Proposals for the Special Commission on the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption,


by *EurAdopt* and *Nordic Adoption Council*
Safeguards in Individual Adoption Cases

Application of articles 5, 8, 19, 29, 32 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

The Convention is built upon a principle of cooperation and divided responsibilities between countries of origin and receiving countries. The practical mediation of adoption cases can be delegated to “other bodies”, and in many receiving states prospective adoptive parents are required by law or regulation to use the services of non-governmental bodies accredited and authorized to provide adoption assistance. In other receiving states the practical mediation is done by the Central Authority. Some receiving states may also allow adoptions which are in reality private or independent, where prospective adoptive parents receive an authorization for intercountry adoption from the authorities, and are then allowed to take care of the remaining procedures themselves. In some countries more than one avenue to an adoption may be available.

The member organizations of EurAdopt and NAC are of the opinion that, in their role as accredited and authorized private bodies giving adoption assistance, they have a responsibility to control the economic transactions that occur during an adoption. The implication of this has been expressed in the document Guidelines on Financial Factors presented in another working document. We also believe that we have a responsibility to closely monitor non-financial aspects of the adoption process. Our cooperation with the counterparts in the country of origin must be so close and trusting that we know how the child is prepared for, and according to which principles the children are placed in, intercountry adoption. If a guide, translator, or representative is needed, the accredited body is responsible for the actions of these persons. We must ensure that the prospective adoptive parents are well prepared for the adoption, in general and with respect to the country and culture of the child in particular. We also have a responsibility for the transfer of the child to the new country. Often we have a cultural program, and may even be asked by the child’s country of origin to have such a program.

Our general thoughts about “good conduct” in adoption mediation are reflected in EurAdopt’s Ethical Rules from 1993. Many of the self-imposed obligations in these ethical rules are nowadays echoed in the accreditation requirements from our own governments, and in the authorization requirements from other countries where we work.

When individual adoption cases are mediated from Central Authority to Central Authority we have the impression that it often occurs that important aspects of the adoption process are in practise considered the responsibility of the family, and that the family is allowed to personally be in charge of sensitive and difficult procedures for which they have no adequate preparation, and this without any monitoring from the Central Authority in question. A Central Authority of the receiving country may limit its activity to the sending and receiving of the adoption documents, or it may issue its authorization for an intercountry adoption directly to the prospective adoptive parents, and leave the rest to them.

The member organizations of EurAdopt and NAC are of the opinion that the above mentioned practices are not acceptable. Central Authorities of receiving states that choose to intervene directly in individual adoption cases must ensure that there is the same transparency, accountability, quality and ethical standards, and equal safeguards against malpractice, in reference to their own adoption mediation, as is expected when an accredited body is responsible for the mediation. When a Central Author-
ity of a receiving state allows applicants to adopt without the assistance of an accredited body, it must closely monitor every step of the adoption process, in order to ensure that the best interest of the child is duly respected, and that the other requirements of the Hague Intercountry Adoption Convention are fulfilled. It is neither practical nor possible nor fair to refer the whole responsibility for safeguarding the child’s rights to the authorities of the country of origin.

**Proposal**

That the Special Commission recommends that countries party to the Convention require comparable safeguards against malpractice, and the same transparency, accountability, and quality when their Central Authorities mediate individual adoption cases under the convention as are required from accredited bodies when these are permitted to mediate the adoptions.

Post-Adoption Services in the Receiving Countries

Application of article 9 c of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

According to article 9 c of the Hague Intercountry Adoption Convention, the “Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their state, all appropriate measures in particular to – […] “promote the development of adoption counselling and post-adoption services in their States”.

Although art. 9 c allows for delegation to other public and private bodies, it places the overriding responsibility for the development of adoption counselling and post-adoption services squarely on the Central Authorities of the receiving states.

The majority of the accredited bodies that are members of the Nordic Adoption Council have been engaged in intercountry adoption activities for decades. We maintain close ties with many adoptive families for years after the respective adoptions have been finalized. From this vantage point we note that there is a general need for improved post-adoption services in the receiving states.

Although the majority of internationally adopted children are happy and thrive in their new families and new environments, there is a minority that struggle with problems too difficult for their families to manage without help from professionals. The problems suffered by some of these children – often children whose lives were especially traumatic before the adoption – may be different from problems suffered by children born in our countries and raised in their biological families. We therefore often hear complaints from adoptive parents that the professionals they turn to are not able to offer adequate assistance. Without a sufficient understanding of the special background of internationally adopted children, and of the later effects of the neglect, mal-nourishment, mal-treatment and abuse that some of these children have suffered, it is difficult for a professional to attend effectively to the needs of the adoptive families.

It is therefore not enough for a receiving state to point to the general availability of public and private psychosocial and other relevant services in their respective countries. There is a need for action-oriented and a holistic approach to post-adoption services; recognizing not only the adoptive families’ need for services, but also a general need for better training of and support to the professionals that the adoptees and their families meet within the social, educational, health and welfare systems.

This need can only be fulfilled if the Central Authorities keep the implementation of article 9 c high on their agenda. It is in line with the general responsibilities of the governments of modern welfare states to develop and provide adequate services for groups of citizens with special needs. The governments of the receiving states must be prepared to allocate sufficient funds for the development and maintenance of special resources and services for adoptive families. These funds must be at least at par with funds allocated to other groups of vulnerable children.

Proposal
That the Special Commission points to the importance of the Central Authorities in the receiving states complying fully with the obligations that emanate from art. 9 c of the Hague Intercountry Adoption Convention.

**Suggested Criteria for Accreditation of Bodies in Receiving States Performing Functions and Duties under the Hague Intercountry Adoption Convention**

Application of article 10 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

The annexed document contains accreditation criteria suggested by EurAdopt and the Nordic Adoption Council. They are mainly a synthesis of experience gathered during many years of work by the members of the two mentioned umbrella associations. However, important impulses have also been added from work carried out in the United Kingdom and the USA. Although rules and regulations governing intercountry adoptions are provided in many international and national instruments, they are concerned primarily with the standards of adoption procedures with focus on the child, the biological family and the adoption applicants. In relation to accredited bodies, the existing rules and regulations are aimed at the quality and content of their work, while structural and formal criteria have received scant attention. Since structure and form constitute the framework within which accredited bodies perform their duties, it seems appropriate to define criteria that could apply to these bodies. We therefore hope that these suggested accreditation criteria will be considered in the development of the framework for intercountry adoption under the Hague Convention of 1993.

**Proposal**

That the Special Commission adopts these or similar criteria for accreditation of bodies in receiving states performing functions and duties under the Hague Intercountry Adoption Convention.
Suggested Criteria for Accreditation of Bodies in Receiving States Performing Functions and Duties under the Hague Intercountry Adoption Convention

1. PREAMBLE

RELATION TO CONVENTIONS AND RECOMMENDATIONS

These criteria are based on the following four international documents, which are referred to in the text by their abbreviations in brackets:

1. The 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (HC),
2. The 1989 UN Convention on the Rights of the Child (CRC),
3. The 1986 UN Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (UNDec),
4. The 1996 ICSW Guidelines for Practice on National and Intercountry Adoption and Foster Family Care; The Child’s Right to grow up in a Family (ICSW).

