

**Answers to the Questionnaire on the Practical Application
of the Hague Convention of 29 May 1993 on
Protection of Children and Co-operation
in Respect of Intercountry Adoption**

Israel

A EXPLANATIONS AND QUESTIONS

The primary Israeli legislation that governs adoptions is the Adoption Law 1981 ("the Adoption Law"). In 1996, the law was amended to include provisions that regulate the operation of intercountry adoptions according to the Hague Convention. The relevant articles became operational in 1998. The Adoption Law is provided with this document of answers to the questionnaire.

1. Description

- (a) Receiving State
- (b) Israel is already a party to the Convention
- (c) Yes

2. Good Practice

- (a)
 - The existence of a body for central supervision (the Central Authority) which helps to create unity and efficiency of operation.
 - The provision of training and guidance to the NPOs by the Central Authority.
 - Proper disclosure of the criteria for evaluating and examining the prospective parents by the NPOs and transparency of all payments requested from them.
- (b) See Question 20.
- (c)
 - Lack of transparency in the States of origin in relation to regulations and criteria for the adoption process and in relation to finances.
 - Unexpected interruptions in the fulfillment of adoption processes, whereby countries change their law or policy without considering adoption processes that have been started and not yet completed.
 - There is a lack of implementing legislation in some states. Therefore, considerable power is left to the discretion of the courts in the issuing of Adoption Orders. In light of this, some judges have refused to give adoptions in certain cases, for

example, to single parents or to certain age groups, even after the parents have completed the entire process.

(d) Not applicable

3. Questions concerning scope

- (a) No
- (b) No
- (c) No

4. General Principles for protection of children

- Youth (Care and Supervision) Law 1960 authorizes a social worker to apply to the Court with a application for an order demanding one of the following options for the protection of a child:
 1. To place a companion with the child who will also advise the person who is responsible for the child.
 2. To place the child under the supervision of a social worker.
 3. To take the child from under the guardianship of the person who is responsible for him and place him under the guardianship of Social Affairs Authority.
 4. To carry out psychological and psychiatric tests and treatment of the child.
 5. To disclose the child's infection with the AIDS virus to those responsible for him.
 6. To give a Family Violence Protection Order or an Order to Prevent Threatening Harassment.
 7. To appoint a guardian to the child.

In case of emergency or danger to a child, the social worker is authorized to use all necessary means even, if necessary, without authorization of the Court.

(b) Israel is not a State of origin for intercountry adoption.

In relation to an application for adoption from a State of origin to a prospective adopting parent in Israel, section 28(12)(a)(1) of the Adoption Law provides that the Israel non-profit organization ("NPO") handling the specific adoption shall make sure that the authorized Authority in the State of origin confirms, having checked adoption possibilities for the child in the State of origin, that the adoption by the Israeli applicant is in the best interests of the child.

(c) Regarding verification of the adoptability of the child, this is the responsibility of the authorized Authority in the State of origin. Section 28(18) of the Adoption Law provides that Israel must receive confirmation of the child's adoptability.

(d) Section 28(12) of the Adoption Law orders that the Israeli NPO check that all the necessary approvals have been received by the authorized Authority in the State of origin, including:

- See question 4(b) in relation to checking the possibility of adoption in the child's State of habitual residence.
- written consent by the child's parents free from duress or such consent from someone with jurisdiction and authority to give consent.
- if no consent forthcoming (as above) then alternative legal consent in accordance with the law and stipulated legal procedures.
- that the consequences of giving their child for adoption have been explained to the parents.
- consent from the child when relevant

(e) Israel is not a State of origin and therefore this question is not applicable.

(f) No

(g) The authorized Israeli NPO is required to check aspects of the applicant's request under section 28(8) of the Adoption Law. This includes a social worker's evaluation of his appropriateness to be a parent of an adopted child. In addition, the NPO will evaluate his family background, medical and criminal record, his reasons for requesting an intercountry adoption and his ability to fulfill the obligations inherent in adopting a child.

(h) NPOs provide personal instruction to prospective parents. In addition, most of the NPOs provide group sessions prior to the adoption by recommendation and under the guidance of the Central Authority.

(i) The Central Authority instructs the NPOs, visits them occasionally and reviews the files of adoption cases.

