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1. **INTRODUCTION**

An empirical analysis was carried out into the twenty-seven member states of the European Union. This analysis was based on the questionnaire approved by the European Commission.

All the member states tried to keep a balance between the various categories of people interviewed.

The lawyers, judges and representatives of the ministries, representatives of associations, adoptive parents and or adopted child took part.

In certain states, it was not possible to interview either the adoptive parents or the adoptive child considering the strict confidentiality required by their legislation.

Under the statistical section, you will find the whole official statistics that our experts could obtain from the ministries or the qualified institutions.

The commentary section reflects the result of the questionnaires carried out.

The experts carried out either a summary of the various questionnaires or a comment underlining the relevant points expressed by the interviewed people.

It is obvious that all the interviewed people could not answer all the questions because they did not have knowledge, competence and or experience with this intention.

The following section (comparative tables) resumes the statistics tables elaborated on the basis of answers to the questionnaires returned by each member state.
### 2. STATISTICS

#### 2.1. AUSTRIA

<table>
<thead>
<tr>
<th>Year 2005: Adoptions granted by Austrian courts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>adopted adults</td>
</tr>
<tr>
<td>adopted minors</td>
</tr>
<tr>
<td>Austrian minors</td>
</tr>
<tr>
<td>EC-minors</td>
</tr>
<tr>
<td>Minors from other foreign states</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2006: Adoptions granted by Austrian courts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>Adopted adults</td>
</tr>
<tr>
<td>Adopted minors</td>
</tr>
<tr>
<td>Austrian minors</td>
</tr>
<tr>
<td>EC-minors</td>
</tr>
<tr>
<td>Minors from other foreign states</td>
</tr>
</tbody>
</table>
2.2. **BELGIUM**

The Federal Central Authority provides us a number of adoptions in the year of 2006 under the reform of adoption for children, which made possible to centralize a statistical data of adoption for children on the 1st September 2005.

2.2.1. *It recalls us that Belgium set up a procedure of recognition for the foreign adoptions and consequently the majority of the international adoptions were in Belgium, which were not recognized abroad:*

   a) A number of foreign adoptions recognized in Belgium in 2006 were 463 of internal adoptions and 83 of international adoptions, which were pronounced by the Belgian Judge in 2006;

   b) Since the 1st September 2005 until the 31st August 2008, the Federal Central Authority recognized 44 adoptions pronounced in a Member State of the EU and refused 4.

   c) There are a few true European adoptions because they follow the system of a first adoption, which takes place abroad from the EU. The international adoptions have to respect the principle of subsidiary and of the Belgian legislation. There is no quasi international adoption for a child (alive) within the EU by adopting a child residing in another safe state of the EU in majority and or in rare cases interfamily adoptions.

Central Authority of the French community could not provide us exact numbers of their adoptions. They said that their system was still under review. They added that, since Belgium’s reform of the adoption in 2005, they could not have exact information in relation to the adoption in France. Therefore, they did not have any data, but they indicated that, for the first eight months of 2005, they did not have any system of data-processing management allowing them to find out all the information easily as requested.

Central Authority of the German community also said to us that they did not have any exact number of adoptions for 2005. In accordance with the new law, there have now been 6 judgements of aptitude for international adoptions.

Central Authority of the Flemish Community, “Kind en Gezin” provides us the following numbers of the adoptions:

2.2.2  **International adoptions**

   - In 2006: 269 judgements of aptitude were pronounced by the Federal Central Authority (and 604 interlocutory judgements of which a social investigation was ordered);

   - In 2007: 409 judgements of aptitude were pronounced by the Federal Central Authority (and 595 interlocutory judgements of which a social investigation was ordered) 

     (Note: the number of judgements of not-aptitude is not known); and

   - In 2007, 176 children were actually placed by the 5 approved services of international adoption (Ray off Hope, Horizon, Flanders Intercountry Adoption Care (FIAC), and De Vreugdezaaiers in Het Kleine Mirakel).
2.2.3 National adoptions:

No numbers on the level of the judgements were communicated

- In 2006: 459 families followed the preparation/formation by asbl EVA;
- In 2007: 395 families followed this formation;
- In 2006: 22 children were placed by the 5 approved services of national adoption (Gewenst Kind, De Mutsaard, Gents Adoptiecentrum, Adoptiedienst De Visserij, Adoptiedienst Stedelijk Ziekenhuis Roeselare); and
- In 2007: 32 children. Of these 32 children, 29 had Belgian nationality.

The O.A.A. does not have information with statistical level, indicating to us as for it to practise only the intern’s adoptions, Belgian parents and Belgian children, having nevertheless encountered cases of adoptions by French or Italian parents but residing in Belgium.
2.3. **Bulgaria**

2.3.1 Measures undertook according to the Regulation for the conditions and the order for the implementing of measures for preventing their abandonment into institutions as well as their re-integration

Data for the activity of Department for Child Protection /DCP

<table>
<thead>
<tr>
<th>Data from the report table, received in SACP</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>Second quarter of 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-integrated in the biological family during the year</td>
<td>2032</td>
<td>2488</td>
<td>1509</td>
<td>716</td>
</tr>
<tr>
<td>Number of successful cases for prevention of the abandonment</td>
<td>1339</td>
<td>2392</td>
<td>2042</td>
<td>995</td>
</tr>
</tbody>
</table>

The efficiency of the system for child protection proves itself by the increasing number of signals – claim, application and file case, on which the Bulgarian departments for child protection are working. The logic of the protection is the bigger access for the alarming, the trust in the adequate and prompt intervention for prevention of the risk for the child by the authorities for protection. During the first half-year of 2007, 20 828 signals have been given to DCP for a child in risk situation, which is presenting with 11% more comparing with the same period for 2006. Based on the social work, for each child is opening a “case” when it is finding out that there is a necessity for protection and after each of the signals for child in a risk situation should be checked. For 35% of the children, for which there is a signal and it is founded that they are in a risk situation and a case is opened, for which measures for protection are taken.

In SACP periodically (in every six months) reports are received from all DCP of the country.

The data for the first half-year of 2007 indicates the following: for the first half-year of 2007 the social workers have worked on 3 702 cases of prevention and from the beginning of the year up to July there are 995 prevented abandonment of children. In 27% of all cases of prevention, abandonment is prevented.

2.3.2 Accomodation at relatives

Accommodation at relatives – in the country up to June 30, 2007 the children raised in families of relatives are totally 5529 or with 315 more in comparison with the same period of 2006. The number of the accommodated children at relatives for the period are 1 134. For the same period of 2006 the accommodated at relatives children have been 1 024.

2.3.3 Re-integration in the biological family

Re-integration in the biological family or in a family of adopters – The social workers have been working under 4720 cases of re-integration, from each 34% (1622) have been completed successfully with accommodating of the child in a family environment – in biological family and in a family of adopters.

These are the cases, in which for the period of observation of the child in the family it is not necessary to be undertaken another measures for protection, related with an accommodation and the re-integration is accepted to be completed successfully. The adopted children for the period are 363, which under the mean of the Regulation is thought to be also for a re-integration in the family environment.
Actually, in the biological family 1,259 children have returned or 27% from the children, with which it is working for a re-integration.

After entering into force of the sub-law legislative acts related to LCP/Legislation for Child Protection/during 2003 up to the middle of 2007, the children, that have been returned in their biological families or have found their own family by adoption, are 5,886.

2.3.4 Accepting families

The total number of the children in accepting families up to the end of June is 77 – with 30 more in comparison with the same period of 2006, as only for the half-year 19 children have been accommodated. The registered candidates, which have given application for accepting families, are 57 in the whole country and the validated, at which a child can be accommodated, are 12.7, and some of them are validated for a professional accepting family.

2.3.5 Specialized institutions

The new cases, on which DCP has been working for accommodation of a child in specialized institution for the first-half of 2007, are 1,361.

Despite the good work, indicator for which are the successful cases of prevention and re-integration, the number of the children in specialized institutions remains comparatively high and the temps of decreasing are not as impetuous, as we would like to be.

According to the received data from DCP up to June 30, 2007, the situated in specialized institutions children are 8,457.

2.3.6 Result of the prevention

The children, for which in the first half of 2007 a family environment is provided (as a result from prevention, re-integration, accommodated at relatives, accommodated in accepting family, adopted), instead of being accommodated in an institution, are 3,828.

The prepared by DCP, according to Art. 11, Para 3 from Regulation on the Appliance of the Law for integration of disabled people, the social reports are 5,915 for the first half of 2007, as 619 of the children, for which reports are prepared have became cases, for which measures for protection are taken.

The prepared by DCP directions for social services from DCP during the period are 1,765 (nearly 400 more in comparison with the same period for 2006), as 55% are to the new-created Complexes for social services in the tenth pilot municipalities.

2.3.7 International adoptions

The Ministry of Justice is competent only in the area of the international adoptions.

The administrative part of the procedure of international adoption is complete with the explicit written approval of the Minister of Justice for the particular adoption.
In the year 2005, the Minister has issued 101 explicit approvals for adoptions by foreigners of 108 children from Bulgaria.

In the years, 2006 – 98 approvals for adoptions for 103 children are issued.

<table>
<thead>
<tr>
<th>International adoptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
</tr>
<tr>
<td>2006</td>
</tr>
</tbody>
</table>

2.3.8 National adoptions

The Ministry of Justice does not lead a statistic for the national adoptions – meaning the adoption of Bulgarian children by adopters with Bulgarian citizenship on the territory of the Republic.

2.3.9 European adoptions

The Bulgarian legislation does not institute the figure of the European adoption.
2.4. **Cyprus**

There is no data as to whether the children and the parents are nationals of Cyprus.