The four documents are widely recognised as fundamental cornerstones in child welfare and intercountry adoption work. It is therefore not necessary to reiterate all the principles and guidelines set forth in them. It is assumed that accreditation to perform functions and duties under The Hague Convention is granted only to organisations that endorse the principles and guidelines laid down in these four documents.

The aim of the present paper is to more fully define a set of criteria that should apply to organisations that are granted accreditation. The criteria are minimum requirements for the structure and function of organisations performing duties under The Hague Convention. These criteria are based on two fundamental principles that have also guided the rules of the four documents mentioned above:

1. CHILD PRIORITY RULE (HC: art 1, ICSW: 1.3.1-4)
This is the fundamental principle. The well-being, rights and best interests of the child are of paramount importance and should take precedence over any other interest. The interests and rights of prospective adopters, institutions, organisations and authorities are all secondary to the best interests of the child.

2. SUBSIDIARITY PRINCIPLE (HC: preamble, ICSW: 1.3)
Prevention of child abandonment has priority over various alternative solutions. When an intercountry adoption is considered for a child, this measure should be compared to alternative permanent placements. A family placement always has priority over placement in an institution and in-country placements have priority over intercountry placements.

2. ACCREDITATION (HC: chap. III, ICSW: 2.4)

2.1. APPLICATION
An organisation shall apply for accreditation in the State where it is based. The application shall be in conformity with the legislation of that State and contain all documentation and information deemed necessary by the competent authority of the State.

2.2. ROLE IN THE FIELD OF ADOPTION
An accreditation document shall clearly state the functions and duties delegated to the body. Its role and limitations in relation to other bodies and authorities working in the field of adoption within the
State and abroad should be defined. The responsibilities of the accredited body in relation to prospective adopters, adoptive families and adoptees before, during and after the completion of the adoption should be defined.

2.3. ACCREDITATION PERIOD / TERMINATION
The length of the accreditation period shall be clearly stated in the accreditation granted to the body. To ensure continuity in its work and reduce administrative work with accreditation renewals, this period should, as a general rule, not be shorter than three years. The accreditation may be revoked or suspended by the competent authority at any time if the body has acted against or failed to live up to the objectives and principles of the Convention and/or the laws and regulations of the State.

3. ORGANISATION

3.1. RELATION TO THE LAWS OF THE STATE
The objectives and organisational structure of the body shall be laid down in statutes, a charter or a similar document that complies with the laws of the State of accreditation. This document must be approved at the appropriate level of the organisation to be valid under the laws of the State. The body must be registered, licensed or incorporated as a non-profit organisation according to the laws of the State in which it is accredited. The objects and methods of work of the body must be in conformity with the laws and regulations of the State in which it is accredited or authorised.

3.2. INSPECTION (HC: art. 11c, ICSW: 2.4.12)
The body shall be open to inspection by the competent authorities at any time both with regard to its finances and functions. The competent authority of the State in which the body is accredited shall have the right to carry out inspection within its jurisdiction. The body shall be obliged to provide all material necessary to enable the inspecting authority to satisfy itself that the requirements for accreditation are fulfilled.

3.3. GOVERNANCE (HC: art. 10, 11)
The body shall have a governing entity, which shall establish its policy and strategy, decide on its programmes, guide its development and provide leadership. The governing entity shall ensure that the policy and activities of the body are in conformity with The Hague Convention and the laws and regulations of the States in which it is accredited or authorised to act. The members of the governing entity should be well informed and keep themselves updated on developments in intercountry adoption work. The body must have a clearly defined management structure and appoint a qualified staff to perform the duties entrusted to it.

3.4. PROFESSIONAL QUALITY (HC: art. 11, 22, ICSW: 2.4.2)
The qualifications of the staff, including representatives and co-workers abroad, should be clearly defined taking account of
- high ethical standards,
- knowledge of the principles, conventions, laws and regulations that govern intercountry adoptions,
- suitable theoretical and practical training,
- skills in working across cultural borders,
- skills in social work and child welfare,
- administrative and leadership skills for those in charge.
Continuous on-the-job training should be provided to ensure high standards and professional quality of all work.

3.5. PROFESSIONAL ADVISORY SERVICES
The accredited body is responsible for ensuring that it has access to the psychological, medical and legal advisory services needed to perform the tasks entrusted to the body. Advisory services should also be available, at least on referral, for the immediate benefit of adopters and adoptees as well as the body’s cooperation partners.
4. FINANCES

4.1. NON-PROFIT (HC: art. 11, ICSW: 2.4.15)
The body shall have a written policy that establishes its non-profit status. The body shall also have a written policy on principles of payment to staff and advisors, both in the State where it is accredited and States where it is authorised to act. Salaries and fees paid to staff, representatives and advisors shall be within limits generally acceptable for such professional services in the relevant State. For persons who are in a position to influence the number of adoptions, the remuneration should not be based on the number of adoptions. Fees paid by the organisation to professionals should be commensurate with the work carried out.

Fees and payments charged to adopters shall reflect operating costs and expenses related to the adoption work performed.

4.2. FINANCIAL STABILITY
The body shall have a stable financial basis that allows it to perform its duties and honour its long-term commitments, even if disruptions in its adoption programmes may temporarily reduce its revenues from fees and payments.

4.3. TRANSPARENCY
The body shall ensure full transparency in financial matters. Fees received and the purposes for which they are spent shall be available to the public. See also 5.2.

The body must ask for transparency from its cooperation partners. If satisfactory clarity about purposes and/or spending of money cannot be obtained, co-operation must cease.

On request, the body shall provide the competent authorities of the State of accreditation with all necessary information about its financial management and status and its audited annual accounts. The accounts must show other activities (membership activities, aid and sponsorship programmes, etc.) clearly separated from adoption work.

4.4. ACCOUNTABILITY (HC: art. sub d (4), art 8, art. 32, ICSW: 1.3.13,2.4.7b).
The body shall follow principles of financial management, book-keeping and accounting that are accepted and mandated by the laws and regulations of the State in which it is accredited. The body is responsible for the financial transactions related to its adoption work (costs of legal fees, care of children, etc). Such transactions should be identifiable in the accounts.

The costs of adoption must be paid through the body, not directly by prospective adoptive parents.

4.5. PREDICTABILITY
The principles applied in charging fees and costs should be established and known to the adopters before the adoption process. If fees and costs may be changed during an adoption process, the principles and procedures for change must be communicated in advance. See also 5.2.

4.6. DONATIONS AND CONTRIBUTIONS
Support for children who cannot be placed with a family should be part of the programme of the organisation.

