for determining a child's adoptability. In such situations, the authorities should do their best to support and sustain the family of origin so that the child can remain with their family.¹
- 17 The participants discussed the importance of writing **reports on children** in an objective and descriptive way, without adding their personal opinions which may be prejudicial to the adopted child and their family.
- 18 The participants recommended promoting the adoption of **children with special needs** (e.g., older children, siblings, children with medical conditions and children with behavioural problems) at national level by means of information, training and specialised support for the child and his or her adoptive family.
- 19 The participants discussed the importance of assessing the child's **adoptability** from a legal, psychological and social point of view, prior to any adoption procedure.
- 20 Some participants shared their countries' experiences and advances in the procedure **for matching** children with families, in particular through a multidisciplinary committee, which aims to take better account of the child's situation and find a family that best meets their needs.
- 21 The participants reiterated the importance of properly informing and preparing **prospective adoptive** parents for adoption. Among other things, they should be familiar with the child's **culture and language**, so that they can communicate with them as early as the matching procedure.
- 22 Some participants shared their experiences of children being abandoned in their own countries by prospective adoptive parents before the adoption procedure was completed, noting the impact this has on the child. They recommended better preparation and information for families and strengthening the probationary period by supporting the families concerned.
- 23 The participants affirmed that it is essential for the adopted person to be able to retain the **nationality** of their State of origin after adoption, even if the adopted person acquires the nationality of the country of their adoptive parents.
- 24 The participants reiterated the importance of **monitoring and supervising** adoption centres and accredited adoption bodies (AABs).
- 25 **Intrafamily intercountry adoptions**, including spousal adoptions, fall within the scope of the Convention. It is therefore necessary for these adoptions to take into account the principle of subsidiarity, adoptability and the best interests of the child. It is necessary to determine, on a case-by-case basis, whether priority should be given to family ties abroad or to the continuity of life in the State of origin. The participants also noted that preference should not be given to material issues to the detriment of psychological issues. The participants also noted that intrafamily intercountry adoptions for the sole purpose of migration should not be authorised. All these safeguards will help prevent such adoptions from being refused recognition by the receiving country, as well as possible failure.
- 26 The Participants discussed **illegal adoption practices**, how to prevent them and, if necessary, how to remedy them. They familiarised themselves with the [Toolkit](#) and the various elements it contains. They also recommended that the Toolkit be distributed to all those involved in adoption. To this

¹ See the [United Nations Guidelines for the Alternative Care of Children](#), paragraph 15: "Financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care, for receiving a child into alternative care, or for preventing his / her reintegration, but should be seen as a signal for the need to provide appropriate support to the family."

end, they suggested that the Toolkit should be accompanied by a "user guide" to make it easier to apply.

- 27 The work of the **Working Group on the Financial Aspects of Intercountry Adoption** was presented to the participants. They acknowledged the negative effects of the financial aspects of adoption on adoptees. They reiterated the prohibition of improper financial gain, as well as the need for transparency and the reasonableness of costs. They also reiterated that these principles were all the more important in the context of contributions and donations when they are authorised. They discussed the recommendation of the United Nations Committee on the Rights of the Child to "ensure that national and international **funding mechanisms**, cooperation assistance and private funding **are not used to support the institutionalization**, [...], and should **regulate non-profit and corporate sectors to prevent such violations**",² and how to put it into practice taking into account the reality in Africa. Participants recommended that Central Authorities complete and keep up to date [Tables on Adoption Costs](#) to promote transparency and to control costs. The participants also recommended that countries provide more funding for the child protection system, prioritising family support and the principle of subsidiarity.
- 28 The participants discussed the **search for origins**, and the project developed by ISS in this area.³ They noted that an increasing number of adoptees wish to know their origins and that the competent authorities of all the States concerned should assist them in their applications under Article 30(2) of the Convention. The participants also reiterated the importance of involving Central Authorities in the search for origins. They further reiterated the importance of preserving information and recommended that all adoption files be digitised and properly archived.
- 29 The participants spoke of the need to provide adoptees with all the support they need in their search for their origins. It was also noted that certain countries had been confronted with situations where biological families were searching for children, and one participant explained the system put in place in their country in such cases which consists of noting the requests of biological families who want to find their child (e.g., register, entry in the child's administrative file) and if the adoptee also makes a request to search for their origins, the adoptees and their families are then connected.
- 30 The participants recommended that countries should develop their legislation and practices in this field on the basis of the Convention, as well as a system for access to origins in their country. They expressed the hope that the HCCH would develop tools in this area in order to help their countries better support adoptees in their search for their origins.
- 31 The participants discussed **post-adoption follow-up** and the benefits they derive from it in their States. They recalled the importance for States of origin of receiving States providing the post-adoption reports required by States of origin in order to ensure the future of adopted children but also to be able to improve practices for future adoptions. They also noted that in order to respect the privacy of adopted children, it was necessary to limit the number of post-adoption reports over time. It was further noted that in the event of difficulties in the adoption, the protection system of the receiving State was competent.
- 32 The participants reiterated the importance of **cooperation and collaboration** between all the authorities and players involved in adoption in a country to ensure that adoptions are carried out in the best interests of the child. They also reiterated the importance of cooperation and collaboration between receiving States and States of origin, but also between States of origin

² See UN Committee on the Rights of the Child, [2021 Day of General Discussion Children's Rights and Alternative Care - Outcome Report](#), Recommendations, Section E.

³ [Project Connection](#) in Côte d'Ivoire, funded by the French Embassy in Côte d'Ivoire.

(South-South cooperation), in order to exchange best practices and all relevant information concerning adoption.

- 33 The participants reiterated the usefulness of linking the operation of the 1993 Adoption Convention to that of the **1961 Apostille Convention**.⁴ In view of the considerable number of public documents involved in intercountry adoption procedures, the participants reiterated the recommendation made at previous workshops that States party to the 1993 Adoption Convention but not yet party to the 1961 Apostille Convention should consider the possibility of becoming party to it.
- 34 The other HCCH Conventions in the family field were also presented to the participants. These include the **1980 Child Abduction Convention, the 1996 Child Protection Convention and the 2007 Child Support Convention and its Protocol**.⁵ They affirmed the great relevance of these Conventions in general for the protection of children's rights, but also in the context of the 1993 Adoption Convention. In particular, the participants noted that other protective measures (such as foster care) may sometimes be more appropriate than intrafamily adoptions, and in this respect, that the 1996 Child Protection Convention was very useful to gain recognition for these other protective measures abroad. The participants therefore recommended that States consider the possibility of becoming Parties to these three HCCH Conventions.
- 35 The participants expressed the wish to **participate more actively in the work of the HCCH**, so that the voice of African countries is better taken into account. The countries concerned were also invited to examine the possibility of becoming Members of the HCCH. Increased participation of African countries in the work of the HCCH would not only contribute to strengthening the universal and inclusive character of the HCCH but would also enable these countries to make their voices better heard and to have enhanced access to technical assistance. It would also strengthen the Francophone dimension of the HCCH.
- 36 The participants expressed their desire to **meet again in** two or three years, in the form of a regional workshop, to continue to exchange best practices and maintain regular exchanges.

⁴ The Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.

⁵ The Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility, the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol of 23 November 2007 on the Law Applicable to Maintenance Obligations.