<table>
<thead>
<tr>
<th>Year 2005 : Adoptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>National adoptions</td>
</tr>
<tr>
<td>International adoptions</td>
</tr>
<tr>
<td>International adoptions pending</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2006 : Adoptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>National adoptions</td>
</tr>
<tr>
<td>International adoptions</td>
</tr>
<tr>
<td>International adoptions pending</td>
</tr>
</tbody>
</table>
2.5. **Czech Republic**

<table>
<thead>
<tr>
<th>The average duration of the national adoption process</th>
<th>2-3 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>The average duration of the international (EU) adoption process</td>
<td>3-4 years</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2005</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>615</td>
</tr>
<tr>
<td>National adoptions</td>
<td>569</td>
</tr>
<tr>
<td>EU adoptions</td>
<td>45</td>
</tr>
<tr>
<td>International adoptions</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>516</td>
</tr>
<tr>
<td>National adoptions</td>
<td>484</td>
</tr>
<tr>
<td>EU adoptions</td>
<td>32</td>
</tr>
<tr>
<td>International adoptions</td>
<td>0</td>
</tr>
</tbody>
</table>
2.6. **DENMARK**

### 2.6.1 Danish and international adoptions

<table>
<thead>
<tr>
<th>Country</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bolivia</td>
<td>30</td>
<td>22</td>
</tr>
<tr>
<td>Brazil</td>
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<tr>
<td>Bulgaria</td>
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<td>Burkina Faso</td>
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<tr>
<td>China</td>
<td>207</td>
<td>157</td>
</tr>
<tr>
<td>Colombia</td>
<td>37</td>
<td>36</td>
</tr>
<tr>
<td>Czech Republic</td>
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<td>10</td>
</tr>
<tr>
<td>Denmark</td>
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<tr>
<td>Ethiopia</td>
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<td>India</td>
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<td>Korea</td>
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</tr>
<tr>
<td>Poland</td>
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</tr>
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<td>Slovakia</td>
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</tr>
<tr>
<td>Sri Lanka</td>
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</tr>
<tr>
<td>Thailand</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>USA</td>
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</tr>
<tr>
<td>Uzbekistan</td>
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<td>0</td>
</tr>
<tr>
<td>Vietnam</td>
<td>72</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>593</td>
<td>467</td>
</tr>
</tbody>
</table>
2.6.2

<table>
<thead>
<tr>
<th>National adoptions</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children adopted with no physical and/or mental difficulties</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Children adopted with physical and/or mental difficulties</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>14</td>
<td></td>
</tr>
</tbody>
</table>

2.6.3

What is the average duration of the adoption process from the moment an adoption request is files until the process is completed?

We do only keep statistics on the period from the time of application to the time of approval and do not register whether the application is for national or international adoptions.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of days from application to approval</td>
<td>272 days</td>
<td>267 days</td>
</tr>
</tbody>
</table>

2.6.4

<table>
<thead>
<tr>
<th>Percentage of cases where the applicants have not been approved to adopt</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 %</td>
<td>11 %</td>
<td></td>
</tr>
</tbody>
</table>

2.6.4. Children adopted from other EU countries to Denmark 1998-2008

<table>
<thead>
<tr>
<th>Country</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>All years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>23</td>
<td>31</td>
<td>22</td>
<td>15</td>
<td>22</td>
<td>10</td>
<td>0</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>129</td>
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<td>5</td>
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<td>1</td>
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<td>3</td>
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<td>9</td>
<td>8</td>
<td>135</td>
</tr>
<tr>
<td>Hungaria</td>
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<td>0</td>
<td>55</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>61</td>
<td>85</td>
<td>69</td>
<td>62</td>
<td>45</td>
<td>29</td>
<td>19</td>
<td>21</td>
<td>12</td>
<td>11</td>
<td>9</td>
<td>423</td>
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</tbody>
</table>
### 2.7. ESTONIA

#### 2.7.1 Adopted children in year 2005-2007 (decision on adoption made by court)

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adopted children all together</td>
<td>152</td>
<td>158</td>
<td>142</td>
</tr>
<tr>
<td>Boys</td>
<td>82</td>
<td>82</td>
<td>75</td>
</tr>
<tr>
<td>Girls</td>
<td>70</td>
<td>76</td>
<td>67</td>
</tr>
<tr>
<td>Adopted by spouse of the parent</td>
<td>87</td>
<td>81</td>
<td>57</td>
</tr>
<tr>
<td>Boys</td>
<td>50</td>
<td>36</td>
<td>31</td>
</tr>
<tr>
<td>Girls</td>
<td>37</td>
<td>45</td>
<td>26</td>
</tr>
<tr>
<td>Adopted to a new family in Estonia</td>
<td>49</td>
<td>57</td>
<td>54</td>
</tr>
<tr>
<td>Boys</td>
<td>25</td>
<td>31</td>
<td>24</td>
</tr>
<tr>
<td>Girls</td>
<td>24</td>
<td>26</td>
<td>30</td>
</tr>
<tr>
<td>Adopted by foreigner/international adoption</td>
<td>16</td>
<td>20</td>
<td>31</td>
</tr>
<tr>
<td>Boys</td>
<td>7</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td>Girls</td>
<td>9</td>
<td>5</td>
<td>11</td>
</tr>
</tbody>
</table>

*Source: Ministry of Social Affairs*

Unfortunately there is no statistics available about the numbers/proportion, how many of these adoptions constitute European adoption.

According to current practice, international adoptions from Estonia will happen only to Sweden, Finland and to United States of America, because only with these states (with authorized organizations of these states) there has been concluded conforming agreements.

Unfortunately there is no statistics available about the numbers, when the child or the parents have been nationals of Estonia.
2.8. **Finland**

### 2.8.1. Statistics of applicants between years 1985 - 2005

The statistic doesn't include applicants in year 2005 who have been granted an extension of a licence, have not been granted a licence or who have received 'other' decision.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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<td>1</td>
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<td>10</td>
<td>8</td>
<td>10</td>
<td>12</td>
<td>10</td>
<td>115</td>
<td>3.6</td>
</tr>
<tr>
<td>30-34</td>
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<td>19</td>
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<td>57</td>
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<td>73</td>
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</tr>
<tr>
<td>35-39</td>
<td>13</td>
<td>32</td>
<td>32</td>
<td>47</td>
<td>62</td>
<td>72</td>
<td>70</td>
<td>103</td>
<td>100</td>
<td>56</td>
<td>1105</td>
<td>35</td>
</tr>
<tr>
<td>40-44</td>
<td>8</td>
<td>12</td>
<td>26</td>
<td>34</td>
<td>58</td>
<td>59</td>
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<td>45-49</td>
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<td>5</td>
<td>18</td>
<td>19</td>
<td>22</td>
<td>23</td>
<td>33</td>
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<td>5</td>
<td>6</td>
<td>7</td>
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<td>34</td>
<td>68</td>
<td>84</td>
<td>129</td>
<td>209</td>
<td>219</td>
<td>182</td>
<td>295</td>
<td>335</td>
<td>194</td>
<td>3155</td>
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<th></th>
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<td>5</td>
<td>13</td>
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</tr>
<tr>
<td>30-34</td>
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<td>25</td>
<td>25</td>
<td>26</td>
<td>52</td>
<td>67</td>
<td>51</td>
<td>85</td>
<td>95</td>
<td>49</td>
<td>875</td>
<td>25</td>
</tr>
<tr>
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<td>35</td>
<td>57</td>
<td>91</td>
<td>71</td>
<td>82</td>
<td>111</td>
<td>109</td>
<td>68</td>
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<td>99</td>
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<td>86</td>
<td>144</td>
<td>230</td>
<td>244</td>
<td>223</td>
<td>342</td>
<td>373</td>
<td>212</td>
<td>3504</td>
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</table>

<table>
<thead>
<tr>
<th></th>
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<td>15</td>
<td>21</td>
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<td>41</td>
<td>49</td>
<td>38</td>
<td>13</td>
<td>345</td>
<td>9.8</td>
</tr>
<tr>
<td>---------------------</td>
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<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
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<td>------</td>
<td>------</td>
<td>-----------------------------</td>
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<td>No</td>
<td>25</td>
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<td>70</td>
<td>120</td>
<td>196</td>
<td>209</td>
<td>184</td>
<td>273</td>
<td>303</td>
<td>162</td>
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<td>82,3</td>
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<td>5</td>
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<td>13</td>
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<td>47</td>
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<td>13</td>
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<td>5</td>
<td>1</td>
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<td>0</td>
<td>3</td>
<td>8</td>
<td>5</td>
<td>7</td>
<td>73</td>
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</tr>
<tr>
<td>4 or more</td>
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<td>3</td>
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<td>1</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>0</td>
<td>4</td>
<td>31</td>
<td>31</td>
<td>0,9</td>
</tr>
<tr>
<td>Total</td>
<td>38</td>
<td>76</td>
<td>86</td>
<td>144</td>
<td>230</td>
<td>244</td>
<td>223</td>
<td>343</td>
<td>373</td>
<td>212</td>
<td>2291</td>
<td>100</td>
</tr>
</tbody>
</table>

Domicile of applicants according to province between years 1985 – 2005

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Southern Finland</td>
<td>118</td>
<td>100</td>
<td>140</td>
<td>136</td>
<td>135</td>
<td>182</td>
<td>173</td>
<td>92</td>
<td>1201</td>
<td>52,4</td>
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<tr>
<td>Western Finland</td>
<td>81</td>
<td>53</td>
<td>89</td>
<td>74</td>
<td>72</td>
<td>121</td>
<td>157</td>
<td>94</td>
<td>829</td>
<td>36,2</td>
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<tr>
<td>Eastern Finland</td>
<td>14</td>
<td>10</td>
<td>14</td>
<td>19</td>
<td>3</td>
<td>23</td>
<td>28</td>
<td>11</td>
<td>136</td>
<td>5,9</td>
</tr>
<tr>
<td>Oulu</td>
<td>10</td>
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<td>13</td>
<td>8</td>
<td>9</td>
<td>14</td>
<td>12</td>
<td>8</td>
<td>87</td>
<td>3,8</td>
</tr>
<tr>
<td>Lapland</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td>2</td>
<td>21</td>
<td>0,9</td>
</tr>
<tr>
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<td>3</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>14</td>
<td>14</td>
<td>0,6</td>
</tr>
<tr>
<td>No address in Finland</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>0,1</td>
</tr>
<tr>
<td>Total</td>
<td>230</td>
<td>168</td>
<td>259</td>
<td>244</td>
<td>223</td>
<td>343</td>
<td>373</td>
<td>212</td>
<td>2291</td>
<td>100</td>
</tr>
</tbody>
</table>
2.9. FRANCE

2.9.1 The table below gives the statistics coming from the High Instance Court:

<table>
<thead>
<tr>
<th>Nature of demand</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Demand</td>
<td>Decision</td>
<td>Duration</td>
<td>Demand</td>
</tr>
<tr>
<td>Single adoption</td>
<td>6394</td>
<td>6281</td>
<td>4.6</td>
<td>6455</td>
</tr>
<tr>
<td>Full adoption</td>
<td>3632</td>
<td>3794</td>
<td>3.0</td>
<td>3049</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nature of demand</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Demand</td>
<td>Decision</td>
<td>Duration</td>
</tr>
<tr>
<td>Single adoption</td>
<td>7222</td>
<td>6772</td>
<td>4.7</td>
</tr>
<tr>
<td>Full adoption</td>
<td>3683</td>
<td>3607</td>
<td>3.0</td>
</tr>
</tbody>
</table>

Source: ministère de la justice, répertoire général civil, DAGE - SDSED

It is, in addition, necessary to add to these figures those of the transcription’s requests. The Nantes’ parquet thus gives a report on 2000 requests for annual transcriptions concerning of the adoptions pronounced abroad. The parquet opposes a refusal to the request in approximately 10% of the cases (11, 2% in 2006 and 14,5% in 2005).
2.9.2

Evolution des nombres de pupilles de l'État, dont les enfants placés en vue d'adoption au 31 décembre, et des visas accordés pour des enfants étrangers suite à leur adoption, 1979-2005

Sources : (1) Direction générale de l'action sociale (DGAS), 1985-2003
(2) Observatoire national de l'enfance en danger (ONED), 2005
(3) Mission de l'adoption internationale (MAI), 1979-2005

2.9.3 International adoptions

It results from these statistics that in France, the number of adoptions international was multiplied by 4 in 25 years. However, a fall down was observed these last years.