When donating funds to welfare projects or contributions related to its adoption programmes, the body must take great care to avoid the risk of unduly influencing its adoption work. There must be no direct link between support given or promised and the number of children or characteristics of children placed through the body. While striving to avoid such direct links between project donations and adoptions, the body must try by other means to facilitate the provision of funds for welfare and development purposes in the countries of origin.
Prospective adoptive parents must be informed that direct donations in connection with their adoption process are not permitted.

5. ADOPTION SERVICES (HC: chap. 2-4, ICSW: chap. 2)

5.1. AVAILABILITY OF SERVICE
The body shall offer its adoption services to applicants on a non-discriminatory basis according to the terms of its accreditation. All applicants shall have equal access to service, provided they fulfil the criteria for adoption as stated in the Convention and the laws and regulations of the State.

5.2. INFORMATION (HC: art. 5, 17, ICSW: 2.3)
The body shall give adoption applicants all relevant information concerning the principles guiding intercountry adoptions, requirements and possibilities to adopt, waiting times, risks and costs. The body shall define the rights and responsibility of applicants, the body and its co-operation partners and convey this information to the applicants and its co-operation partners. The body shall at an early stage inform the applicants of the procedural, legal and financial consequences of an interruption of the adoption process by the applicants or the body. The body shall furnish all relevant information to the applicants, its cooperation partners and relevant authorities without undue delay.

5.3. ADOPTION COUNSELLING (HC: art. 5, 15, 17, ICSW 2.3)
Adoption counselling must be carried out according to the rules and regulations defined by the competent authority of the State. The body shall ensure that these standards are upheld and that equal standards are applied to all applicants.

5.4. PREPARATION OF PROSPECTIVE PARENTS (HC: art. 5, ICSW: 2.3.1, 2.3.3, 2.3.5)
The body shall promote appropriate preparation of the applicants for an intercountry adoption either through its own programmes or programmes offered by other entities competent to do so. Such programmes should focus on the special psychological, social, cultural and legal issues associated with intercountry adoption.

5.5. THE ADOPTION PROCESS (HC: art. 9b, chap IV, art 35, ICSW: 2.2.1, 2.3, 2.4)
The body shall follow a clearly defined adoption policy and a systematic plan for its services throughout the adoption process. It should continuously monitor and evaluate its services and their quality to ensure high standards. It must collect and maintain the information necessary to plan, manage and evaluate its adoption programme properly. The body shall conduct its work taking account of the primary objectives of an intercountry adoption (the best interests of the child) and ensure their compatibility with the requests for service and defined needs of those requesting its services. Expediency must be a guiding principle for the procedures of its work.

The body must ensure that the child’s welfare is safeguarded during the journey to the receiving country. The organisation should encourage the future adoptive parents to travel to the child’s country of origin and bring him or her home.

5.6. POSTPLACEMENT SERVICES (HC: art 9c, 30, ICSW: 2.13e, 2.3.5, 2.4.13)
The body shall vigorously promote programmes and procedures to meet the needs of adoptive families and adoptees after the adoption has been formally completed. Such programmes and procedures should take into account the different needs of adoptive families and adoptees while the adoptees grow up, reach adulthood and independent life. A central objective of postplacement services is to strengthen the adoptees’ ethnic and cultural identity.

5.7. DOCUMENTATION (HC: chap. IV, art 30, 31, ICSW: 2.4.10, 2.4.11)
The body shall maintain client records in a secure manner, ensuring the necessary confidentiality. Only information relevant to the adoption services rendered and compliant with legal regulations
should be documented and stored. Documents concerning adoption cases shall be preserved for at least 50 years and be available to adoptees on request. In case the body ceases to function, the continued preservation of its adoption records must be properly secured. Such documentation shall be preserved to facilitate research that does not breach the confidentiality of those involved in the adoption. The body should facilitate research that may improve adoption practice and procedures.

5.8. INFLUENCING OPINION (ICSW 2.4.17)
The body shall engage in influencing opinions in society and promote positive attitudes to intercountry adoptions and adoptees. All activities of the body should be underpinned by anti-racist and anti-xenophobic attitudes.

5.9. ETHICAL RULES
The body shall subscribe to a set of written ethical rules, which shall be in conformity with the four instruments referred to in the preamble and their fundamental principles and regulations. The rules should also be acceptable to a wider forum of organisations engaged in child welfare work. The body should cooperate with other intercountry adoption bodies to develop standards and practice of intercountry adoptions.
Accreditation and Authorization

The application of article 12 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

According to article 12 of the Convention accreditation can be given by a contracting state to a non-governmental body based in the same country. Authorization is, according to the same article, given by a state to an accredited foreign body, so that it may act in that state also.

The terminology of article 12 of the convention is sometimes not used in the practical application of the convention. In some countries accreditation is given to foreign organizations which have already been accredited in their own country. In at least one country the word authorization is used in the national legislation for what is an accreditation in the words of the convention.

There is a reason for the distinction made in article 12.

- As we have understood the terminology, authorization may be less formal, or even de facto, whereas accreditation is a formalized decision.
- It is clear from the article itself and from the Explanatory Report that authorization is secondary to accreditation.
- For accreditation the Convention gives a few requirements, mainly in articles 10 and 11. The requirements for authorization are almost totally something which each state can decide by itself.

From the Explanatory Report one understands that the main purpose of the authorization is to make it clear that no state is under an obligation to accept accredited bodies at all. It may instead prefer to let public bodies be responsible for the procedural parts of the application of the convention.

When a state considers authorizations it seems less than rational that the same questions are asked that have already been considered when the body was accredited. Instead the country giving the authorization could ask e.g. if this organization is needed in order to serve their children. If there are more accredited organizations seeking authorization than the country needs, their quality and record could be compared. If the number of experienced organizations is already high, the country can refuse to authorize new organizations. The country considering authorization could also ask the central authority of the country which has given accreditation which aspects of the body have been scrutinized and then only ask such additional questions that they may feel are needed.

Proposal

That the Special Commission recommends countries party to the Convention to
- use the terms accreditation and authorization as they are used in the Convention,
- apply different criteria and procedures for the authorization than they would for an accreditation, in view of the fact that authorization is secondary to accreditation,
- give information in the home page of the Hague Conference of the authorizations given by each country.

Origin and Personal History of Adoptees
Principles for Search, Knowledge and Reunion

Application of article 30 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

Some of the European adoption organizations have mediated intercountry adoptions for 40 years. A large number of adoptions have been mediated for 30 years. Thus we now have experience with a substantial number of persons who have searched for background information about themselves. Helping adoptees in these search processes has become a regular part of our services. During this development the adoption organizations have had continuous discussions, including discussions with their counterparts in the countries of origin of the adoptees.

What is right? How can we work with the persons involved in a correct and respectful way, taking into account that the contact may influence their lives and that they may look differently upon these issues during different phases of their lives? Our ethical stance is based upon children’s rights, but when the adoptee has grown up and starts a search process, we are aware of the fact that it is often the biological family members who are the most vulnerable party. How do we find the right balance between the rights of the adoptee and the rights of the family of origin?