(j) Section 9 of the Rules and Professional Guidelines for the Operation of Accredited Bodies 1981 sets out that the NPO is obligated to carry out at least two visits to the adopted child at three months and six months following the passing over of the child to the adopting parents. After each visit, an opinion shall be prepared that details the child's absorption.

Section 28(18) of the Adoption Law instructs that upon the demand for such by the State of origin, a post-adoption follow-up report shall be provided by the NPO to that said State of origin. This section is in line with Article 9(e) of the Convention.

5. Central Authorities

(a) In the State of Israel, there are accredited bodies that carry out functions of the Central Authority under the supervision of the Central Authority.

Despite this, the Central Authority is responsible for the performance of Article 21 of the Convention. That is, the removal of the child from his adoptive parents, should that be in the best interests of the child. This responsibility is set out in Section 28(21) of the Adoption Law.

Under this section, the Central Authority is also authorized to place the child under the care of another person in Israel, that person having the intention to adopt the child. Failing that, the Central Authority may return him to the State of origin.

- (b) There is one person who acts as the Central Authority to deal with intercountry adoptions and is the Chief Social Worker for all Adoptions in Israel. This person is appointed by the Minister of Social Affairs.

The Chief Social Worker is also the Head of Child Services and is involved in national adoptions, child protection and the like.

In addition, a National Supervisor for Intercountry Adoptions is appointed – this person is also a qualified Social Worker.
A Secretary/Administrator is also employed.

All three are Government employees.

- (c) Internal training and instruction is provided.
- (d) In light of the number of intercountry adoptions each year in Israel, the existing framework is sufficient.
- (e) There are great difficulties in communication and receiving materials in writing from States of origin.

6. Accreditation

- (1) Israel already uses accredited bodies – that is, the aforementioned NPOs.
 - (a) As provided in section 28(3) of the Adoption Act, the Minister of Justice and the Minister of Social Affairs can accredit NPOs that will operate in the field of intercountry adoptions. This is done in consultation with the Advisory Committee on Intercountry Adoption. In addition, as set out in section 28(28), the Ministers, upon recommendation of the Advisory Committee, can cancel an NPO's accreditation or place conditions in relation to length of accreditation or the extent to which that NPO may accept new cases.
 - (b) Currently, less than ten bodies operate in Israel for this purpose.
 - (c) The accreditation criteria is set out in sections 28(23) and (24) of the Law and in the Child Adoption Regulations (Accreditation of Non-Profit Organization for Intercountry Adoption) 1998. The NPO must fulfill the following guidelines & conditions:

- The NPO shall declare that its sole purpose of operation is Intercountry Adoption.
- Israeli residents (who have lived in Israel for at least the five years prior to the application) that constitute a majority of the NPO's members.
- All workers and those who work on behalf of the NPO shall sign a declaration that obliges them to maintain confidentiality of information.
- The NPO shall appoint a Manager who will be responsible for all its operations within Israel and overseas.
- The NPO is obligated to check the qualifications and professional experience of all its employees.
- All staff must have clear criminal records.
- The NPO shall declare that all its operations in foreign countries will be carried out in accordance with the law in each foreign country and in line with the Convention.
- The NPO must have its own code/regulations.
- The NPO must be financially self-sufficient.
- Staff must be qualified to deal with intercountry adoption, including social workers.
- The NPO must employ at least one very experienced Social Worker and an experienced lawyer, accountant and auditor.
- The NPO's salaries must be relative to their services provided.
- The NPO must have insurance policies for the children's health and professional negligence.
- The NPO must have bank guarantees for the return of clients' money if necessary.

(d) The process by which accreditation is granted is set out in section 28(25) of the Adoption Law.

In order to receive accreditation, an NPO must file a written request to the Advisory Committee on Intercountry Adoption. In the request, the NPO shall set out its fulfillment of the guidelines and conditions listed in (c) above.

The Committee checks the NPO's fulfillment of the said guidelines and conditions and the Committee will then make a recommendation to the Ministers (of Interior and Social Affairs) on whether to grant accreditation in this case.

(e) Provided for you are the relevant provisions of the Adoption Law.

(f) Section 28(22)(2) provides that every two years, the NPOs must re-fulfill all Regulations and present the required documents and the like to the Ministers. See also (g) below.