Thus according to data’s collations by the Mission of the international adoption the number rises on:
- 3 162 in 2007
- 3 977 in 2006
- 4 136 in 2005
- 4 079 in 2004

In 2007, the international adoptions accounted for 80% of the adoptions pronounced in France. The reform of 2005 let hope for an increase in the number of adoptions. However, the reverse was observed, and since 2005, a reduction in all the adoptions took place: the number of adoption passed from nearly 5000 children to a little less than 4000 in 2007.
In France, the number of international adoptions are 5 per 100,000 inhabitants and 4 per 1000 births.

### 2.9.4 State of origin

The table below makes possible to compare the first 10 States of origin for France:

<table>
<thead>
<tr>
<th>First 10 states of origin for France within the period 1980-1999</th>
<th>First 10 states of origin for France within the period 2000-2007</th>
<th>First 10 states of origin for France in 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vietnam</td>
<td>Haiti</td>
<td>Ethiopia</td>
</tr>
<tr>
<td>South Korea</td>
<td>Columbia</td>
<td>Haiti</td>
</tr>
<tr>
<td>Brazil</td>
<td>Vietnam</td>
<td>Russia</td>
</tr>
<tr>
<td>Columbia</td>
<td>Ethiopia</td>
<td>Columbia</td>
</tr>
<tr>
<td>Rumania</td>
<td>Russia</td>
<td>Vietnam</td>
</tr>
<tr>
<td>India</td>
<td>China</td>
<td>China</td>
</tr>
<tr>
<td>Madagascar</td>
<td>Madagascar</td>
<td>Mali</td>
</tr>
<tr>
<td>Poland</td>
<td>Guatemala</td>
<td>Ukraine</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>Ukraine</td>
<td>Thailand</td>
</tr>
<tr>
<td>Chile</td>
<td>Bulgaria</td>
<td>Burkina Faso</td>
</tr>
</tbody>
</table>

### 2.9.5

Regarding the European adoptions of children in France the figures are as follows:

- In 2007: 659 adoptions
- In 2006: 670, i.e. 17%.
- In 2005: 652, i.e. 16%.

We take over 26 adoptions in 2006 of children whose country of origin is Poland. France is one of the countries which adopt more in Poland, Latvia and Ukraine.

### 2.9.6. European adoption since 1980 and for 2008

<table>
<thead>
<tr>
<th>Country</th>
<th>2008</th>
<th>Since 1980</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>21</td>
<td>1693</td>
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<tr>
<td>Estonia</td>
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<td>6</td>
</tr>
<tr>
<td>Hungary</td>
<td>1</td>
<td>114</td>
</tr>
<tr>
<td>Latvia</td>
<td>34</td>
<td>892</td>
</tr>
<tr>
<td>Lithuania</td>
<td>18</td>
<td>257</td>
</tr>
<tr>
<td>Poland</td>
<td>19</td>
<td>1957</td>
</tr>
<tr>
<td>Portugal</td>
<td>4</td>
<td>16</td>
</tr>
<tr>
<td>Country</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>------------</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Romania</td>
<td>0</td>
<td>3352</td>
</tr>
<tr>
<td>Slovakia</td>
<td>0</td>
<td>28</td>
</tr>
</tbody>
</table>
### 2.10. Germany

<table>
<thead>
<tr>
<th>Country of origin of the children</th>
<th>Kind of adoption</th>
<th>Born in Germany</th>
<th>Already adopted in foreign countries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>a)  b)  c)</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>Armenia</td>
<td>-    2    -</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1    -    1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Bosnia</td>
<td>1    2    1</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>1    -    1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cameroon</td>
<td>-    2    -</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>China</td>
<td>-    1    -</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Columbia</td>
<td>-    2    -</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Croatia</td>
<td>1    -    1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>8    5    -</td>
<td>13</td>
<td>-</td>
</tr>
<tr>
<td>Dominican Republic</td>
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<td>7</td>
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</tr>
<tr>
<td>Ecuador</td>
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<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Eritrea</td>
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<td>-</td>
<td>-</td>
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<td>3</td>
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</tr>
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<td>Germany</td>
<td>3    30   1</td>
<td>34</td>
<td>32</td>
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<td>Ghana</td>
<td>-    1    -</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Haiti</td>
<td>3    -    3</td>
<td>-</td>
<td>3</td>
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<tr>
<td>India</td>
<td>5    -    5</td>
<td>-</td>
<td>-</td>
</tr>
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<td>Irak</td>
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<td>1</td>
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<td>Iran</td>
<td>-    1    -</td>
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<td>Italia</td>
<td>-    2    2</td>
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<td>Jordan</td>
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<td>2</td>
<td>-</td>
</tr>
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<td>Kenya</td>
<td>1    1    2</td>
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<td>-    -    3</td>
<td>-</td>
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<td>Nepal</td>
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<td>1    2    2</td>
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<td>Poland</td>
<td>-    8    8</td>
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<tr>
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</tr>
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<td>Russia</td>
<td>-    16   16</td>
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<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Serbia</td>
<td>1    4    1</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Slovakia</td>
<td>1    1    2</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Tadzhikistan</td>
<td>-    1    -</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Taiwan</td>
<td>-    1    -</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Thailand</td>
<td>4    4    8</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Turkey</td>
<td>2    4    4</td>
<td>10</td>
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</tr>
<tr>
<td>Ukraine</td>
<td>-    7    2</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>USA</td>
<td>1    1    2</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>-    1    -</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Vietnam</td>
<td>2    2    4</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>White Russia</td>
<td>-    3    3</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Miscellaneous</td>
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<td>1</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>50</strong> <strong>129</strong> <strong>17</strong></td>
<td><strong>196</strong></td>
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<td>----------------------------------</td>
<td>------</td>
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<tr>
<td>Camerun</td>
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<tr>
<td>Dominican Republic</td>
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<td>-</td>
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<td>Ecuador</td>
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<tr>
<td>Ethiopia</td>
<td>1</td>
<td>1</td>
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</tr>
<tr>
<td>Guatemala</td>
<td>1</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>Haiti</td>
<td>1</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Indonesia</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>Italy</td>
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<td>3</td>
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<tr>
<td>Phillipines</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>Rep. Dem. of Congo</td>
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</tr>
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<td>Serbia</td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Taiwan</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Thailand</td>
<td>-</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Turkey</td>
<td>-</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>Vietnam</td>
<td>1</td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4</strong></td>
<td><strong>35</strong></td>
<td><strong>23</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Recorded applications</th>
<th>Application files sent to foreign countries</th>
<th>Finished mediations</th>
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<tbody>
<tr>
<td>2002</td>
<td>67</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>2003</td>
<td>66</td>
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<tr>
<td>2004</td>
<td>69</td>
<td>34</td>
<td>23</td>
</tr>
<tr>
<td>2005</td>
<td>67</td>
<td>44</td>
<td>20</td>
</tr>
<tr>
<td>2006</td>
<td>64</td>
<td>25</td>
<td>16</td>
</tr>
<tr>
<td>2007</td>
<td>59</td>
<td>39</td>
<td>26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>392</strong></td>
<td><strong>183</strong></td>
<td><strong>99</strong></td>
</tr>
</tbody>
</table>
2.11. **GREECE**

### 2.11.1 Adoptions by age and category of adoptees. Year 2005.

<table>
<thead>
<tr>
<th>Category of adoptees</th>
<th>Age of adoptees</th>
<th>0-5</th>
<th>6-10</th>
<th>11-18</th>
<th>19 -</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Years</td>
<td>Years</td>
<td>Years</td>
<td>and over</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>603</td>
<td>381</td>
<td>28</td>
<td>68</td>
<td>126</td>
<td></td>
</tr>
<tr>
<td>Adopted by husband and wife</td>
<td>409</td>
<td>347</td>
<td>16</td>
<td>13</td>
<td>33</td>
<td></td>
</tr>
<tr>
<td>Adopted by one of them</td>
<td>194</td>
<td>34</td>
<td>12</td>
<td>55</td>
<td>93</td>
<td></td>
</tr>
<tr>
<td>Legitimate</td>
<td>279</td>
<td>74</td>
<td>22</td>
<td>60</td>
<td>123</td>
<td></td>
</tr>
<tr>
<td>Adopted by husband and wife</td>
<td>113</td>
<td>60</td>
<td>11</td>
<td>11</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>Adopted by one of them</td>
<td>166</td>
<td>14</td>
<td>11</td>
<td>49</td>
<td>92</td>
<td></td>
</tr>
<tr>
<td>Illegitimate</td>
<td>324</td>
<td>307</td>
<td>6</td>
<td>8</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Adopted by husband and wife</td>
<td>296</td>
<td>287</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Adopted by one of them</td>
<td>28</td>
<td>20</td>
<td>1</td>
<td>6</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

*Source: Ministry of Health and Welfare*
2.11.2 Adoptions by geographic region and sex. Year 2005.

<table>
<thead>
<tr>
<th>Geographic region</th>
<th>Total 2004</th>
<th>2005</th>
<th>Males 2005</th>
<th>Females 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater Athens</td>
<td>213</td>
<td>248</td>
<td>134</td>
<td>114</td>
</tr>
<tr>
<td>Rest of central Greece and Avia</td>
<td>9</td>
<td>33</td>
<td>15</td>
<td>18</td>
</tr>
<tr>
<td>Peloponese</td>
<td>12</td>
<td>22</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Ionian Islands</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Thessalia</td>
<td>22</td>
<td>30</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Ipiros</td>
<td>6</td>
<td>8</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Macedonia</td>
<td>168</td>
<td>178</td>
<td>94</td>
<td>84</td>
</tr>
<tr>
<td>Thraki</td>
<td>15</td>
<td>18</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>Aegian Islands</td>
<td>6</td>
<td>12</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Kriti</td>
<td>38</td>
<td>51</td>
<td>28</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: Ministry of Health and Welfare

2.11.3 Total
- 2005=342 legal decisions relating to adoption
- 2006=352 legal decisions relating to adoption

These figures have been communicated to us by the person in charge of the 1st instance Court of Athens.