The present document, which has been finalized by the Nordic Adoption Council, reflects some of the questions we have worked with, and answers that we have arrived at. In the process of developing the document, the adoption organizations have noted that they are overwhelmingly in agreement concerning the common principles mentioned below. Our practical work with these issues has made us draw similar conclusions.

Proposal

That the Special Commission expresses its support for the this effort to identify good practise in matters of origins of adoptees and – without necessarily supporting each principle in detail – takes note of the document as a material which can be of use for the continued work of Central Authorities and accredited bodies.
Addendum

SEARCH, KNOWLEDGE, REUNION IN INTER-COUNTRY ADOPTIONS
Agreed principles for the NAC member organizations

UN Convention on the Rights of the Child, article 7:1:
"The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by his or her parents."

Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, article 30:
"1. The competent authorities of a Contracting State shall ensure that information held by them concerning the child’s origin, in particular information concerning the identity of his or her parents, as well as the medical history, is preserved.  
2. They shall ensure that the child or his or her representative has access to such information, under appropriate guidance, in so far as is permitted by the law of that State."

Below are the common principles that the member organisations of the Nordic Adoption Council (NAC) have agreed upon. In practise our conduct will be guided and limited by the laws of the countries where we work as well as by the principles applied by our counterparts in countries of origin. L laws and other circumstances are very different in different countries. The items below, however, represent an effort to identify what our ideal principles might be.

We have avoided using the word “roots” in this document, since it has been criticized by some adoptees.

Matters concerning the origins of persons adopted transnationally are of great importance to individuals. This calls for a flexible attitude from the professionals who are involved in a search process. When we intervene in other people’s lives, we have to take a humble attitude, always remembering that there are no absolute truths.

Considering this there are two perspectives to keep in mind:

When we talk about the parties’ rights in adoption, we should always distinguish between the right to know/information and the right to access/reunion. The former is almost always non-negotiable, but the latter is a more sensitive issue.

The second perspective is timing. Whose interest is the overriding one at a certain time in the adoption process, in the adoptee’s, the biological mother’s, the adopting family’s life?

The developments in the adoption field (as well as in the world at large) tend towards greater openness, fewer secrets, easier communication, easier access to data, and more international travelling. We will need to adjust to these changes and therefore not see these principles as eternal truths.

Finally, we cannot control what adoptees or adoptive parents do, we can only decide what we as organisations can do.

Recommended Guiding Principles

1. Searching for information about or trying to contact his/her biological origins is always a choice made by the adoptee. The organisation should oppose all tendencies to regard it as either mandatory or forbidden.
2. The adoption organization - on the placing as well as on the receiving side - has a responsibility either to keep files or to ensure that files are kept by other competent bodies. Each file should contain as extensive and personal information as possible about the individual adoption case. Whoever has the responsibility in each country should preserve the files in archives for an unlimited period of time, so that the descendants of the adoptee can have access to them.

3. An adopted person, as well as the biological parents, should be informed that at any given time they can place a letter in the adoption file with information about themselves, stating their wish to be contacted by the other party.

4. Every adult adopted person has a right of access to all available information about his/her background and the circumstances leading to his/her adoption. A person should be regarded as an adult in this respect at the age of 18.

Children have a right to know that they are adopted. Their adoptive parents have a duty to share additional information with them according to their age.

During adolescence an adopted person may also have access to information directly from the organisation. The advisability of giving out information must be judged from case to case and an exact minimum age cannot be fixed.

5. The adoptive parents should have an open attitude to the history of the child and to the biological family. They shall be given all available information at the time of the adoption, except identifying information about the biological parents. They should also be encouraged to collect and save as much information as possible and to share it with the adoptee. They should be told by the organisation that the child has a right to be informed, they should be made aware of the fact that the organisation will file all material and that the adoptee will have access to it when coming of age.

6. During the first 2 years after the adoption, the biological parents shall, upon their request, have access to non-identifying information about the child’s life in the new family. This means that during these years the adoptive family has a duty to see to it that such information is sent if requested. The biological parents shall be made aware during the counselling process that they cannot expect such information to be sent after this initial period.

7. After the initial period and until the adoptee can decide for him-/herself, contact is not recommended. The adoptive parents alone - or some other relative or spouse or friend - may not initiate a search on the adoptee’s behalf.

8. If the biological family and the adoptive family both wish to have continued contact, such contact should be channelled through a responsible organisation or a social worker on each side.

9. Before accepting to help the adoptee to search and before sending a request to the country of origin, it is important to find out what he/she really wants to know, what he/she already knows about his/her background, etc. The adoptee must be informed that the biological family is under no obligation to give any additional information, to accept contact or to keep in touch, and that there may be risks involved for members of the biological family.

10. When the adoption organisation arranges group travelling, birth country tours, experienced staff should be available for the participants. Attention must be given to the composition of the group; either a family trip or a trip for single persons, adults or in their late teens. If search for biological family and the possibility of a reunion is included in the trip, it must be prepared individually according to these guidelines, well in advance of the trip. The organisation shall not involve itself in a spontaneous wish for search during the trip. Birth country tours should be followed up by at least a questionnaire and preferably a meeting, which will enable the organisation to
evaluate the experience and improve later tours.

11. The adult adoptee’s individual right to be in control of his/her own decision process should be respected. If the adoptee wants a reunion with his/her biological parents, should they be located, he/she should be counselled about the consequences such a reunion could involve for himself/herself as well as for the biological family. It is the duty of the adoption organisation to ensure the availability of a professional intermediary and counselling in such reunion cases. But even so, the adoptee should be encouraged to verbalize his/her expectations, write letters (to be translated), arrange for photos of himself/herself, etc., and thus to be as active as possible within the given framework. It is preferable that correspondence takes place between the adoptee and the biological family some time before the reunion, and translation help should be provided for the correspondence.

12. Some kind of counselling should be available for the biological family as well, before and after reunion.

13. If the biological parents want to get in touch with the child given in adoption, the adoption organisation should inform them that a letter can be placed in the file. When an adoptee is grown-up he/she has a right to be notified and to receive such letters. In individual cases it may be right to inform the adoptive family at an earlier date.

14. Matters of backgrounds and origins are a responsibility for organisations mediating adoptions. Funds needed for search and counselling for adoptees should ideally come from government sources in the receiving countries. It is probably not realistic to believe that countries of origin can cover the costs without fees from the searching parties or subsidies from other sources in the receiving countries.

15. The NAC member organisations should inform each other about their services to adoptees searching for their origin as well as those of the authorities in the respective countries. Also, experiences with the services and reactions in the children’s countries of origin should be shared.

