

ADOPTION

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**QUESTIONNAIRE SUR LES ORGANISMES AGRÉÉS DANS LE CADRE DE LA
CONVENTION DE LA HAYE DU 29 MAI 1993 SUR LA PROTECTION
DES ENFANTS ET LA COOPÉRATION EN MATIÈRE
D'ADOPTION INTERNATIONALE**

établi par le Bureau Permanent

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**QUESTIONNAIRE ON ACCREDITED BODIES IN THE FRAMEWORK OF THE
HAGUE CONVENTION OF 29 MAY 1993 ON PROTECTION
OF CHILDREN AND CO-OPERATION IN RESPECT
OF INTERCOUNTRY ADOPTION**

drawn up by the Permanent Bureau

*Document préliminaire No 1 d'août 2009 à l'intention de la
Commission spéciale de juin 2010 sur le fonctionnement pratique de la
Convention de La Haye du 29 mai 1993 sur la protection des enfants et
la co-opération en matière d'adoption internationale*

*Preliminary Document No 1 of August 2009 for the attention of the
Special Commission of June 2010 on the practical operation of the
Hague Convention of 29 May 1993 on Protection of Children and
Co-operation in Respect of Intercountry Adoption*

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Introduction

The Permanent Bureau is undertaking preparations for the Third Special Commission Meeting to review the practical operation of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption* (1993 Hague Convention), which is to be held in The Hague in June 2010. It is intended that the Special Commission will provide the opportunity for State Parties to the Convention (as well as States which are considering or preparing for ratification or accession) to exchange information and experiences on the operation of the Convention, to compare practices, and to discuss any difficulties in respect of the implementation and practical operation of the Convention.

Following the recommendations of the 2005 Special Commission, and based on the Discussion Paper on Accreditation Issues,¹ the Permanent Bureau is gathering information for a new Guide to Good Practice on Accreditation. The following Questionnaire has been developed for this purpose. Your responses to this Questionnaire will be an invaluable source of information for us in developing the new Guide.

As you know, in many countries, accredited bodies perform the functions of Central Authorities in relation to particular adoptions under the 1993 Hague Convention. The process of accreditation of bodies is one of the Convention's safeguards to protect children during the adoption process. The Convention requires that accredited bodies be not for profit, staffed by qualified and experienced personnel and be subject to supervision by competent authorities (Art. 11). Basic standards are imposed by the Convention to guide the accreditation process. It is implicit in the Convention that States will develop their own accreditation criteria, based on Convention objects and standards and expanded as necessary to meet the requirements of the individual State. The new Guide will include a set of model accreditation criteria.

In addition, according to Article 12, bodies accredited in one State and wishing to operate in another State must be specifically authorised to do so by the competent authority of both States (the accrediting State and the State of operation). In order to clear up some misunderstandings, the new Guide will explain the differences between accreditation and authorisation.

This Questionnaire is addressed to Member States of the Hague Conference and Contracting States to the 1993 Hague Convention. Obviously, it is understood that some questions can only be readily answered by Contracting States. It is also understood that some questions are more relevant to States of origin than to receiving States and vice versa.

As regards all other States which are not yet Party to the Convention, as well as certain intergovernmental organisations and non-governmental international organisations which have also been invited to Special Commissions as Observers, we would welcome from them any comments in respect of any items in the Questionnaire which are considered relevant.

We intend, except where expressly asked not to do so, to place all replies to the Questionnaire on the Hague Conference website. We would therefore request that replies be sent to the Permanent Bureau, if possible by e-mail, to: **secretariat@hcch.net**.

*We would be very grateful for your co-operation in this exercise, and we hope that you will be able to send us your replies to this Questionnaire **by 30 September 2009**.*

¹ "A Discussion Paper on Accreditation Issues", drawn up by Jennifer Degeling, Principal Legal Officer, with the assistance of Carlotta Alloero, Intern.

NAME OF STATE OR ORGANISATION:
Germany_____

EXPLANATIONS AND QUESTIONS

If a question does not apply to your State, please answer "Not applicable" or "N/A".

Some questions can be answered by marking a box.

Where your answer refers to specific provisions of your law / laws, please cite the law and provision number as it may be a helpful reference in the Guide to Good Practice.

Where your answers can be enhanced by providing a link to an electronic version of a document (e.g., guidelines, criteria), please give that link.