According to the tables, we can withdraw the following conclusions from them:

The adoptions in 2006 increased approximately 5% compared to the year 2005.

In the two years, the adoptions of boys are more numerous than those of the girls.

The age of preference to adopt a child is from his birth to 5 years old and as great majority it’s about children born outside marriage.

The greatest number of adoptions concentrates in the urban centres, such Athens and Macedonia.
2.12. HUNGARY

2.12.1 National statistics

The Ministry of Social Affairs and Labour made the national statistics available.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>773</td>
<td>738</td>
</tr>
<tr>
<td>National adoptions</td>
<td>675</td>
<td>600</td>
</tr>
<tr>
<td>International adoptions</td>
<td>98</td>
<td>138</td>
</tr>
</tbody>
</table>

From this figure above the number of adoptions approved for foreign citizens was 88 in 2005 and 127 in 2006. The decisions on approval of adoption of infants with foreign nationality numbered 10 in 2005 and 11 in 2006.

In 2005 and 2006 there is no statistics on the number of European adoptions within international adoptions.

2.12.2 Local statistics

Local statistics:

The number of approved adoptions in Veszprém County amounted to 13 in 2005 and 6 in 2006.

The number of international adoptions in Veszprém County amounted to 1 in 2005 and 0 in 2006.

From this figure above the number of adoptions approved for foreign citizens was 1 in 2005 and 0 in 2006.

In the course of adoption, it is the municipal guardianship authority (or the district guardianship authority in Budapest) who will decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt and approve adoption.

Local statistics:

The number of approved adoptions in Borsod-Abaúj-Zemplén County amounted to 44 in 2005. This number included 18 international adoptions, in all cases the parents were foreigners.

The municipal guardianship authority makes decision on approving adoption.
Local statistics:
The number of adoptions approved in Bács-Kiskun County was 29 in 2005 and 19 in 2006. All of them were national adoptions.

In the course of adoption it is the municipal guardianship authority (or the district guardianship authority in Budapest) who shall decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt, and approve adoption.

Local statistics:
The number of adoptions approved by MGA Székesfehérvár was 5 in 2005, and 10 in 2006. In these two years there was no international adoption.

In the course of adoption it is the municipal guardianship authority who shall decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt, and approve adoption.

Local statistics:
The number of adoptions approved in Baranya County was 23 in 2005 and 6 in 2006.

The number of international adoptions in Baranya County amounted to 3 in 2005 and 0 in 2006. From this figure above the number of adoptions approved for foreign citizens was 3 in 2005 and 0 in 2006.

In the course of adoption it is the municipal guardianship authority (or the district guardianship authority in Budapest) who shall decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt, and approve adoption.

Local statistics:
The number of adoptions approved by the MGA Szombathely amounted to 10 in 2005 and 5 in 2006. All of them were national adoptions.

In the course of adoption, it is the municipal guardianship authority (or the district guardianship authority in Budapest) who will decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt and approve adoption.

Local statistics:
The number of adoptions approved in Hajdú-Bihar County amounted to 34 in 2005 and 38 in 2006. The number of international adoptions in Hajdú-Bihar County amounted to 6 in 2005 and 9 in 2006. From this figure above the number of adoptions approved for foreign citizens was 6 in 2005 and 9 in 2006. The number of European adoptions was 6 in 2005 and 5 in 2006.

In the course of adoption it is the municipal guardianship authority (or the district guardianship authority in Budapest) who shall decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt, and approve adoption.

Local statistics:
The number of adoption approved by the MGA Miskolc was 9 in 2005 and 14 in 2006.
The number of international adoptions approved by MGA Miskolc amounted to 2 in 2005 and 3 in 2006. All of them were European adoptions.

Most of the foreign parents came from Italy and usually they adopted 2-3 brothers and sisters,

In the course of adoption, it is the municipal guardianship authority (or the district guardianship authority in Budapest) who will decide and make decision in material matters such as application for declaring the person intending to adopt a child are eligible and suited to adopt and approve adoption.
2.13. **IRELAND**

**DEVELOPMENTS IN 2005**

2.13.1 Domestic Adoption

2.13.1.1 ADOPTION ORDERS

In 2005, the Adoption Board received a total of 300 applications for domestic adoption orders\(^1\). Of these, 225 applications were made in respect of family adoptions and 75 applications were made in respect of non-family adoptions. The Adoption Board granted a total of 253\(^2\) adoption orders in 2005 and of these 191\(^3\) orders was granted in respect of family adoptions. In Ireland, the majority of family adoption applications are made in step-parent situations, where the natural mother has married a man who is not the natural father of the child. Applications in these circumstances are made in order to establish legal rights and responsibilities between the child and the natural mother’s husband. In 2005, 184 adoption orders or 73% of all orders granted were in favour of the child’s mother and her husband.\(^4\) In addition, 62 adoption orders were made in respect of non-family adoptions, involving children placed for adoption by registered adoption societies and the Health Service Executive. Of these, 16 children were in long-term foster care and were adopted by their foster parents.\(^5\)

2.13.1.2 AGE

In 2005, the majority of adopted children were between 10 and 18 years of age at the date of the Irish adoption order, with a significant percentage (17%) between 18 and 21 years of age. Only 28% of children were under 10 years of age at the date of the adoption order in 2005.\(^6\)

The majority of adoptive parents were between 30 and 40 years of age at the date of the Irish adoption order, with a significant percentage (17%) between 18 and 30 years of age and a further 18% over 40 years of age.\(^7\) Although figures are not available with regard to the age gap between adoptive parents and adoptive children, the available figures suggest that the average age gap between adoptive parents and adoptive children in 2005 was 20 to 22 years.

2.13.1.3 TIMEFRAME

In 2005, the majority of adoptions, or 43%, took between 12 to 18 months to finalise from the date of application to the date of the adoption order. In the same year, 32% of adoptions took over 18 months to finalise, with 19% of those taking over 2 years to finalise from the date of application. In addition, 25% of adoptions took up to 10 months to finalise, with only 3% of those taking less than 6 months.\(^8\)

In 2005, 45% of non-family adoptions took between 10 to 18 months from the date of placement of the adoptive child to the date of the adoption order. In the same year, 22% of non-family adoptions took over 5 years.\(^9\)

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\(^1\) See Table 2, Annex
\(^2\) Table 2, Annex
\(^3\) Table 3; Chart 2, Annex
\(^4\) Table 4; Chart 3, Annex
\(^5\) Table 6; Chart 4, Annex
\(^6\) Table 7; Chart 5, Annex
\(^7\) Table 8; Chart 6, Annex
\(^8\) Table 9; Chart 7, Annex
\(^9\) Table 10; Chart 8, Annex
2.13.2 Natural Fathers

Under Irish law, natural fathers have a right to be notified of an adoption application and are provided the opportunity to inform the Adoption Board of their views in relation to same. The Adoption Act, 1988 sets out the rights of the natural father and the Board’s obligations in relation to same. In practice, the Adoption Board notifies the natural father that an application for adoption has been made and he is thereafter given the opportunity to speak to the Board’s social workers with regard to the application. The natural father also has the option of being heard at a full hearing when he is notified of an adoption application.

In 2005, three natural fathers were heard by the Adoption Board in respect of applications for domestic adoption orders relating to their children and one natural father was heard with regard to an application pursuant to the Adoption Act, 1988.10

The Adoption Board notified 132 natural fathers who did not request or failed to attend a hearing with the Board in relation to an application for an adoption order in respect of their child.11


The 1988 Act further provides for the adoption of legitimate or illegitimate children without parental consent where the Irish High Court determines that the parents have failed in their constitutional obligation to care for their child. In such circumstances, the Adoption Board initially determines the suitability of the applicants and if the Board finds that it would be proper to make an adoption order in favour of the applicants, the application is adjourned pending a decision of the High Court. In such circumstances, the Adoption Board is required under the 1988 Act to hear from the applicants, the child where appropriate, its own welfare officer and local representatives of the Health Service Executive (HSE). The Adoption Board also offers a hearing to the natural mother and father in each case. In 2005, the Adoption Board did not hear from any natural mothers in relation to such cases.

In 2005, the Adoption Board made 3 adoption orders pursuant to an order of the Irish High Court under the 1988 Act. According to the Adoption Board’s research, 1 of the adoption orders was in respect of a child of a marriage and 2 were in respect of extra-marital children. By the end of 2005, the Adoption Board had 20 adoption applications before it which were being processed under the provisions of the Adoption Act, 1988.

2.13.4. Intercountry/Foreign Adoption

In 2005, 366 entries were made in the Register of Foreign Adoptions.12 This figure represents a decrease of 32 entries from the previous year, however as Table 14 highlights, Ireland has seen a significant increase in the number of entries into the Register of Foreign Adoptions in recent years.

2.13.4.1 DECLARATIONS OF ELIGIBILITY AND SUITABILITY

The Adoption Board granted 403 Declarations of Eligibility and Suitability to adopt abroad in 2005 and the Adoption Board’s research indicates that of these, 18 declarations were in respect of twins or two siblings.13 In 2005 the average time for a Declaration of Eligibility and Suitability to be granted by the Adoption Board was 5 weeks, provided the application was correct and complete upon receipt by the Adoption Board.

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10 Table II; Chart 9.
11 Table II; Chart 9.
12 Table II; Chart 9.
13 Table II; Chart 10.
The Adoption Board granted a total of 254 extensions in 2005, and of these 181 were first extensions. Declarations of Eligibility and Suitability are only valid for twelve months, and therefore the figures highlight the difficulty many applicants have in adopting within the limited timeframe of twelve months.

2.13.4.2 COUNTRIES

a. BELARUS

In October 2004 Belarus suspended intercountry adoptions to all countries in order to conduct a comprehensive review of adoption laws, procedures and practices applicable in intercountry adoptions. This suspension continued throughout 2005 which resulted in 17 applications remaining suspended in 2005. Despite the suspension, however, two children were adopted into Ireland from Belarus and entered into the Register of Foreign Adoptions in 2005.¹⁴

b. RUSSIA

During 2005, 131 entries or 38% of the total entries in the Register of Foreign Adoptions were made respect of Russian adoptions.¹⁵

c. CHINA

A total of 52 adoptions effected in China were entered in the Register of Foreign Adoptions in 2005.¹⁶ The Adoption Board's research indicates that 90 applications were submitted to the China Centre of Adoption Affairs in 2005, representing an increase of 33 from 2004. According to the statistics available from the Adoption Board, it takes approximately seven months for a referral to issue from the time the application is received by the China Centre of Adoption Affairs.

d. VIETNAM

In July 2004 the Agreement on Mutual Cooperation between Ireland and the Socialist Republic of Vietnam came into effect, thereby allowing adoptions between the countries to commence following an 18 month closure on any such adoptions. Under the Agreement, Vietnamese Authorities were required to select and license an Irish registered mediation agency to facilitate adoptions between Vietnam and Ireland.