16. When the adoptee is dead, the direct heirs have the same rights of access as the adoptee

NB: Inter-country adoptions are rarely so-called “open adoptions”, where the two families know each other and agree to have continued contact. The principles mentioned above obviously have to be adjusted in cases where open adoptions occur.
Good Practice in Economic Matters in Intercountry Adoption

Application of article 32 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

All adoptions cost money for someone, especially adoptions between countries far apart and with different languages. Article 32 relates to this and forbids improper financial gain and unreasonable professional fees or remuneration. The members of EurAdopt have agreed on Guidelines on Financial Factors in Co-operation with Counterparts and Co-workers in Countries of Origin. (Addendum) In these guidelines different kinds of costs are discussed, sensitive situations are identified, and concrete recommendations on good practice are given.

The target group of these Guidelines is accredited bodies in receiving countries for intercountry adoptions. The principles are not totally translatable into law or rules. But we think that they can be useful as a basis for discussion, and may make the discussion on good practice more concrete. It is not enough to identify the abuses, one also needs to identify good practice.

Proposal

That the Special Commission expresses its support for the effort to identify good practice in economic matters for accredited bodies in receiving countries, and – without reviewing each recommendation in detail – takes note of the EurAdopt Guidelines as a material which can be of use for the continued work of Central Authorities and accredited bodies.

Adopted by the EurAdopt General Meeting
in Aarhus, Denmark,
7th April 2002
6.1 Prospective adoptive parents ................................................................. 33
6.2 Adoptive parents and other individuals................................................... 33
6.3 Can a receiving organisation make donations? With what money? .......... 33

7. Avoiding competition ................................................................. 33
7.1 Competition and adoption costs/additional contributions ..................... 33
7.2 Competition and aid/development projects ............................................. 34

Appendix 1: Overview of systems for cost coverage in Intercountry Adoption

Appendix 2: Examples of agreements between employees / representatives / co-workers and three member organisations
Introduction

These guidelines are intended to serve as a tool for EurAdopt members in their handling of financial matters with the countries of origin. They represent an effort to give more substance and practical applicability to the principles in the EurAdopt Ethical Rules and the Hague Convention of 1993.

The guidelines are called upon by the repeated discussions in the General Meetings of EurAdopt and by the decision of the General Meeting in Vaasa, Finland in April 2000.

A special working group was appointed in Vaasa. Its proposal was discussed and modified by the council in Düsseldorf in May 2001. The modified version was circulated among members for their comments whereupon the working group prepared the final text, which was presented for adoption by the General Meeting in Aarhus in April 2002.

Terminology

Donations

In some countries of origin it is not possible to use the word fees, although a fixed sum is asked. Different words are used for this type of payment, e.g. “donations”.

The word donation applies only to purely voluntary contributions.

In countries of origin where the word donation is used for required contributions or even fees, we must always translate it at least for ourselves, to avoid confusion.

Prospective adoptive parents

refers to the adoptive parents before and during the process of adoption (following the expression used in the Hague papers).

Transparency

refers to openness about the use of the money, i.e. adequate information given by the cooperation partner to the receiving organisation about the proper use of the money and the adherence to proper procedures.

Receiving Organisation

The term identifies the Organisation in the receiving country.

- Parts marked with a vertical line in the text signify rules to observe/recommendations

Summary of main rules and recommendations

- In all financial matters receipts must be obtained to ensure accountability. 4.1; 4.2; 6.3; 7.1; 7.2

- Transparency must always be obtained. 4.1; 4.2; 4.3; 4.4; 6.3; 7.1; 7.2
The receiving organisation must have a thorough knowledge of general cost level in the country of origin. 3

The adoption costs shall be paid through the receiving organisation, not directly by the prospective adoptive parents. 4.1

When lump sums, efforts must be made to get information on proportion of adoption costs as separate from costs for other purposes. 4.3; 4.4

When prospective adoptive parents have to pay for more than adoption costs they shall be informed that they are also contributing to welfare projects. 4.3; 4.4

When satisfactory clarity about purpose and/or use of money cannot be obtained, co-operation must be ceased. 4.3.1

Representatives/co-workers should in principle be paid on a monthly basis. 5.1.2

Reasonable level of remuneration requires knowledge of level of salaries in the country of origin, and decision on which are the relevant comparison categories. 3; 5.1.2 b

The employment of a representative/co-worker should be based on a detailed job-description and a contract. 5.1.2 a b

In principle the representative/co-worker should not fulfil any duties of the placing body before the individual child has been allocated to the individual organisation. In the exceptional case, where this is seen as necessary, it must be a temporary solution authorized by the placing body. 5.1.3
1. Aims

The aims of the Guidelines are:
- To help protecting intercountry adoption against commercialisation by applying proper control of adoption costs in the countries of origin.
- To avoid creating dependency on income from intercountry adoption.
- To establish principles that will enable members to explain openly and with good arguments if questioned about level of remuneration, contributions etc.
- To create a framework to help understand what is "reasonable".
- To avoid improper competition.

2. Background

2.1 The Hague Convention of 1993, Article 32, formulates the basic principles on intercountry adoption and money:

32.1 No one shall derive improper financial or other gain from an activity related to an intercountry adoption
32.2 Only costs and expenses, including reasonable professional fees of persons involved in the adoption may be charged or paid.

32.3 The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration, which is unreasonably high in relation to services rendered.

From this it follows that prospective adoptive parents must only be charged for reasonable adoption costs. It also follows that adoption costs must be kept separate from other costs. Another consequence of the Hague Convention is that procedures regarding financial matters must be transparent.

2.2 The EurAdopt Ethical Rules adopted 1993 give guidance on intercountry adoption and money:

2.2.1. Three articles are relevant for adoption costs in the countries of origin:

Article 20 The organisation is responsible for the working methods of its representatives and co-workers. Representatives and co-workers who might influence the number of children placed for adoption should not be paid on a "per case" basis. The salary paid to representatives and co-workers by the organisation should be reasonable, taking into consideration the cost of living in the country as well as the scope and terms of the work undertaken.

Article 21 Fees charged to the organisation by professionals should be commensurate with the work carried out.

Article 25 The adoption work should be carried out in such a way that competition for children or contacts should be avoided.

2.2.2. One article is of special relevance for aid and development programmes:

Article 17 The organisation must work primarily towards providing abandoned children with new families in their home countries and secondly, in other countries. Prevention of abandonment and support for children who cannot be placed with a new family should be included in the programme of the organisation.
3. Prerequisites

In order to control adoption costs it is indispensable to obtain a thorough knowledge of general cost level in the specific country of origin at the specific time. The perspective of the country of origin must be constantly kept in mind.

This requires an awareness of the significant differences between countries of origin, and with the receiving countries. Absolute figures must be seen in relation to what they cover.

4. Costs related to responsibility areas of country of origin

4.1 Adoption costs in country of origin, to be paid by prospective adoptive parents through receiving organisation.

Responsibility areas of country of origin

In intercountry adoption the following tasks are the responsibility of the country of origin:
- General care of the child
- Medical care
- Investigation of the child’s situation
- Search for relatives
- Decision that intercountry adoption is the best alternative for the child (subsidiarity principle)
- Legal form for mother’s consent/declaration of abandonment
- Choice of adoptive family
- The adoption procedure
- Passport and emigration formalities
- Preserving archives
- Post Adoption Services (e.g. root questions)

The carrying out of these tasks is associated with costs of different kinds.