USE OF TERMINOLOGY

There are three situations in which accreditation and authorization (as used in the Convention) may occur. A distinction is to be made between "accreditation" and "authorisation":

- (1) adoption bodies are accredited in the receiving State to work in States of origin (Arts 10, 11) (1993 Hague Convention terminology: **accreditation**);
- (2) those adoption accredited bodies of receiving States are granted authorisation in the State of origin with a view to arranging the adoption (Art. 12) (1993 Hague Convention terminology: **authorisation**);
- (3) bodies in the State of origin are accredited by it to work with foreign bodies of the receiving State with a view to adoption (Arts 10, 11) (1993 Hague Convention terminology: **accreditation**).

NB: FOR STATES OF ORIGIN, PLEASE MAKE IT CLEAR IN YOUR ANSWERS IF YOU ARE REFERRING TO YOUR OWN ACCREDITED BODIES OR TO FOREIGN ACCREDITED BODIES WORKING IN YOUR STATE.

A. General policy issues concerning accreditation

1. In your State what terminology do you use for the situations described in (1), (2) and (3) above? Is it the same or different? If different, please specify, define and indicate if you intend to use your own terminology to answer the following questions.

In Germany, we use the same terminology in case (1). In the German Adoption Placement Act (Adoptionsvermittlungsgesetz)

(http://www.bundesjustizamt.de/cln_101/nn_257850/SharedDocs/Publikationen/B_ZAA/AdVermiG_engl,templateId=raw,property=publicationFile.pdf/AdVermiG_engl.pdf), the expression "Zulassung" applies.

Neither case (2) nor case (3) is explicitly defined in our national law.

2. Is your State a receiving State or a State of origin or both?

Receiving State

3. Have you informed the Permanent Bureau all of the details of bodies accredited by your State, as required by Article 13? Is the information which is currently on the

Hague Conference website up to date?

Yes.

If your State has decided not to use accredited bodies, please explain the reasons and indicate what has influenced the decision. Please answer any questions that are relevant to your State's situation.

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4. How do you define "accreditation" and "accredited body" in your State?

According to § 4 (2) of the German Adoption Placement Act (Adoptionsvermittlungsgesetz)

(http://www.bundesjustizamt.de/cln_101/nn_257850/SharedDocs/Publikationen/BZAA/AdVermiG_engl,templateId=raw,property=publicationFile.pdf/AdVermiG_engl.pdf), the activity of a German adoption placement office in the field of intercountry adoption requires a special approval (Zulassung), which shall be granted for the placement of children from specific States of origin. The approval shall permit the use of the designation as "recognised international placement office" (anerkannte Auslandsvermittlungsstelle). In the Hague Convention's scope, these adoption placement offices are also called "accredited bodies".

The approval may be granted under the condition that the adoption placement office is principally staffed with at least two full-time specialists or a corresponding number of part-time specialists. Specialists may only be entrusted with adoption placements which are suitable on account of their personality, their training and the professional experience.

Other conditions for the approval are that the adoption placement office can be expected to fulfil its tasks correctly in particular on account of its method of working and the financial position of its legal entity, and that it is operated by a legal entity or an association of persons which wishes to pursue tax-privileged purposes in compliance with §§ 51 to 68 of the German Fiscal Code (Abgabenordnung).

The approval shall be refused, if the predominant interests in the co-operation with the corresponding home country are in opposition. The supervisory Regional Youth Welfare Office and the Federal Central Authority shall inform each other on matters which refer to the conditions of the recognised international placement office.

5. Do the following categories of actors come within the definition of accredited body (are they included as accredited body staff, employees or personnel)?
- facilitators (if they exist in your State, please specify their role)
 - national representatives of foreign accredited body
 - translators

- ❑ lawyers (e.g., with a power of attorney from prospective adopters)
- ❑ guide, drivers, etc.

If these actors are not employees of the accredited body, what is their legal relationship, if any, to the accredited body?

In keeping with § 3 of the Adoption Placement Act (Adoptionsvermittlungsgesetz) (http://www.bundesjustizamt.de/cln_101/nn_257850/SharedDocs/Publikationen/BZAA/AdVermiG_engl,templateId=raw,property=publicationFile.pdf/AdVermiG_engl.pdf) adoption placements can only be performed by specialists who are suitable due to their personality, their professional education and experience. Other persons who are in the legal position to give instructions to the employees directly involved in placements have to fulfil the same requirements.