In May 2005, prior to the licensing of a mediation agency, the Vietnamese Authorities proposed that a single facilitator, who was not a Vietnamese citizen living in Vietnam, fulfil this role for a twelve month period. This arrangement allowed adoptions between Ireland and Vietnam to begin in the face of the humanitarian crisis in Vietnamese orphanages following the closure of Vietnam for intercountry adoption in 2002.

During 2005, 107 applications were submitted to the Vietnamese authorities. A total of 92 adoption entries were made in the Register of Foreign Adoptions in respect of adoptions effected in Vietnam.

¹⁴ Table 13; Chart II.
¹⁵ Table 13; Chart II.
¹⁶ Table 13; Chart II.
<table>
<thead>
<tr>
<th>Year</th>
<th>Entries into the Register of Foreign Adoptions</th>
<th>Declarations granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>61</td>
<td>4</td>
</tr>
<tr>
<td>1992</td>
<td>301</td>
<td>40</td>
</tr>
<tr>
<td>1993</td>
<td>53</td>
<td>54</td>
</tr>
<tr>
<td>1994</td>
<td>44</td>
<td>63</td>
</tr>
<tr>
<td>1995</td>
<td>52</td>
<td>109</td>
</tr>
<tr>
<td>1996</td>
<td>72</td>
<td>117</td>
</tr>
<tr>
<td>1997</td>
<td>84</td>
<td>176</td>
</tr>
<tr>
<td>1998</td>
<td>147</td>
<td>206</td>
</tr>
<tr>
<td>1999</td>
<td>191</td>
<td>242</td>
</tr>
<tr>
<td>2000</td>
<td>225</td>
<td>282</td>
</tr>
<tr>
<td>2001</td>
<td>179</td>
<td>391</td>
</tr>
<tr>
<td>2002</td>
<td>357</td>
<td>399</td>
</tr>
<tr>
<td>2003</td>
<td>358</td>
<td>468</td>
</tr>
<tr>
<td>2004</td>
<td>398</td>
<td>461</td>
</tr>
<tr>
<td>2005</td>
<td>366</td>
<td>403</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2,888</td>
<td>3,415</td>
</tr>
</tbody>
</table>
### Foreign Adoptions: Non-EU Member States

<table>
<thead>
<tr>
<th>Country</th>
<th>Orders Made</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>26</td>
</tr>
<tr>
<td>Argentina</td>
<td>1</td>
</tr>
<tr>
<td>Australia</td>
<td>3</td>
</tr>
<tr>
<td>Canada</td>
<td>6</td>
</tr>
<tr>
<td>China</td>
<td>34</td>
</tr>
<tr>
<td>Columbia</td>
<td>1</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>1</td>
</tr>
<tr>
<td>Japan</td>
<td>1</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>15</td>
</tr>
<tr>
<td>Mexico</td>
<td>6</td>
</tr>
<tr>
<td>Russia</td>
<td>143</td>
</tr>
<tr>
<td>Singapore</td>
<td>2</td>
</tr>
<tr>
<td>Switzerland</td>
<td>2</td>
</tr>
<tr>
<td>Taiwan</td>
<td>1</td>
</tr>
<tr>
<td>Thailand</td>
<td>6</td>
</tr>
<tr>
<td>Ukraine</td>
<td>12</td>
</tr>
<tr>
<td>USA</td>
<td>33</td>
</tr>
<tr>
<td>Vietnam</td>
<td>70</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>363</strong></td>
</tr>
</tbody>
</table>
2.14. **ITALY**

<table>
<thead>
<tr>
<th>Year 2005</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>National adoptions</td>
<td>3188</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>International adoptions</td>
<td>3420</td>
</tr>
</tbody>
</table>
2.15. **LATVIA**

According to information published in the website of the Ministry of Children and Family Affairs, in 2006 most of the children adopted from a foreign country were adopted from France (83 children), followed by Italy (41 children) and by USA (21 children), while the situation was considerably different in 2007. In 2007, most of the children were adopted to the USA (46 children), followed by Italy (36 children) and France (30 children). One child was adopted to Spain and one to Sweden.

<table>
<thead>
<tr>
<th>Year 2005</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>171</td>
</tr>
<tr>
<td>National adoptions</td>
<td>60</td>
</tr>
<tr>
<td>International adoptions</td>
<td>111</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>235</td>
</tr>
<tr>
<td>National adoptions</td>
<td>88</td>
</tr>
<tr>
<td>International adoptions</td>
<td>147</td>
</tr>
</tbody>
</table>
### 2.16. Lithuania

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National adoptions</strong></td>
<td>82 court decisions (88 children adopted)</td>
<td>99 court decisions (106 children adopted)</td>
</tr>
<tr>
<td><strong>International adoptions</strong></td>
<td>76 court decisions (108 children adopted)</td>
<td>88 court decisions (125 children adopted)</td>
</tr>
<tr>
<td>The child is national</td>
<td>108 (100 %)</td>
<td>125 (100 %)</td>
</tr>
<tr>
<td>The parents are national</td>
<td>3 (3,9 %)</td>
<td>4 (4,5 %)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>196</td>
<td>231</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>International adoptions</strong></td>
<td>76 decisions (108 children adopted)</td>
<td>88 decisions (125 children adopted)</td>
</tr>
<tr>
<td>From them European adoptions</td>
<td>61 decision (80,2 %)</td>
<td>72 decisions (81,8 %)</td>
</tr>
<tr>
<td>The child is national</td>
<td>100 %</td>
<td>100 %</td>
</tr>
<tr>
<td>The parents are national</td>
<td>0 %</td>
<td>3 decisions (4,2 %)</td>
</tr>
</tbody>
</table>

#### Inclusion in the registry of prospective adoptive parents

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National adoptions</strong></td>
<td>111 families</td>
<td>108 families</td>
</tr>
<tr>
<td><strong>International adoptions</strong></td>
<td>124 families</td>
<td>120 families</td>
</tr>
<tr>
<td>From them European adoptions</td>
<td>106 families</td>
<td>81 families</td>
</tr>
</tbody>
</table>

#### Suggestion of the adoptive children:

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National adoptions</strong></td>
<td>175</td>
<td>161</td>
</tr>
<tr>
<td><strong>International adoptions</strong></td>
<td>23</td>
<td>36</td>
</tr>
</tbody>
</table>

#### 4. Court`s decision:

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>National adoptions</strong></td>
<td>82</td>
<td>99</td>
</tr>
<tr>
<td><strong>International adoptions</strong></td>
<td>76</td>
<td>88</td>
</tr>
<tr>
<td>From them European adoptions</td>
<td>61</td>
<td>72</td>
</tr>
</tbody>
</table>
Total number of international adoptions (with a Member States of the European Union) from Lithuania 2006-2008

<table>
<thead>
<tr>
<th>Adoptions with a Member States of the European Union</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Spain</td>
<td>6</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>64</td>
<td>74</td>
<td>58</td>
</tr>
<tr>
<td>Poland</td>
<td>1</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>France</td>
<td>21</td>
<td>27</td>
<td>14</td>
</tr>
<tr>
<td>Finland</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Sweden</td>
<td>6</td>
<td>10</td>
<td>7</td>
</tr>
<tr>
<td>Denmark</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 2.17. **Luxembourg**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>National</th>
<th>International</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2006</strong></td>
<td>48</td>
<td>35</td>
<td>13</td>
</tr>
<tr>
<td><strong>2007</strong></td>
<td>35</td>
<td>24</td>
<td>11</td>
</tr>
</tbody>
</table>
In 2005, there were 62 decisions on adoption.\(^{17}\)

<table>
<thead>
<tr>
<th>Year 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>National</td>
</tr>
<tr>
<td>International</td>
</tr>
</tbody>
</table>

In 2006, there were 77 decisions on adoption.\(^{18}\)

<table>
<thead>
<tr>
<th>Year 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>National</td>
</tr>
<tr>
<td>International</td>
</tr>
</tbody>
</table>

In 2005, there was 1 European Adoption \(^{19}\) (1 Rumania)

In 2006, there were 4 European Adoptions (1 from UK, 2 from Bulgaria, 1 from Albania).

\(^{17}\) The term “Decision on Adoption” refers to Court decrees on adoption and Court judgments recognizing international adoptions.

\(^{18}\) Data retrieved from internal Statistics kept at the Department of Social Welfare Standards, Ministry of Social Policy, Malta

\(^{19}\) For the purposes of this study, Russia has not been considered together with European adoptions but as international adoptions. However, it is important to note that in 2005 there were 10 adoptions from Russia and in 2006 there were 29 adoptions from Russia
2.19. NETHERLANDS

2.19.1 Statistics

<table>
<thead>
<tr>
<th>Period</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court adoption, such to include:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regular adoption</td>
<td>1474</td>
<td>994</td>
</tr>
<tr>
<td>Partner adoption</td>
<td>1205</td>
<td>763</td>
</tr>
<tr>
<td>Adoption via The Hague Adoption Convention</td>
<td>246</td>
<td>222</td>
</tr>
<tr>
<td>Total</td>
<td>1720</td>
<td>1216</td>
</tr>
</tbody>
</table>

2.19.2 Adoption based on country of origin

The table below elaborates how many adopted children come from the Netherlands and from abroad, with the exception of partner adoption. The information regards the requests for adoption lodged with the Dutch Courts and adoptions via The Hague Adoption Convention.

<table>
<thead>
<tr>
<th>Period</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children from the Netherlands</td>
<td>54</td>
<td>42</td>
</tr>
<tr>
<td>Children from abroad</td>
<td>1420</td>
<td>952</td>
</tr>
<tr>
<td>Total</td>
<td>1474</td>
<td>994</td>
</tr>
</tbody>
</table>

The next table provides, of the children adopted in 2006, the country of origin. Here a distinction is made between requests for adoption lodged with the Dutch Courts and adoptions via The Hague Adoption Convention.