Adoption costs

Adoption-related costs as per above are normally grouped together as
- General care of the child (including "decency extra" e.g. for benefit of the other children in the institution)
- Medical care
- Administration (including adoption procedure if administrative decision)
- Specific costs related to court procedure, passport etc

These costs are mostly uncontroversial. In agreement with the Hague Convention they may be charged to the prospective adoptive parents through the receiving organisation, provided that the sum is not unreasonable having regard to the normal cost for the service given.
It is to be noted, that no or very low costs charged may be against the best interests of the children. The effect may be that lack of resources prevents the social work necessary to establish the children’s situation etc, and so the children remain in the institutions, or an adoption placement is unnecessarily prolonged.

When the prospective adoptive parents pay the adoption costs, it must be through the receiving organisation.

In the country of origin the prospective adoptive parents shall not themselves pay anything directly, except for what refers to their travel and stay and for administrative costs related to visas, passport for the child etc.

**Systems of cost coverage**

There are different systems in countries of origin for coverage of the adoption costs (For an overview see Appendix 1). A particular co-operation partner may apply one of the systems or a combination of them.

4.1.1. Fees. To this category belong all payments, irrespective of what they are called where a sum is fixed and “compulsory”.

4.1.2. Contributions are asked for, with sum\(^1\) decided after deliberations between country of origin and receiving organisation.

4.1.3. No costs charged (by governmental administrations and institutions) but contributions are welcomed and the receiving organisation decides to offer a sum.

Receipts are necessary to ensure accountability.

The total sum paid should not be higher than that consistent with the level of the service given. Satisfactory transparency must be obtained. Care should be taken in order to avoid dependency, undue influence on the adoption process and competition between receiving organisations.

4.2 Additional costs where coverage is charged/expected/welcomed by country of origin in connection with coverage of adoption costs, to be paid by receiving organisation.

**Areas for financial support closely connected with adoption costs**

The purpose generally includes one or more of the following areas:

- Help to improve care in children’s home
- Help to work for restoration to family/promotion of domestic adoption
- Help to other child welfare projects

\(^1\) (may also be in kind)
- Help to women
- Help to development projects

**Systems of cost coverage**

There are three main systems for coverage of these additional costs. In two of them, the country of origin takes the initiative to get funds.

**4.2.1. The country of origin fixes a sum, whether called fee, donation or contribution, as a prerequisite for the adoption. The sum exceeds adoption costs as defined under 4.1.**

4.2.1.1. It is openly stated that other than pure adoption costs are included.

4.2.1.2. It is *not* openly stated that other than adoption costs are included - but from knowledge of cost level in the country of origin the receiving organisation understands that this must be the case.

**4.2.2. A contribution of a certain sum is agreed on after deliberations between country of origin and the receiving organisation**

For 4.2.1 and 4.2.2:

- **Accountability:** Receipts must be required.

The system described in 4.2.1.1 is preferable because of higher transparency and easier to be dealt with by the receiving organisation with respect to the information given to the prospective adoptive parents. However, information on the proper use of the money must also always be required.

In the third system, the receiving organisation takes the initiative by offering funds:

**4.2.3. A contribution of a certain sum is offered by the receiving organisation and accepted by the country of origin.**

- **Accountability:** Receipts must be required.

  Transparency varies. The receiving organisation may support a specific purpose, or there is no specification of purpose, but based on trust in co-operation partner the receiving organisation is confident that the money will be put to good use to be reported in due course.

  Satisfactory transparency must be obtained. Care should be taken in order to avoid dependency, undue influence on the adoption process and competition between receiving organisations.
4.3. Problem areas: The use, dependency and source of the money

4.3.1. The use of the money

Whenever a lump sum is asked we must endeavour to split it into relevant categories, preferably in an open discussion with our counterparts in the country of origin. Reference to the Hague Convention will help explain our questions. It may also be helpful to join with other EurAdopt members co-operating with the same partner, or if necessary to ask EurAdopt to officially explain and support such an enquiry. As noted above, the country of origin may openly acknowledge that the sum charged includes more than adoption costs. Or, knowledge of cost level in the country of origin makes it highly probable that more than adoption costs are charged, although this is not acknowledged openly.

Whether or not openly stated that a sum charged includes more than adoption costs, we must convince ourselves about the good purpose and use of the money and work for transparency. The most serious problem arises when we doubt the purpose and/or use of the money. If we cannot arrive at a satisfactory clarity about the purpose and/or actual use of the money, the co-operation must be ceased.

4.3.2 Creating dependency?

When financial assistance to other child-welfare programmes is closely linked to adoption cooperation, there might be a risk that high quality in the adoption work is not the first priority. In fact, unless the final decision to place a child in intercountry adoption is made by an impartial body, the subsidiarity principle may be at risk. Dependency of other welfare programmes (e.g. care for handicapped children) on income from intercountry adoption may have negative effects on the willingness to develop other alternatives for the child (e.g. financial help to biological family or domestic adoption).

In addition, if income from intercountry adoption is essential for the running of other welfare programmes, the successful development of alternatives for the children would result in a substantial rise of the costs in each intercountry adoption case.

Thus there is every reason to separate other welfare programs from the intercountry adoptions, and find other ways for their financing.

4.3.3. The source of the money

The question of whether the prospective adoptive parents may be charged for- or expected to pay - more than adoption costs (including “decency support”) without conflicting with the principles of the Hague Convention is very complex. It was discussed at the first follow-up meeting on the Convention in The Hague in December 2000 but no conclusive answer was given. It will no doubt be up for a major discussion at the next follow-up meeting. The final resolution from 2000 reads

“IMPROPER FINANCIAL GAIN, COSTS AND EXPENSES

4. Receiving countries are encouraged to support efforts in countries of origin to improve national child protection services, including programmes for the prevention of abandonment. However, the support should not be offered or sought in a manner, which compromises the integrity of the intercountry adoption process, or creates a dependency on
income deriving from intercountry adoption. In addition, decisions concerning the placement of children for intercountry adoption should not be influenced by levels of payment or contribution. These should have no bearing on the possibility of a child being made available, nor on the age, health or any characteristic of the child to be adopted.

5. Donations by prospective adopters to bodies concerned in the adoption process must not be sought, offered or made.”

The problem only arises if the sum charged exceeds proper adoption costs.

4.4. Recommendations when adoption fee/requested contribution includes more than adoption costs

Awaiting further clarifications regarding the Convention, the following recommendations for EurAdopt members are in line with our own general principles:

Get as detailed information as possible to have at least an estimate of what proportion of the fee/contribution is used for purposes of general welfare. *If you are satisfied with the purpose and use of the money:* inform the prospective adoptive parents that the fee/contribution includes a certain proportion for other welfare purposes – and give details (i.e. if the prospective adoptive parents have to pay more than adoption related costs, they shall at least be made aware of the fact that they are contributing to general welfare purposes).