Thus the conduct and the behaviour of persons working for or with the accredited bodies in the field of adoption placements will be attributed to the accredited body.

6. As at 30 September 2009, what is the current number of accredited bodies in your State, state or province? If possible, please indicate how many bodies have been refused accreditation, have lost their accreditation or discontinued their activities since 1 January 2006, and for what reason.

There are 14 accredited bodies in Germany, see:

http://www.bundesjustizamt.de/cln_101/nn_257850/DE/Themen/Zivilrecht/BZAA/BZAAInhalte/Adoptionsvermittlungsstellen.html

Due to the legal protection of data in Germany only general informations on the refusal of accreditation will be offered.

1. Bodies that have been refused accreditation for specific countries:

Two accredited bodies

- Honduras; accreditation refused in the country of origin (reasons in the sphere of the country)
- Moldova; accreditation refused in the country of origin (reasons in the sphere of the body)
- Vietnam; accreditation refused in the country of origin (no bilateral treaty with Germany).

2. Bodies that lost their accreditation (for specific countries)

 Nine accredited bodies

One revocation of the entire accreditation by the central authority for intercountry adoption in keeping with § 4 section 3 subsection 2 Adoption Placement Act; revocation is not yet legally valid because the organisation has sued against the note.

Reasons:

- Violation of Article 8 and 32 of the Hague Convention,
- Chair lacked of the required skills
- Collaboration with an organisation under suspicion for child trafficking,
- Evident violation of the child ´s best interest,
- Placement without sufficient information about the children and their parents,
- Criminal investigations against the chair person.

Nine revocations for special Countries:

- Romania (5); Romania stopped international adoptions.
- India (1); revocation with consent of the body.
- Brasil (1); revocation with consent of the body.
- Lithuania (1); Lithuanian authorities did not cooperate.
- Colombia (1); cooperation did not function.

3. Bodies that discontinued their activities in specific countries

Three accredited bodies:

- Vietnam; no further cooperation;
- Czech Republic; no more placements;
- Brazil; restrictive placement policy.

7. Do you think the number of accredited bodies accredited by, or operating in your State is proportional to the number of intercountry adoptions taking place? If not, do you intend to take any appropriate measures?

Yes, at the moment. In order to prevent the risk of competition which could promote financial gains in the international placement proceedings new applications of accredited bodies for States of origin where another German accredited body already operates shall be evaluated in terms of the respective state´s need for further intercountry adoption.

8. Do you impose any limits on the number of accredited bodies which are granted accreditation in your State? If yes, on what grounds are limits imposed?

No

9. Does the Central Authority or the accredited body make the choice of the foreign States with which the accredited body could work (if authorisation were to be given)?

The accredited body has to choose a specific State of origin in its application and has to give reasons for this choice. The supervisory Regional Youth Welfare Office (Landesjugendamt) does not make any proposals.

Receiving State questions

10. (i) Receiving States: does the grant of accreditation automatically include an authorisation to act in:
- a) any State of origin;
 - b) a specified State / States of origin?

The German Regional Youth Welfare Offices (Landesjugendämter) in terms of Article 6 (2) of the Convention are authorised to operate in all States of origin.

The accredited bodies are only given approval/authorisation for specific States of origin. Their accreditation can be withdrawn for single States or in total.

- (ii) Do you limit the number of accredited bodies for every State of origin?

No.

B. Organisation and structures

11. On which subjects does the accredited body have to provide evidence to, or inform, the Central Authority or other competent authority to obtain or maintain accreditation? Please tick relevant box:

Composition of the accredited body's personnel and any changes

Qualifications and experience of personnel

Resolution of the board of governors attesting that the body is bound by ethical principles and rules of professional conduct

Internal statute, regulations and guidelines of accredited body, including

documents which demonstrate the legal constitution of the accredited body

financial management and accounting practices

Costs and expenses charged by accredited body

Copy of the terms of collaboration between the accredited body and the body or person to whom the body entrusts responsibilities in performance of the adoption procedure