<table>
<thead>
<tr>
<th>Country of origin</th>
<th>Court adoptions</th>
<th>Adoptions via The Hague Adoption Convention</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td></td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Colombia</td>
<td>2</td>
<td>80</td>
<td>82</td>
</tr>
<tr>
<td>Brazil</td>
<td>1</td>
<td>14</td>
<td>15</td>
</tr>
<tr>
<td>Peru</td>
<td></td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Ecuador</td>
<td></td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>China</td>
<td>467</td>
<td></td>
<td>467</td>
</tr>
<tr>
<td>Philippines</td>
<td>8</td>
<td>10</td>
<td>18</td>
</tr>
<tr>
<td>India</td>
<td>19</td>
<td>15</td>
<td>34</td>
</tr>
<tr>
<td>South Korea</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td></td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Taiwan</td>
<td>23</td>
<td></td>
<td>23</td>
</tr>
<tr>
<td>Thailand</td>
<td>17</td>
<td>16</td>
<td>33</td>
</tr>
<tr>
<td>South Africa</td>
<td>1</td>
<td>50</td>
<td>51</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>54</td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>Other countries</td>
<td>128</td>
<td>6</td>
<td>134</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>952</td>
</tr>
</tbody>
</table>
2.19.3 Adoptions based on length of the procedure

The next table assumes the data related to the requests for adoption lodged with the Dutch Courts in 2006. A distinction is made between regular adoptions and partner adoptions. Adoptions that fall under the scope of The Hague Adoption Convention have not been included. The table indicates the interval of time between the start of the legal proceedings at the Court and the judgment of the Court.

<table>
<thead>
<tr>
<th></th>
<th>Regular adoptions</th>
<th>Partner adoptions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 3 months</td>
<td>437</td>
<td>111</td>
<td>548</td>
</tr>
<tr>
<td>3 to 6 months</td>
<td>209</td>
<td>71</td>
<td>280</td>
</tr>
<tr>
<td>6 months to 1 year</td>
<td>51</td>
<td>22</td>
<td>73</td>
</tr>
<tr>
<td>1 year and more</td>
<td>66</td>
<td>18</td>
<td>84</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>763</strong></td>
<td><strong>222</strong></td>
<td><strong>985</strong></td>
</tr>
</tbody>
</table>

2.19.4 Number of simultaneously adopted children

The data in the table below are based on the requests for adoption lodged with the Dutch Courts. Mentioned are the adoption families of which the adoption request has been adjudged. A distinction is made between families who simultaneously adopted 1, 2 or more children. The data are related to the regular adoptions and the partner adoptions. Adoptions via The Hague Adoption Convention have not been included.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 child</td>
<td>1319</td>
<td>875</td>
</tr>
<tr>
<td>2 children simultaneously</td>
<td>53</td>
<td>50</td>
</tr>
<tr>
<td>3 or more children simultaneously</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total families involved in adoption</strong></td>
<td><strong>1380</strong></td>
<td><strong>928</strong></td>
</tr>
</tbody>
</table>

2.19.5 Procedure regarding the placement of foreign adopted children

The following table provides an overview of the procedure for the placement of a foreign adopted child.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request for grant of principle permission</td>
<td>3135</td>
<td>3197</td>
</tr>
<tr>
<td>Granted principle permissions</td>
<td>1446</td>
<td>1644</td>
</tr>
<tr>
<td>Withdrawals of the request for grant of principle permission</td>
<td>1218</td>
<td>1230</td>
</tr>
<tr>
<td>Rejections in connection with unsuitability of the adopting parents</td>
<td>20</td>
<td>25</td>
</tr>
<tr>
<td>Rejections in connection with overstepping of the age limit</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>Rejections in connection with premature application for second or subsequent child</td>
<td>93</td>
<td>103</td>
</tr>
<tr>
<td>Rejections other</td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>
2.19.6 Below the breakdown of the number of requests for principle permission.

<table>
<thead>
<tr>
<th>Period</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>For a 1st child</td>
<td>2578</td>
<td>2569</td>
</tr>
<tr>
<td>For a 2nd child</td>
<td>435</td>
<td>543</td>
</tr>
<tr>
<td>For a 3rd child</td>
<td>106</td>
<td>77</td>
</tr>
<tr>
<td>For a 4th and subsequent child</td>
<td>16</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3135</td>
<td>3197</td>
</tr>
</tbody>
</table>

2.19.7 An overview of the number of granted principle permissions.

<table>
<thead>
<tr>
<th>Period</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>For a 1st child</td>
<td>984</td>
<td>1115</td>
</tr>
<tr>
<td>For a 2nd child</td>
<td>370</td>
<td>446</td>
</tr>
<tr>
<td>For a 3rd child</td>
<td>78</td>
<td>76</td>
</tr>
<tr>
<td>For a 4th and subsequent child</td>
<td>14</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1446</td>
<td>1644</td>
</tr>
</tbody>
</table>

2.19.8

The table below provides an overview of the length of the procedure at the Courts in the Netherlands. A distinction is made between regular adoptions and partner adoptions. This table does not include the adoptions via The Hague Adoption Convention. The table provides the interval of time between the submission of the request up to and including the judgment of the Court.

<table>
<thead>
<tr>
<th></th>
<th>Regular adoptions</th>
<th>Partner adoptions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 3 months</td>
<td>437</td>
<td>111</td>
<td>548</td>
</tr>
<tr>
<td>3 to 6 months</td>
<td>209</td>
<td>71</td>
<td>280</td>
</tr>
<tr>
<td>6 months to 1 year</td>
<td>51</td>
<td>22</td>
<td>73</td>
</tr>
<tr>
<td>1 year and more</td>
<td>66</td>
<td>18</td>
<td>84</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>763</td>
<td>222</td>
<td>985</td>
</tr>
</tbody>
</table>

It follows from the reactions of the lawyers that the average time between the submission of the petition and the judgment is 4 to 5 weeks, if the verbal hearing is waived, and 8 to 12 weeks if a verbal hearing does take place. An appeal deadline of three months is to be taken into account before the judgment becomes definitive.

2.19.9. Children that were adopted from several European countries to the Netherlands during the last five years

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>22</td>
<td>30</td>
<td>25</td>
<td>29</td>
<td>28</td>
</tr>
</tbody>
</table>
The following table provides an overview of the rejections and withdrawals of an adoption procedure.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawals of the request for award of principle permission</td>
<td>1218</td>
<td>1230</td>
</tr>
<tr>
<td>Rejections in connection with unsuitability of the adopting parents</td>
<td>20</td>
<td>25</td>
</tr>
<tr>
<td>Rejections in connection with overstepping of the age limit</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>Rejections in connection with premature application second or subsequent child</td>
<td>93</td>
<td>103</td>
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<tr>
<td>Rejections other</td>
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### 2.20. **POLAND**

<table>
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<th>Years</th>
<th>Incoming</th>
<th>Ruled</th>
<th>Altogether (in cases)</th>
<th>Allocated altogether</th>
<th>Adoptions previously accepted by the parents</th>
<th>Left for the next term</th>
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</thead>
<tbody>
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<td>2005</td>
<td>3011</td>
<td>2930</td>
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<td>701</td>
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<td>3126</td>
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2.21. **PORTUGAL**

<table>
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2.22. **Rumania**

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<tbody>
<tr>
<td>Total</td>
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Total of families=1386
Total adoptions in 2006
Total adoptions in 2006 according to age groups and sex :1421

<table>
<thead>
<tr>
<th>Number of girls adopted in 2006</th>
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<td>1 – 4</td>
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<tr>
<td>5 – 9</td>
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<tr>
<td>10+</td>
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<table>
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<tr>
<td>5 – 9</td>
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<tr>
<td>10+</td>
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### Number of girls adopted in 2007

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<td>1 – 4</td>
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<tr>
<td>5 – 9</td>
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<tr>
<td>10+</td>
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### Number of boys adopted in 2007

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<th>Number</th>
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<td>66</td>
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<tr>
<td>1 – 4</td>
<td>319</td>
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<td>5 – 9</td>
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<td>10+</td>
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### SLOVAKIA

#### National adoption:

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<tr>
<td>Entrustment of the child into the pre-adoptive custody of future parents:</td>
<td>271</td>
<td>336</td>
<td>259</td>
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<tr>
<td>Adoption:</td>
<td>296</td>
<td>324</td>
<td>390</td>
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#### International adoption:

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<th>2007</th>
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<td>Entrustment of the child into the pre-adoptive custody of future parents:</td>
<td>41</td>
<td>34</td>
<td>50</td>
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<tr>
<td>Adoption:</td>
<td>66</td>
<td>57</td>
<td>16</td>
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</table>
Slovenia has signed two international acts on international adoptions, the Hague convention on Intercountry adoption, and a bilateral agreement on adoptions, signed between FYROM and Slovenia in 2007. As the legal basis for international adoptions, these two agreements have not proved most efficient in the case of Slovenia. Based on the information obtained from the Ministry of labor, family and social affairs, no adoption has been obtained on the basis of Hague conventions so far and concerning the bilateral agreement with FYROM, fourteen applications have been sent from Slovenia to FYROM, however none of these initiated procedures has been concluded up until now.

It must be underlined, however, that the above-mentioned does not imply that no international adoption has taken place in Slovenia. According to the statistical data obtained from the Central population register – Ministry of the Interior, 20 % of adoptions in Slovenia are international adoptions. In these cases, parents adopt a child from another state by direct adoption in that other state, following the administrative and judicial procedures in that other country without Slovenian authorities acting as an intermediary. From 2005 until 2008, 23 such adoptions were carried out successfully out of 114 all together.

Based on informal information obtained from non-governmental organizations, the majority of the above-mentioned international adoptions take place in Russia, where the procedures are said to be the fastest, however the conditions for adoptions are different than those in Slovenia, thereby causing long procedures as well. Namely, the parents need to meet conditions in both countries in order to be able to adopt a child.

Due to the fact that international adoptions in Slovenia mainly take place without Slovenian authorities acting as an intermediary, we did not manage to obtain the exact number of international adoptions concluded per year, but only the information on all the adoptions obtained in Slovenia per year. It has been registered that in 2005, 31 adoptions were obtained, the number of adoptions in 2006 was 38, this number in 2007 fell to 24, and the number of adoptions in 2008 was 19.

<table>
<thead>
<tr>
<th>Year</th>
<th>2005</th>
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2.25. **Spain**

2.25.1 **Number** of decisions on national and international adoption during 2005, 2006 and 2007 for all Spanish territory.


2.25.1.1 **NATIONAL ADOPTION**

year 2005: 691
year 2006: 916 national adoption and only 2 were rejected in the Autonomous Community of Valencia and Andalusia because the parents did not have the certificate of capability.
year 2007: there are no statistics already for 2007 as some Autonomous Community did close the demands for national adoption (for example Madrid did open in October 2008 the list for the national adoption which was close during 4 years.