(g) The NPOs are under the supervision of the Central Authority. In practice, the National Supervisor fulfils this role. Section 26 provides that the National Supervisor can enter the offices and demand specific documents. From time-to-time, s/he can make checks on random documents in the NPO.

Each NPO is required to provide the National Supervisor with a quarterly financial review in order to show continual financial viability.

- (h) No difficulties
- (i) No
- (j) The conditions for renewal are the same for receiving initial accreditation. Such conditions are set out above.
- (k) There have been difficulties in building direct cooperation and sufficient communication with States of origin.
- (l) There is no transparency and therefore we can not know what is going on in other States.
- (m) Yes – standard or model accreditation procedures would assist countries in developing appropriate safeguards or procedures.
- (2) No
 - (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
- (3) Not applicable
- (4)
- (5) Yes
- (6) No
 - (a) Not applicable
 - (b) Not applicable
 - (c) Not applicable
 - (d) Not applicable
 - (e) Not applicable

7. Procedural Aspects

- (1)
 - (a) Medical and historical information on the child is not always accurate and may lack details.
 - (b) No problems exist.
 - (c) Israeli law sets a maximum price for the contribution by prospective parents. This price is set at \$US20000 in section 2 of the Child Adoption Regulations (Maximum Payments to Authorized NPOs) 1998. Notwithstanding this, the \$US20000 cap does not include travel and accommodation expenses for prospective parents abroad.

(d) No problems

(e) Not applicable

(f) No problems

(g) No problems

(h) No problems

(2) No

(3) Not applicable

(4) In the few cases that have arisen, the Central Authority appointed a replacement family and reported as such to the State of origin. (For example: an adoptive mother who died suddenly).

(5) Yes

(6) No such 'DNA' case has arisen in Israel.

8. Private international law issues

(1)

(a) No

(b) No

(2) No

9. Recognition and effects

a. No

b. No

c. No

d. No

10. Payment of reasonable charges and fees

(1) The fees payable for an intercountry adoption have a ceiling of \$20000, excluding travel and accommodation expenses for prospective parents abroad. This is set out in the Child Adoption Regulations (Maximum Payments to Authorized NPOs) 1998.

(2) The Israeli fee ceiling operates efficiently. Until now, there have been hundreds of adoptions without complaints on this matter.

- (3) Some of the NPOs have reported that they have incurred financial expenses for contributions. The expenses are covered by the prospective adoptive parents.
- (4) No
- (5) No
- (6) Not applicable
- (7) We do not have any information on this point.
- (8) A need exists for more transparency as to the exact use of the payment and the expenses incurred in the State of origin.
- (9) We are not aware of any problems.

11. Improper financial gain

- (1) The Regulations explained earlier limit improper financial gain by placing a payment ceiling for intercountry adoptions.

The Adoption Law provides sanctions against those individuals who carry out adoptions without approval of the Court. Section 32 relates to improper financial gain and includes the sanction of imprisonment of up to three years. Section 33 is a general prohibition against operating contrary to the Law.

- (2) No
- (3) No
- (4) No
- (5) Not applicable
- (6) Yes - we have difficulties in regards cooperation with States of origin on this matter.

12. Relative adoptions

No

13. Children with special needs

Every child with special needs who would be adopted in Israel, will be entitled to all the special services that exist in Israel for these children.

14. Other forms of cross-border child care

- (1) Yes - children of Chernobyl who were brought to Israel for treatment.

(2) Yes – people were hesitant to adopt these children

(3) Not yet

15. Avoiding the Convention

No

16. Additional safeguards and bilateral arrangements

- (a) Not applicable
- (b) Not applicable

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

No

B SUGGESTIONS FOR THE SEPTEMBER SPECIAL COMMISSION

18. Yes

19. Yes – we have a lot of experience, especially in the area of post-adoption and we would be willing to send a representative to the Permanent Bureau.

20.

- Increased transparency in the States of origin in relation to the implementation of the Hague Convention and in relation to finances and the purposes to which the finances are directed.
- Direct cooperation between the Central Authorities in the States of origin and the Receiving states in relation to the Convention's operation.
- Assistance with communication in light of language difficulties with States of origin.
- Individuals who operate in the sphere of intercountry adoptions as accredited entities according to the Hague Convention and the need to restrict such authority to supervised NPOs only.

(21) No