Budget forecasts for 12-24-36 months

Copy of the standard-form contract between the body and adoptive candidate

Insurance for legal liability

Other – please provide details

Receiving State questions

- Certified true copy of an official version of the legislation of the State of origin with which the accredited body will co-operate
 - Contracts with foreign collaborators or intermediaries, their qualifications and mode of payment (monthly salary / flat rate for every adoption)
 - Agreements with orphanages in the countries of origin or internal regulations relating to the handling of cases, and confidentiality rules
 - Copy of the statement of authorisation or approval to work in the State of origin if applicable
 - Evidence of knowledge of the situation (cultural, social and legal) in the State of origin
 - Evidence of knowledge of the adoption law and practice in the State of origin, and understanding of the role of counterparts in the State of origin
12. Is it compulsory for staff of an accredited body to be professionally qualified? If yes, which professions? (e.g., lawyers, psychologists, psychiatrists, social workers, etc).
- Yes. The staff consists mostly of social workers and social pedagogues.
13. If volunteers are used, what is the ratio of volunteers to professional staff?
- In the placement proceedings no volunteers are used.
14. Are your accredited bodies required to sign a contract or agreement with the prospective adoptive parents? In general, what are the obligations of accredited bodies to adoptive candidates?
- Yes they are required to do so. The accredited bodies guide the candidates through the proceedings from the beginning to the recognition of the foreign decision in Germany.
15. What are the role and responsibility of the Central Authority or competent authorities with respect to the training of accredited bodies?
- There is no special training of the accredited bodies by the Central Authority. That Authority will be consulted in the single adoption case if there is urgent need. In general The Central Authority monitors the performance of the accredited bodies and helps with advice.
16. Are your accredited bodies required to have internal guidelines for carrying out tasks related to adoptions including guidelines on confidentiality of information?
- There is no obligation to have internal guidelines. The accredited bodies are obliged to observe the procedures and requirements of the Hague Convention and the German Adoption Placement Act. In addition they apply the guidelines of the working group of the regional youth welfare offices (Landesjugendämter).
17. Are your accredited bodies required to keep the adoption records for a certain number of years? How many years?
- Yes. According to Section 9 lit. b Abs. 1 Adoption Placement Act records and

documents on each individual case of placement shall be kept for sixty years from the date of birth of the child. After the expiry of the period of time mentioned in sentence 1 the placement files shall have to be destroyed. If the placement files deal with the descent and life history of the child or if there is a justified interest otherwise, the legal representative of the child, and if the child has reached the age of sixteen, he or she shall be given permission upon request to inspect the documents under guidance by a specialist. The inspection shall be refused, if overriding matters of a concerned person are in opposition.

C. Accreditation procedure

18. Please provide details (including powers and resources) of the authority or authorities which grant accreditation. Briefly describe the procedure to obtain accreditation.

The Procedure is laid down in Section 4 Adoption Placement Act in Conjunction in association with the Adoptionsvermittlungstellenanerkennungs- und Kostenordnung (AdVermiStAnKoV – not available in an other language than German).

19. Please give a brief outline of your accreditation criteria, guidelines or legislation. If possible, please provide an electronic copy of your accreditation criteria, guidelines or legislation, and any translations into English, French or Spanish.

See answer to question 18

20. Is there a central registry of all accredited bodies?

No, there is no official registry but you can find a list under http://www.bundesjustizamt.de/cln_101/nn_257850/DE/Themen/Zivilrecht/BZAA/BZAAInhalte/Adoptionsvermittlungstellen.html.

21. For how long is the accreditation granted?

The accreditation can be granted with or without temporary limitation (cf. § 4 (3) Sentence 3 of the Adoption Placement Act).

22. What are the conditions for renewal of accreditation?

The conditions for renewal correspond to the conditions for the first accreditation.

C. Authorisation of foreign accredited bodies

23. In your State how do you define "authorisation" in the context of Article 12? Do you have criteria for authorisation?

In keeping with § 2a sec. 3 no. 4 of the Adoption Placement Act the organisations

need a licence for each single adoption. Therefore the organisation has to apply for the license and send in the necessary documents. The authorities will then check whether the organisation fulfils the requirements as set up in the Hague Convention:

The organisation will only be allowed the placement if a child has already been selected. The organisation will in principle not be granted permission if the child origins from a contracting state. Exceptions can be made for the child's best interest if the central authorities of the state of origin have participated during the placement proceedings.

24. Who makes the decision to authorise accredited bodies in accordance with Article 12? Is your process of authorisation formal or informal? Please describe the process.