2.25.1.2 **INTERNATIONAL ADOPTION**

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<table>
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<tr>
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<tbody>
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### Number of decisions of adoption between two European countries

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2.26. **Sweden**

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<td>National adoptions: number of statements that the social Welfare Board has made</td>
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<tr>
<td>International adoptions: number of investigations</td>
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<table>
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<tbody>
<tr>
<td>National adoptions: number of statements that the social Welfare Board has made</td>
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<tr>
<td>International adoptions: number of investigations</td>
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Survey of the number of foreign adoptive children placed into Swedish families over the years 2001-2008 by countries of origin

**EUROPE**

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2.27. **United Kingdom**

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<th>Year 2006</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>5565</td>
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</table>

The UK authority inform us that: “We do have no statistic as we have no adoption carried out from us to a member state of the European Union”.
3. COMMENTS

3.1. AUSTRIA

There is not any difference between Austrian and non-Austrian nationals in relation to national and international, but the residence is important. There is also not any difference between European and international adoptions. It is important only if the “Hague Convention” is applicable. There is not any essential problem in the proceedings of the adoption. In short, the adoption process is very fast and it takes some months only.

They don’t know how many children from Ethiopia or India have been adopted. These children have been adopted privately, because their home countries were not member states of the “Hague Convention”.

Complicated adoptions are from countries, which are not member of the “Hague Convention”. These adoptions are private adoptions. Before the year 2007, there was an adoption in Cambodia. The child could be adopted in Cambodia. But another adoption in India could not be conducted in India only custody was transferred. The adoption was done in Austria and two different legal systems were applicable.

In the general opinion, the biological parents have too many possibilities to prevent the adoption. First of all they do not care about their child and after that they don’t want their child being adopted.

There is often a lack of information in international adoption’s procedures, which special requirements (especially documents) are needed by the country of provenance. These documents often need to be given later in a second step.

The potential parents by adoption are often eager concerning the process of adoption which puts pressure onto the administration.

Concerning the trade in children Austria created uniform rules for international adoptions to ensure a standard procedure.

There is no office giving information, which country of origin is not safe concerning the trade in children and corruption, in order that an administrative contribution should be refrained (analogical to a travel advice).

In international adoption’s proceedings, it is sometimes difficult to locate the biological parents. That is why they live in a foreign country. Certainly it is necessary because they have to affirm the adoption. If the child with a foreign citizenship is in Austria it is not a real „foreign-adoption“. Pursuant to § 26 IPRG the personal statute of the parents by adoption is decisive. The duration of this process is between 18 months and 4 years.

There is not or too little predictability in international adoption’s procedures for the parents relating to legal compliance, especially the legal and administrative structures of the countries of origin are an instability factor.
There was an adoption process, where the child was Czech citizen, the father was German citizen and the mother was Austrian citizen. In that case you have to consider 3 legal systems. That complicates the proceeding a lot, especially the hearing. But if every participant in the process agrees, the proceeding is very simple.

There is a lack of information about the required qualifications of the parents, about the documents and information asked by certain countries. That is why the information can only be presented and the conditions can only be met in a second step. Mainly their problems come up when sending the Dossier.

The delivered documents in the Hague Adoption Process between the administrative bodies of the different countries are either in the country’s own language or in the English language, which leads to problems, sometimes even in the allocation of the cases.

In a very small percentage of cases the application was denied for reasons of age or because of the family refused several children. These decisions were made by the local administration or the provincial government as the higher authority.
Several times, potential parents of adoption did not come back to the administration, after the first conversation.

The qualifications of the parents of adoption concerning their suitability are evaluated perfectly to give the best preconditions to the adoptee. Anyhow in international adoption procedures the children are pulled out of their cultural sphere, especially when the child is colored or has some deficits because of his personal story. It is even more difficult for the child to assimilate in the society and to get good odds for its future.

The criteria for children to be adopted are equitable and adequate because children to be adopted are treated like biological children.
3.2. Belgium

3.2.1. Difficulties

The judge of youth points primarily difficulties at the psychological level with people who always do not measure the range of their engagement. It is the reason for which the phase of preparation is of primary importance according to judges' to detect the real motivation of people. It happens that files which appeared “badly left” finish well and vice versa, of candidates who seemed at the beginning completely suited are really unmotivated in the course of procedure. The too advanced age of certain candidates is also called upon as source of difficulties.

Federal central Authority informs us that the very rare encountered difficulties generally hold either with the non-observance of the Hague Convention or with problems of melts on the level of the first adoption pronounced apart from the EU.

Central Authority of the French community did not come to a conclusion about the question and the central Authority of the German-speaking community explains that since the new law were concretely in application in the year 2006 (first seminar of preparation in German-speaking community took place only in March 2006), and that the awaiting for a child is 2 to 3 years in average, it is too early to draw the conclusions concerning this new law and of the procedures which result from this (three international adoptions- Ethiopian children ended in German-speaking community since the application of the new law in adoptive parents who have follow-up new procedure -except the transitory situations-).

The O.A.A., lawyers and adopting parents did not raise of particular difficulties.

3.2.2. Duration

The magistrate of Mons informs us that the average duration of a procedure in adoption is one year without making distinction between internal and international adoption. She adds that Mons which is the only court wishing to hear the adopting candidates, before to fix officially a social investigation like that is done elsewhere in Belgium. It is fixed quickly, in the 15 days, but Mrs DELPLANCQ find important to be able to hear the real motivation of the candidates adopting parents. She finds in particular that the social investigation reflects very often what the candidates have left appear at this first time hearing with the judge. It is the legal procedure which is aimed here, the interested party not having transmitted to us additional information as at the total duration of the procedure in adoption.

At Ghent, the duration is estimated at 9 month for an international adoption, and at one year for an adoption intern, but it acts here too legal procedure. Us let us not have more additional indications for the total duration procedure of adoption.

The federal central Authority specifies us that:

a) the average duration for an international adoption is in function of the country where we wish to adopt. If in average the total delay is between 2.5 years and 3 years, on the other hand, it seems according to China, the withdrawal period for the attribution of a child can currently reach 4 years. The duration of an international adoption procedure tends to lengthen because the awaiting in the countries of origin increases.

b) An internal procedure of adoption of a child living in Belgium is very long because there are very few children being able to be the subject of an adoption.
Central Authority of the German community evaluates on its side the duration of the procedure between 2 and 3 years on average, without making distinction between the two types of adoptions, central Authority of the French community not giving us indication on this subject.

“Kind in gezin” evaluated average duration between the judgement of aptitude and the attribution of a child between 6 months for India and 36 months for Thailand (for information because it is not really lasted of the procedure of the introduction of the request until the process is completed as mentioned in question).

The O.A.A. evaluate the duration of the adoptions interns in almost 18 month, the same evaluation being made by Me JEDID thus that by adopting questioned which carries this duration until 2 years.

3.2.3. Rejected or given up adoptions

The magistrate of Mons indicates us that the procedure is very seldom rejected or given up, without us to give precise percentage. The clerk's office of the Court of the youth of Ghent has 1 case of refusal in 2005.

The federal central Authority indicates that from September 1st 2005 up to August 31st 2008, only 4 adoptions were rejected.

Kind in gezin indicates that it has entered 15 families which decided to give up the procedure during the period of the social investigation.

Central Authority of the community German-speaking specifies that it is not always informed if the candidates adopting parents “on standby” give up their project. Until this day, there no was negative judgement of aptitude for the Court of Youth of Eupen, nor of refusal of project on behalf of a O.A.A.

The O.A.A. did not know any case of rejection or abandonment, procedure being started only after examination looked further into its chances of result.

Me JEDID did not know this kind of case either in its cabinet.

3.2.4. Difficulties to locate the child

As well magistrate as Federal Authority power station, the O.A.A, the lawyer Me JEDID and adopting parents indicates that they do not have problems of this kind.

German central Authority, estimate as for it that it is a question to pose exclusively with O.A.A., Kind in gezin and central Authority of the French community not having on their side not reacted either.

3.2.5. Linguistic problems

Mrs the Judge of the youth of Mons raise that the higher Council of the adoption mentioned problems on this field but essentially in Brussels, because the candidates follow formation in a language and then move in another linguistics area. The problem does not arise so much in its district legal because it indicates that it is very rare that Flemish comes to settle in the area of Mons.

The federal Central Authority does not raise as for it not of problem of this type in practice, adding that to the legal level, the documents must be translated in one of the official languages of Belgium by a
sworn translator, the O.A.A. questioned by us confirms that legal translations are carried out in the event of need.

Central Authority of the German community evokes the existence of problems on the other hand primarily for exclusively German candidates with the O.A.A. of their choice which depends on the French Community as specified infra. In this case, the adopting services and candidates calls upon an interpreter.

There are no difficulties of this kind who were raised by the questioned lawyer, nor by adopting.

Kind in gezin and central Authority of the French community did not react either.

3.2.6. Problems of incomplete information during the procedure of adoption.

The magistrate indicates that the problems of incomplete information existed within the framework of the adoptions formed by the new law because the candidates were not always sufficient informed of the width and the consequences of such procedure. Since there is henceforth a phase of preparation, information passes much better and it is essential according to it, it is an extremely important phase.

The Federal Central Authority does not rise on the particular difficulties, the German-speaking Central Authority estimates as for it that it is a question to pose to the adopting candidates. Adopting parent questioned knew this problem after the attribution of the child, in connection with the date of the judgement in Ethiopia which had been delayed.

As for the O.A.A., it meets some sometimes, of all the kinds, medical, social, psychological and at the all of the stages because the process take place in Belgium, it estimates that we can at all the stages try to supplement information.

I, JEDID, did not meet this type of problem.

3.2.7. Problems of legal competence

Mrs the Judge of the youth of Mons indicates here still that the problems existed especially before the September 1st 2005. Since this date, the procedure is clearer, the Community Central Authorities explain clearly the procedure and switch people correctly, and it is much easier. Mrs DELPLANCQ underlines nevertheless that the candidates do not live not always very well procedure, estimating that it constitutes a very important intrusion in their private life, reason why it happens that certain couples separate each other during the preparation phase. It estimates finally that it is inadequate according to it to remake to pass all stages with couples which already adopted a child little time previously.

The only difficulty of which made state the federal central Authority milked with the concept of usual residence for the application of the Hague convention. That is not specific to European adoptions. Thus, Belgium considers that people who have resided legally on its territory for several years for in particular professional reasons and even if they kept a residence or a residence in the State of their nationality, are Belgians residents and Belgium must be regarded as the State of reception for the application of the Hague Convention. It seems according to the Federal Central Authority that all the States do not apply the same principles, what can give place to problems of competence.

Lastly, nor Central Authority of German-speaking community, neither the O.A.A., neither Me JEDID, nor adopting makes state of particular problems.