The receiving organisations that charge the same sum to all prospective adoptive parents in a given year, regardless of country of origin, can give such information in a more general way.

5. Receiving organisation represented in country of origin

5.1 Representatives/co-workers

When intercountry adoption is introduced on a larger scale in a country of origin, it has traditionally been necessary for the receiving organisations (or independent adopters) to have some representative in the country with quite wide responsibilities in order to help the adoption cases through. Later on, in many countries the role of the representative/co-worker is reduced, sometimes just to assisting travelling parents, or the receiving organisation has no representation at all in the country of origin.

5.1.1 Role and duties of representative/co-worker:

The representative/co-worker may be responsible for one or more of the following:

- Representation of receiving organisation in contacts with authorities etc
- Communication link between receiving organisation and placing body
- Assistance to receiving organisation with local administration etc
- Assistance to receiving organisation with more information on children matched
- Assistance to receiving organisation with taking the children to medical checks etc
- Assistance to travelling parents on the spot
- Representing adopting parents before they travel or adopting parents who do not travel
5.1.2. Conditions in country of origin influencing the remuneration:

- Intercountry adoption controversial issue or not
- Intercountry adoption long established or recent phenomenon
- Representative/co-worker expatriate or local
- Working language
  - Language of country
  - Foreign language - Knowledge widespread/limited in country
- Working conditions:
  - Travels within country
  - Hardship
  - Demands on availability
- Full time/part time
- Volunteerism or a work for a living
- Job security:
  - Social security (sick leave, medical care)
  - Pension benefits
- Loss of previous employee rights through employment by receiving organisation
- Break in ”career ladder” because of employment by receiving organisation
- Alternative employers.

Finding the right level of remuneration

However difficult it is to define the appropriate range within which the ”reasonable remuneration” belongs, it is possible to identify levels that are definitely too high. Just as we can do this for ourselves in our own country, we must do a similar exercise in the country of origin. So, by starting at a level that is clearly too high we can move downwards into the floating region where we will land.

Defining the range of ”reasonable” requires first of all an awareness of what the salaries are in a given country, with local as well as foreign employers, including the extras that might be the practice or required by law.

It also requires a decision on what constitutes decent comparison categories, with due regard to the requirements of the job description and the availability of the necessary qualifications, and also to the fact that intercountry adoptions should not be comparable to international business.

However, it must be noted that ”reasonable” is not to be seen as equivalent to ”as little as possible”.

Depending on job description, full time/part time employment etc, the following categories of professionals in the country of origin may be relevant for establishing adequate level of remuneration:
Embassy staff, either locally employed or sent from receiving country
- Staff of international organisations, either locally employed or recruited from other countries
- Doctors (salary + extra income)
- Nurses
- Teachers
- Social workers

The remuneration should be paid monthly and not on a per case basis. This is particularly important if the representative could have some influence on number of children placed to the receiving organisation. Even when there is no such influence, a monthly remuneration helps avoid commercialisation if the number of children placed rises. However, if the service given is very irregular or limited, a case-by-case payment may be considered.

**Recommendations**

**a)** Make a detailed job description. *This must state very clearly who the co-worker shall represent, i.e. the adopting parents/the receiving organisation and not the country of origin or the placing body.* The best interest of the child shall, however, be the paramount concern.

**b)** Collect as much information as possible from your contacts (independent from the employee) in the country concerned on level of salaries in that country, including information on social security, extras etc for categories that you find relevant. The ”per diem” applied for foreigners and locals may also be a useful indication of the general level of cost in the country.

More information can be obtained e.g. from the following sources

- Your own Ministry of Foreign Affairs
- Your embassy
- The development authorities in your country
- UNICEF, Save the Children, the Red Cross, other welfare organisations active in that country
- Other EurAdopt members

(The exact information of what an individual representative is paid should, however, not be disclosed without the consent of the person concerned).

Compensation for travel expenses, like use of own car, petrol, hotel nights, per diem etc must also be regulated according to cost level in country.

**c)** Set up a contract (for sample forms see Appendix 2). A special clause needs to be included, that the representative must obtain permission from the employing organisation should he/she consider working for another organisation as well. This is to avoid a situation where a representative could develop into a broker, as well as a hidden competition between organisations.

**5.1.3. Assistance to placing body with administrative or social work**
Sometimes the representative helps the placing body in the country of origin (at their request), e.g. by assisting in getting necessary documents on individual children, before the children have been "allocated" to an organisation.

This is to be seen as practical support to the placing body from the receiving organisation. It must not be confounded with the representative’s role in assisting the receiving organisation with their adoption cases.

Special precautions are necessary against any undue influence on number of children placed for intercountry adoption, or specifically to the particular receiving organisation. In principle, the double role of the representative shall be avoided, but may be acceptable temporarily, to serve the best interests of children and biological mother, while other solutions are actively looked for. To diminish the risks arising from the conflicting roles, an official body (court etc.) must take responsibility for the arrangement.

5.2 Lawyers

Lawyers shall be used only in their professional capacity, to represent only the prospective parents where required.

To arrive at the right level of fees, comparison should be made with other family law cases with similar work load, with due regard to extra requirements in terms of knowledge of a foreign language etc. Comparison with fees paid for the arrangement of international business contracts should not be seen as relevant. On the contrary, the aspect of child welfare shall be stressed.

Co-operation with other EurAdopt members as well as with other welfare bodies, international organisations etc may prove helpful both in finding the right persons as well as in arriving at an acceptable level of remuneration. The local lawyers’ society may also be contacted.

If a lawyer is needed for the child’s case, it is the placing body that must engage him/her. A conflict of roles must be avoided. The lawyer cannot represent the best interest of the child while at the same time act as a representative of the prospective adoptive parents.

5.3 Doctors

A child that has already been matched with a family, or at least “allocated” to an organisation, may need to be taken to a doctor e.g. for testing, vaccination or general medical check-up or care. If it is agreed with the placing body that this is the responsibility of the receiving organisation, the following aspects should be taken into account.

Extra demands on the usually strained public medical care should be avoided. Therefore, the service should preferably be sought from a doctor who (also) receives private patients. The remuneration shall be comparable to what is asked from local private patients. However, due consideration of special requirements, e.g. knowledge of a foreign language or need for written certificates may justify a somewhat higher fee.
5.4 Assistance to prospective adoptive parents when in the country of origin

Proper attention should be given to incidental costs incurred by the prospective adoptive parents while staying in the country of origin of the child. These include accommodation, interpreters, drivers, guides, etc. These costs should be consistent with what would normally be paid for such services in that country.

6. Donations

As said above (see Terminology), the word “donation” shall only be used for voluntary contributions. Who may make donations?