The competent authority is the Federal Central Office for International Adoption (Bundeszentralstelle für Auslandsadoption) according to § 2a sec. 3 no. 4 Adoption Placement Act. See the answer to question 23.

25. Is the Permanent Bureau informed of the authorisations?²

Yes.

Receiving State questions

26. As a receiving State, can you provide the current numbers of accredited bodies authorised for individual countries of origin?

Yes, there are 14 AB's. Details about the accredited bodies as well as the State specifications please find under:

http://www.bundesjustizamt.de/cln_101/nn_257850/DE/Themen/Zivilrecht/BZAA/BZAAInhalte/Adoptionsvermittlungsstellen.html

27. On what basis does the accredited body seek authorisation to work in a State of origin?
28. What factors or criteria are relevant for the Central Authority (or competent authority) to consider when giving or denying authorisation to work in a State of origin?

Answer to questions 27 and 28:

You will find relevant factors and answers to any questions under

http://www.bundesjustizamt.de/nn_257850/SharedDocs/Publikationen/BZAA/AdVermiG__engl,templateId=raw,property=publicationFile.pdf/AdVermiG__engl.pdf

² "Where a body accredited in one Contracting State is, in accordance with Article 12, authorised to act in another Contracting State, such authorisation should be communicated to the Permanent Bureau by the competent authorities of both States without delay", Recommendation No 3 of the 2005 Special Commission (reaffirming Recommendation No 2 of the 2000 Special Commission).

State of origin questions

29. As a State of origin, have you authorised foreign accredited bodies to undertake intercountry adoptions in your State (see Art. 12)? How many accredited bodies are currently authorised and from which receiving countries? How many were authorised as at 31 December 2005?
30. As a State of origin, is the foreign accredited body required to be fully accredited by your State and by your procedures, rather than simply "authorised"?
31. As a State of origin, how do you decide how many foreign accredited bodies are needed in your State?
32. Countries of origin: If you authorise a foreign accredited body to "act" in your State, does this mean:
 - a) the foreign accredited body must establish an office with professional staff (nationals of the State of origin or of the receiving State)?
 - b) the foreign accredited body can "act" in your State through an individual facilitator or intermediary
 - c) the foreign accredited body does not have an office or intermediary in the State of origin and it liaises directly with the Central Authority?
33. Countries of origin: have you experienced any difficulties with foreign accredited bodies working with or in your State?

E. Supervision and review of accredited bodies

34. How do you supervise bodies accredited in your State (Art. 11 c))? Are regular reports required such as annual reports (including financial reports) from the accredited body to the supervising authority?

The accredited bodies have to send in annual reports according to Section 4 of the Adoptionsvermittlungstellenanerkennungs- und Kostenordnung.

There will be an annual regulatory supervision and an annual meeting. The accredited bodies in addition have to report on single cases about the child's situation in the country of origin.

35. What supervision occurs in the State of origin of authorised foreign accredited bodies?

As far as the German accredited body has to apply for accreditation in the state of origin as well, this accredited body is subject to supervision in the state of origin under the rules of this state (for example in Russia: Ministry of education; in Nepal: Ministry of Woman an social development)

36. How is the performance of the accredited body assessed or evaluated?

The performance of the accredited bodies in Germany is assessed with regard to section 4 para 4 Adoption Placement Act.

37. Does the supervising authority have the power to make regular inspections of and

reports on the accredited bodies? Have secrecy or privacy laws hindered inspections?

See

(http://www.bundesjustizamt.de/cln_101/nn_257850/SharedDocs/Publikationen/BZAA/AdVermiG_engl,templateId=raw,property=publicationFile.pdf/AdVermiG_engl.pdf) for detailed information.

38. Do you require accredited bodies to report on any problems with intercountry adoptions, such as problems with particular countries, procedural problems or problems with implementation of the 1993 Hague Convention (see Convention Art. 33)?

Yes. The German accredited bodies as well as the German Regional Youth Welfare Offices as Regional Central Authorities according to Article 6 (2) of the Convention are required to report irregularities to the Federal Central Authority (Federal Central Office for International Adoption – *Bundeszentralstelle für Auslandsadoption* – division of the Federal Office of Justice).

39. Does your law have provisions to deal with breach of duties or breach of the conditions of accreditation by accredited bodies? *E.g.*, Suspension or revocation of accreditation or authorisation? Other penalties / measures? Please give details.

Yes. If an accredited body does not fulfil the conditions of the German Adoption Placement Act anymore, the accreditation can be revoked according to § 4 (3) of the Adoption Placement Act:

(http://www.bundesjustizamt.de/cln_101/nn_257850/SharedDocs/Publikationen/BZAA/AdVermiG_engl,templateId=raw,property=publicationFile.pdf/AdVermiG_engl.pdf):

The accreditation shall be withdrawn, if the pre-requisites have ceased to exist subsequently.

40. If accreditation has been suspended or withdrawn and is later re-instated, what conditions, if any, apply after re-instatement?

Reasons which led to the withdrawal or suspension have to be carefully considered before a re-instatement will be granted. The new accreditation will be issued with certain restrictions -if necessary- to fully control the professionalism of the body and to rebuild mutual trust.

41. Is it possible to suspend or withdraw accreditation if the general situation in the State no longer offers the necessary guarantees for intercountry adoptions?

Yes. Section 4 paragraph 3 sent. 2 Adoption Placement Act allows the suspension or withdrawal of the accreditation in such cases. One precondition to perform as accredited body in a contracting state is that that state fully complies with the Hague Convention.

42. Are there restrictions upon activities of accredited bodies (e.g., advertising their services; advertising, including on the internet, of adoptable children; limits on amounts that can be charged for fees and other expenses)?

There are no legal restrictions. But professionalism requires restraint in advertising. Especially the rights of the children have to be observed. Advertising adoptable children in internet is not accepted and should be reflected in the control of the accredited body.

43. Are you aware of any acts or behaviour by accredited bodies that contravened your accreditation criteria? Please also provide details of any sanctions or penalties applied?

One accredited body lost the accreditation in 2006. It filed a complaint. The case has come before the competent courts.

Violations: See answer to question 6

44. What are the means used by the authorities supervising accredited bodies in order to improve good practices or remedy breaches in relation to requirements for accreditation or as regards to behaviour?

Cooperation like good partners is required by law. Complaints are investigated with the goal to find solutions by consent between the supervising authority and the accredited body. If there is no consensus possible, measures of supervision are to be taken. Those measures include legal advice, admonitions, obligations and other supervisory acts. Revocation and withdrawal of the accreditation will be the last step, only taken in case no other means will help.

45. Is there collaboration among the accredited bodies working in the same State of origin, or in different countries? If so, what kind of collaboration?

Not really. Usually the accredited bodies understand themselves as "competitors". Nevertheless there is a certain level of exchange of information about practices in specific States of origin.

46. Is the information on each accredited body's website regularly checked by the supervising authority? By an authority in the State of origin with which it cooperates?

The information on the websites is checked by the supervising authorities occasionally. It can be assumed that those informations are also checked by authorities of the state of origin.

F. Financial issues

47. How are your accredited bodies financed?

The accredited bodies are not supposed to work for profit but the organisations'

purposes shall be tax-privileged in compliance with §§ 51 to 68 of the German Fiscal Code (Abgabenordnung). The accredited bodies are financially independent and are mostly organised as registered associations (eingetragener Verein) charging fees and donations.

48. How are fees and charges set? *E.g.*, by accredited bodies themselves, by a public authority. Is there bilateral co-operation between your State and other countries to establish appropriate fees for the 2 countries concerned?

No. The accredited bodies set their charges and fees by themselves taking into account the non profit status, the overall costs of international adoptions and the restricted ability of applicants to afford those costs.

49. Is detailed information about all the fees, charges and costs associated with an intercountry adoption available easily to adoptive candidates and other authorities?

Yes. The information can be found on the websites of the accredited bodies.

50. How and when is that information provided to adoptive candidates?

The adoptive candidates at first inform themselves about the costs on the internet (websites of the accredited bodies). That information is later discussed with them before a contract about the adoption placement will be concluded.

51. How is financial transparency and accountability of accredited bodies achieved? *E.g.*, by standard bookkeeping? Receipts and proof of purchases? Reports submitted with financial statement?

A standard bookkeeping is recommended to pass the controlling by the central authorities. If the financial expenses have to be proved by receipts etc. depends on the individual contact concluded with adoptive candidates. The accredited bodies have to provide an annual report on their activities including a financial status. The financial check can be made by a certified accountant.

52. Do you allow donations to be paid to children's homes by the accredited bodies or prospective adoptive parents? Under what conditions?