6.1 Prospective adoptive parents

It should be made clear to prospective adoptive parents that donations in connection with their adoption procedure are not permitted in order to avoid creating an upward spiral of expectancy. However, spontaneous small scale gifts to the children’s home (e.g. ice-cream for all children) or what politeness requires in the specific country are allowed.

6.2 Adoptive parents and other individuals

After the adoption, back in their own country, it can be positive if adoptive parents wish to give donations to the specific children’s home, other projects in the country, etc. However, it is advisable that projects and donations be coordinated by the receiving organisation.

6.3 Can a receiving organisation make donations? With what money?

Receiving organisations are encouraged to raise funds from different donors including adoptive parents, general public, institutions etc, to carry out or support projects in countries of origin for general welfare and development.

The receiving organisation has to be extremely careful in order to avoid the risk of donations unduly influencing the adoptions.

Within the receiving organisation there must be a clear division in the book-keeping between adoption costs and aid projects.

Receipts must be obtained, the intended use made clear and proper follow-up performed.

7. Avoiding competition

7.1 Competition and adoption costs/additional contributions

For many years the question of donations, contributions, lawyers’ fees etc have been discussed by the receiving organisations, now members of EurAdopt. The primary objective has been to avoid commercialisation of the adoptions, with the resulting risk of malpractice, or lack of interest in finding solutions for the children within the country. It has also been seen as unfair that the adoption costs become a too heavy burden on the prospective adoptive parents. These aspects have been dealt with above. Still another objective of these discussions has been to find ways to reduce competition between the organisations themselves in relation to the countries of origin.
The relevant question must be what is included in a sum demanded or expected by the placing body, i.e. accountability and transparency are needed for a correct evaluation of the legitimacy of the request.

However, competition between receiving organisations is positive when it refers to quality in the adoption work.

Contributions should not be given without proper attention to accountability and transparency. See also 4.1., 4.2, 4.3 and 6.3.

Contributions should be made with the strictest possible precautions against undue influence on the adoption work. **There must be no direct links between support given or promised and number of children, or characteristics of children placed to the organisation.**

A situation of “bidding for children” must be avoided. Continuity and building of trust and shared values in an adoption co-operation are essential elements in good adoption work and must be protected.

7.2 Competition and aid/development projects

Given their need for support to welfare and development projects, it is not surprising if the countries of origin try to get such support (also) from their counterparts in intercountry adoption. The possibility of being actively involved in a project aid/development co-operation with the countries of origin varies between the receiving organisations, depending on factors as e.g. size of the organisations or laws of their countries.

Potential competition advantages in the adoption work must not prevent EurAdopt members from making efforts to secure means for other welfare or development projects in the countries of origin.

The requirements of accountability and transparency are always to be met.

*The table on the next page was presented by EurAdopt as part of Work. Doc. no 7 to the Special Commission in the Hague 28 November – 1 December 2000.*

*The expression ”donation-fee” used in the first version has been changed into “fixed contribution” in the present version.*
## EurAdopt Guidelines on financial factors

### Appendix 1

#### Overview of systems for cost coverage in Intercountry Adoption

<table>
<thead>
<tr>
<th>Payment principle in country of origin</th>
<th>Impact on adherence to HC for receiving country</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project aid general prerequisite for adoption cooperation</td>
<td>HC problem only if financed by adopting parents</td>
<td>Risk for competition</td>
</tr>
<tr>
<td>Financial support for child welfare demanded</td>
<td>HC problem if support financed by adopting parents Against HC principle of child’s interest given priority in adoption placement</td>
<td>Great risk for competition. Predictability no</td>
</tr>
<tr>
<td>Number of children placed to receiving organisation directly related to amount given</td>
<td>Adoption-related costs charged on top</td>
<td>Transparency varies</td>
</tr>
<tr>
<td>Fees and/or fixed contributions decided by authority Per case</td>
<td>HC problem only if sum substantially exceeds reasonable adoption-related costs</td>
<td>No competition Predictability good for term set (eg year)</td>
</tr>
<tr>
<td>Fees and/or fixed contributions decided by organisation Per case</td>
<td>HC problem only if receiving organisation charge adopting parents more than what would correspond to reasonable adoption-related costs</td>
<td>Risk for competition Predictability good for term set (eg year)</td>
</tr>
<tr>
<td>Fees and/or fixed contributions (or lump sum, or support over time) decided by organisation after deliberations with receiving organisation</td>
<td>No fees or fixed contributions. Donations in money or kind (not per case) the rule. Offered by receiving organisation, agreement made with placing organisation</td>
<td>Predictability good for term set</td>
</tr>
<tr>
<td></td>
<td>No or low fees or fixed contributions Donations (money or in kind) not expected but may be welcome.</td>
<td>Transparency varies</td>
</tr>
<tr>
<td></td>
<td>No or low fees but practical assistance with administrative work requested from receiving organisation Donations in kind expected</td>
<td>Little risk for competition</td>
</tr>
<tr>
<td></td>
<td>HC problem only if adopting parents charged less than what would correspond to reasonable adoption-related costs</td>
<td>Predictability good</td>
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<td></td>
<td>HC problem only if adopting parents charged more than what would correspond to reasonable adoption-related costs</td>
<td>No support to other welfare programmes from ICA.</td>
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<tr>
<td></td>
<td>HC problem only if adopting parents charged more than what would correspond to reasonable adoption-related costs</td>
<td>No risk for competition</td>
</tr>
<tr>
<td></td>
<td>HC problem only if adopting parents charged less than what would correspond to reasonable adoption-related costs</td>
<td>Predictability low</td>
</tr>
<tr>
<td></td>
<td>No HC problem as adopting parents charged less than what would correspond to reasonable adoption-related costs</td>
<td>Transparency good</td>
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<td>No HC problem as adopting parents charged less than what would correspond to reasonable adoption-related costs</td>
<td>No or few ICA unless this service given</td>
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**Expediency in the Child’s Best Interest**

*Application of article 35 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*

“We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the fountain of life. Many things we need can wait. The child cannot wait. Right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him we cannot answer ‘Tomorrow’. His name is ‘Today’”.

*Gabriela Mistral*  
Nobel laureate, Chile

In article 35 of the Convention the competent authorities of the Contracting States are instructed to act expeditiously in the process of adoption. The purpose of article 35 was to shorten the time it takes to carry out the adoption. Instead we have reason to believe that, since 1993, the time it takes for an abandoned child to be adopted in another country has increased considerably. It is not uncommon for between a year and a year and a half to pass between the abandonment and the matching with a foreign family. The time from matching and until the actual adoption and transfer to the new country is usually shorter.

In the child’s best interest the period of uncertainty should be as short as possible. An early placement facilitates bonding with the new family. Other provisions in the child’s best interest require a certain period of time for them to be carried out. The balance between security and expediency needs to be decided on a case by case basis.

**Proposal**

That the Special Commission recommends countries party to the Convention to review their implementation and application of article 35, in view of the fact that children who have lost their birth family need to be united with a new family at the earliest possible time.