The accredited bodies and prospective adoptive parents are principally allowed to pay donations to children's homes. German national law does not provide an explicit interdiction. However, in compliance with Articles 8 and 32 of the Hague Convention, the accredited bodies are not allowed to make improper financial profit by receiving an advantage as a return for donations. From ethical status there must not be an alliance to depending adoption procedure.

53. The costs relating to adoption are extremely difficult to evaluate. Can you state the average amount or range (smallest to highest amount payable) for the following

items.

Costs in the receiving State

- a) registration with an accredited body,
- b) administrative costs, establishment and sending of the adoptive candidate's documents, etc.
- c) costs for adoption training and preparation courses for prospective adoptive parents
- d) cost of procurement of statutory documents (birth or marriage certificates, psychosocial report, etc.)
- e) cost of human resources (salaried staff) of the body in the receiving State and in the State of origin
- f) cost of professional services in the receiving State (e.g., lawyers, notaries, doctors)
- g) other – please specify.

The costs are as follows:

- a) free
- b) and e) 4,000 - 7,000 €
- c) 0 - 200 €
- d) 1,500 - 2,000 €
- e) 200 - 800 €
- f) depends on the specific situation in the receiving state. According to German national law (Adoptionsvermittlungstellenanerkennungs- und Kostenverordnung), a (publicly organized) intercountry adoption procedure accompanied by a Regional Central Authority or a local Youth Welfare Office costs 2000 Euro including the PAP's suitability examination and the transmission of the file to the competent authority in the state of origin.

Costs in the State of origin

- a) the body's administrative costs,
- b) cost of procurement of statutory documents (birth or marriage certificates, psychosocial report, etc.),
- c) co-ordination of the case through (in-country staff of) the accredited body,
- d) cost of professional services (lawyers, interpreters, guides, drivers, etc) in the State of origin,
- e) cost of filing of the documents with the appropriate authorities,
- f) translation and assistance,
- g) legal or administrative costs in the State of origin,
- h) transport and hotel costs for the adoptive parents,
- i) humanitarian contribution and donation to the orphanage, etc.,
- j) other – please specify.

The costs differ strongly depending on the expenses and standards in the state of origin.

54. What is the relation between adoption fees (and contributions) and actual costs? Is it calculated for the whole budget of the accredited body, or per State, or does each adoption carry its own costs? How is the relation between fees and actual costs

supervised?

Each accredited body accounts the costs, which the applicant has to pay for an adoption placement from a specific country of origin. Fees are closely related to the actual costs. Payment is requested mostly in a lump sum. The accredited bodies -- their financial behaviour included- are controlled by the respective Regional Central Authorities.

55. What general comments can you give about costs of intercountry adoption (from the perspective of your own State and in other countries?)

Adoption costs in Germany are transparent and comprehensible. Costs abroad (in the countries of origin) set in relation to the GDP of those countries are sometimes seen as extraordinary high and not always transparent.

State of origin questions

56. In the State of origin, who is responsible for the co-ordination of the costs: an accredited body's employee? A third-party? In case of a third-party, how is he selected? How is he financed? How is he evaluated? What mechanisms are in place to ensure that these costs are reasonable and transparent? What are the factors that make these costs vary from one adoptive file to another?

The answer depends on the special situation in the country of origin.

G. Operational issues

57. Which are the tasks carried out by accredited bodies in your State? Tick boxes if applicable. For countries of origin, please specify if your own national accredited bodies or foreign accredited bodies perform the tasks.

Receiving State questions

- Determination of eligibility of prospective adoptive parents (legal criteria)
- Evaluation of suitability of prospective adoptive parents (psychosocial criteria)
- Decision granting approval for the prospective adoptive parents to adopt
- Information and preparation of adoptive parents for intercountry adoption
- Make the matching decision
- Counselling of PAPs about child proposed to them (the proposed match)
- Agreements under article 17 of the 1993 Hague Convention
- Arrange to file documents with Court or authority of State of origin
- Report to supervising authority on status of the adoption
- Assist PAPs with Travel preparations
- Follow, know, understand, and supervise the procedure for the adoption
- Other tasks: please provide details

State of origin questions

- Assessment of the adoptability of a child
- Work with birth parents on family preservation to avoid adoption of the child
- Decision on the adoptability of a child
- Counselling and information for birth parents / consequences of consent

- Obtaining Consent
- Search for parents in cases of abandonment
- Assume responsibility for the child prior to the adoption
- Prepare the child for adoption
- Agreements under Article 17 of the 1993 Hague Convention
- File adoption documents with court or authority
- Search for socio-biological background information of child and birth family and reunion with birth family
- Make the matching decision
- Preparation of the adoptive child
- Assistance provided to the adoptive parents during their stay
- Other tasks: please provide details.

H. Post adoption services and reports

58. What post adoption services do your accredited bodies offer (e.g., counselling and family support)? Is provision of post adoption services one of the conditions of accreditation?

Most of the accredited bodies organise meetings of children adopted out of the same country of origin with their parents. Some offer post adoption information events. A regular post adoption service is not foreseen.

59. Are there any publicly funded post adoption services?

There is no public funding available. Post adoption service is not required by German law. When problems arise after the adoption procedure was finished parents are able to address themselves to the competent youth welfare offices for help, advice or consultation.

Receiving State questions

60. Do accredited bodies have to provide regular reports on the child? To whom are the reports sent e.g., Central Authorities of State of origin and of receiving State? Other?

If requested by the state of origin accredited bodies sent post adoption reports to the central authority, competent courts or children`s homes in the state of origin.

61. Do your accredited bodies prepare the post adoption report or do they ask the adoptive parents to prepare it and send it to the State of origin? If a public authority is responsible for post adoption reporting, please explain.

It depends on the requirements of the country of origin, whether the post adoption reports are made by the youth welfare office, the accredited body or the parents by themselves.

62. How do you monitor the obligation to the State of origin to send post adoption reports?

The Federal Central Authority does not monitor this obligation.

I. Approved (non accredited) bodies and persons³

63. Does your State permit approved (non-accredited) bodies or persons (see Art. 22(2)) to arrange intercountry adoptions. If not, go to Question 68. If yes,

No.

64. Have you informed the Permanent Bureau of the details of approved (non-accredited) bodies or persons in your State, as required by Article 22(3)? Is the information which is currently on the Hague Conference website up to date?

65. What are the guidelines by which approval is granted?

66. What is the process by which approval is granted and renewed?

67. How is the supervision of approved (non-accredited) bodies or persons carried out in your State (Art. 22(2))?

68. Has your State made a declaration under Article 22(4) to prohibit the involvement of approved (non-accredited) bodies or persons in intercountry adoptions?

No.

69. Are you aware of any acts or behaviour by approved (non-accredited) bodies or persons that contravened their conditions of approval? Please also provide details of any sanctions or penalties applied.

See answer to question 6.

State of origin questions

70. As a State of origin, do you allow approved (non-accredited) persons or bodies from abroad to "act" in your State (as a similar procedure to authorisation of accredited bodies under Art. 12)?

J. Development aid activities

71. Are accredited bodies required to or permitted to engage in humanitarian projects or development co-operation activities in countries of origin?

They are not required to do so but permitted.

72. What types of activities are undertaken?

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³ The term "non-accredited person" was used in the Explanatory Report of Professor Parra-Aranguren to refer to the person in Art. 22(2). Some countries now employ the term "approved person" when referring to person in Art. 22(2). However, the 2005 Questionnaire responses revealed enormous confusion when the term "approved persons" was used. Consequently, the Guide to Good Practice has followed the usage of the Explanatory Report to try to improve the public's understanding of the functions of these particular persons. The term "approved (non-accredited) person" is a compromise to retain the precision of the Explanatory Report, but recognises the usage by some countries of the term "approved person".

73. How do you ensure that the humanitarian aid does not influence or jeopardize the integrity of the intercountry adoption process (*e.g.*, by the expectation of a regular "supply" of children in exchange for regular humanitarian or development aid)?

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L. Co-operation between countries

74. Have you experienced any difficulties in obtaining assistance or co-operation from other Central Authorities in regard to accredited bodies?

Yes.

75. Have you experienced any difficulties or concerns regarding the supervision of accredited bodies in other countries?

No.

76. Have you experienced any difficulties with other countries or Central Authorities because you do not use accredited bodies?

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77. Are there any particular aspects of your accreditation procedures *e.g.*, good practices that you would like to bring to the attention of other States?

No.

78. Do you have any other comments about any of the topics covered by this Questionnaire?

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State of origin questions

79. Have you experienced any pressure from foreign accredited bodies?