Kind in gezin and central Authority of the French community did not react.
3.2.8. Eventual resistance of the holder of the parental authority

On the side of the magistrate, they inform us that there is sometimes a resistance of the holder of the parental authority primarily for the internal adoptions: it is often the case of the children placed, in the files protectionnels.

The federal central Authority does not have knowledge of such problems, as for the central Authority of German-speaking community, it estimates that it is a question to pose with O.A.A.

The O.A.A. indicates us on this subject that it has indeed certain parents of origin who are opposed to the adoption, who will nevertheless be pronounced by the Judge if it is in the interest of the child.

Me JEDID indicates to us as for these situations arrive in very small proportions, parents disputing in spite of the ill treatments inflicted before with theirs children.

3.2.9. Principal obstacles to the effectivity, on the ground, of the device envisaged by the national legislator

Mrs the Judge does not raise especially of obstacles.

The federal Central Authority specifies that in a general way, since the entry in strength of the reform of the adoption in Belgium, international adoptions international are framed by the Community authority’s qualified (Community central authorities) and pose very little problems. Difficulties encountered on the level of the recognition of adoptions in Belgium primarily relating to adoptions carried out in the past in “free die”, where the question of the interest of the child poses often problem in addition to procedural questions, of false documents,…

Central authority of the German-speaking community regard that it is a question to pose with the O.A.A.

The OA.A. Call upon on its side misses it of personnel and financial means to be able to study adequately the needs for adoption of the children in institution.

I, JEDID, raises a too important rigidity of the criteria of aptitude, deadlines, the number acceptable children, the age…

3.2.10. Progress in the fight against the traffic of children.

Mrs the Judge of the youth of Mons is not really sure that there was a considerable progress in feel where the system can always be circumvented. (Example: KAFALA).

The federal Central Authority indicates as for it that the reform of the adoption in Belgium aimed at the ratification of the Hague Convention, the modernization of the right of adoption. Several devices are set up to check that the adoption does not follow upon a removal, a sale or a draft of child, that it is on the level of the legal authorities or the level of administrative authorities. Nevertheless, control in the countries of origin children remains very difficult, in particular on their origins, the circumstances of their adoption and their situation in their country. In so much that federal Central Authority in charge of the recognition of the foreign adoptions, it is at the latter stage, when the adoption is marked in the foreign country which we realizes sometimes that all is not perfectly in order.

Central Authority of the French community is not of the same opinion and estimates the reform of Belgian legislation has as a goal to fight against certain traffics of children, and to respect the best
possible interest of the child in all situations. Indeed, and this contrary to some others European countries, Belgium imposes the respect mutatis-mutandis of general principles of the Hague Convention, that the adoption occurs between ratifying countries or not; what makes possible to respect as well as possible the interest of all the children, whatever the country from which they result.

Central Authority of the German community indicates to us that since the new law is not concretely in application since the year 2006 (for recall, the first seminar of preparation in German-speaking community took place in March 2006), it is too early to draw the conclusions concerning this question.

Kind en Gezin did not come to a conclusion about the question.

The O.A.A. estimate as for it that professionalisation of the sector since 1991 in Belgium returned the adoption many surer, I JEDID and adopting it estimate as for them that it is the new law which offers more guarantees.

3.2.11. Adequation of the procedure

Mrs Judge DELPLANCQ insists again stressing that the current procedure is justified and adequate and especially the preparation phase which is of primary importance for it. This phase avoids difficulties thereafter. It specifies that the social investigations are often very well done. The only flat relates to the new adoptions by candidates having already adopted little time before: procedure is in this case inadequate bus extremely long whereas they have already put “to the test” little time before with a favourable judgement.

In a general way, Central federal Authority estimates the procedure, even if it is heavy, is perfectly justified because the stake is serious. And despite all the efforts set up, they are not always certain that there was not a purchase of child to carry out the adoption as the Judge of the youth of Mons also underlined it. Additional controls in the country of origin of the children would not be always useless according to its opinion.

Central Authority of the German community finds that the procedure seems adequate but being given it recent character of the reform, it cannot draw from conclusions more deepened. The two other Community authorities do not decide.

The O.A.A., Me JEDID and adopting parent also estimate that the guarantees are indeed more important for the interest of the child.

Mrs. the Judge of the Youth of Mons adds nevertheless that it is not conform to the interest of the child not to envisage of social investigation in the case of an intrafamily adoption, which is also often characterized by requests for adoptions by the family of reception within the framework of one file protectionnel.

The federal central Authority recalls that Belgium set up a procedure by which the judge rules on the aptitude of adopting to adopt, after having followed a preparation with the adoption. This procedure makes possible to have guarantees on the capacity people to foster a child adoptive and on their information as with the adoption and its difficulties. This procedure seems to us absolutely necessary and must be appreciated in the State of the adopting residence.

The O.A.A. confirms that these criteria are justified to protect the child, with an aim of preparation and prevention, even if the course is long and difficult.

Adopting confirms that there is henceforth a better preparation, which is and must remain extremely important.
3.2.12. Adequation of the criteria applied to the children entrusted in adoption

The federal central Authority estimates that on this level, a standardization of the criteria would not be useless because too many people still consider that purely economic reasons can justify the adoption of children who do not need a new family. The concept of interest of the child should be more tallied.

Central Authority of the German community declares itself that the criteria depend much on country of origin and that the question would be then poses with the O.A.A., which answers us in our survey that one tries to bring closer with maximum these criteria of “the ideal”, but which it is impossible to reach completely, each situation being so different.

I, JEDID, and the adopting parents estimate these justified criteria, for a better protection of the rights of the child.

3.2.13. Remarks

Mrs DELPLANCQ wishes to add one word concerning the adoption by homosexual couples and declares that it is very difficult to put into practice for international adoptions because the foreign countries do not tolerate this kind of adoption.

Central Authority of the French community adds a word on another question to know the possible projects of European harmonization: it would be certainly interesting according to consider the problems of equivalences of aptitude and preparation of adopting. Indeed, The Hague Convention provides that the procedures of adoption must make in the original country of adopting; however, it arrives frequently that adopting home countries change in the course of procedure. At the present time, there is not any allowing text the equivalence of aptitude of one country to the other, which often imposes on adopting candidates to start again a procedure supplements afterwards removal. In Belgium in particular, being given international dimension of Brussels, Central Authority of the French community indicates that it is regularly confronted with this problems.
3.3. **Bulgaria**

3.3.1. **Difficulties**

The small percentage of difficulties, which exist in practice, is reduced to legal ambiguities regarding the status of the children as well as the put off of the cases by the court for the presentation of different documents. But in the first case the child is not listed in the Register for international adoption until the ambiguity is cleared, thus it cannot be qualified as a difficulty during the procedure of the adoption of the child, due to the fact that such procedure does not start. In the second case the matter is referred to the practice of the court.

3.3.2. **Duration**

From the moment that the International Adoption Council determines the listed candidate as suitable to adopt the concrete child from the register, till the conclusion of the procedure with the enforced court decision, expires approximately a five or six month period. The period for the approval of the adopter as a suitable candidate to adopt the concrete child can not be determined. This depends on many circumstances – on the condition of the Register, on the concrete children which are scrutinized by the International Adoption Council in order of enlisting, on the specific characteristics of the children, by the parameters of the candidatures of the enlisted adopters and the presence or the lack of their tolerance to certain specifics of the children, on the number of adopters enlisted in the register, on the frequency, which the council is in session.

It is not possible for me to indicate the duration of the procedure for national adoption because of the lack of competence of the Ministry of Justice for these matters.

3.3.3. **Rejected or given up adoptions**

In both the year 2005 and 2006, in about 10% the adopters refuse to adopt the child, for which the Ministry of Justice has offered them the opportunity for initiation of the adoption procedure. In most of the cases the reason for this is the birth of a biological child, adoption of a child from another country, the withdraw of the project for adoption from Bulgaria and in very few cases – ill-defined parameters given by the candidates for adoption themselves, which leads to a different understanding from the Ministry of Justice of the possibility acceptance of the child by its adopter.

In rare cases the reason for the rejection is the deterioration of the child’s health or mental state.

In the year 2005 only one case of international adoption has been suspended by the court, which administrative part of the procedure is realised by the Ministry of Justice. The reason for this is the withdrawal of the parents’ consent for the adoption of the child.

In the year 2006, there are no cases of suspended full international adoption, officially send by the Ministry of Justice.

3.3.4. **Difficulties to locate the child**

No difficulties.
3.3.5. Linguistic problems

In all cases of international adoptions there are prerequisites for language problems because the only official language of Bulgaria is Bulgarian. It is common for the children, who are adopted by foreign citizens, not to be acquainted with the language of the above nor the adopters to know the Bulgarian language. For that reason the contact between the two parties is always done with the assistance of specialist from Bulgarian accredited organizations with language knowledge.

3.3.6. Problems of incomplete information

Difficulties of such character are overcome in the stages of the enlistment of the adoptee and the adopters in the respective registers – in case of ill-defined or incomplete information in the documentation of the parties; they are not enlisted in the register to begin with.

A problem can occur in the progress of the administrative or judicial part of the adoption procedure only if new circumstances occur for the child or the candidates and the corresponding authorities or entities do not fulfil there obligation for the timely notification of the Ministry of Justice. According to Ordinance No 3/2003 they have to that in a seven-day term from the occurrence of the circumstances.

3.3.7. Resistance from the holder of parental authority

In case of the desire for the withdrawal of the consent for the adoption of the child by the parent, the parent can withdraw before the beginning of the court procedure. Such withdrawals have been made. There is no statistic for these matters. If this occurs during the administrative part of the procedure, the child is erased from the national or the international register.

If this occurs after that – the matter is transferred to the court.

There are no cases, in which the legal guardian or trustee of a child enlisted in the register for international adoption (meaning its legal representative other than the parent).

3.3.8. Fight against the trade in children

The procedure for national and international adoption, is stipulated by the Family Code with its last changes in the year 2003 so that any opportunities for trade in children between the adopters and the parents of the potential adoptee or between the adopters and the specialized institutions for children rising without parental care.

3.3.9. Adequation of the procedure

The legal system created in 2003 binds harmonically the national and the international adoptions and provides equal opportunities for adoption for the children and the adopters.

3.3.10. Adequation of the legal criteria applied to the adopting parents.

They provide equal opportunities for adoption to anyone willing to adopt a child from Bulgaria and set equal conditions for all candidates. This refers to the criteria applied for conditions for entering into the registers as well as for the determination of a suitable candidate for each child from the register.
3.3.11. Adequation of the criteria applied to children to be adopted

Yes, because the choice of a most suitable adopter from the listed in the Register is made on their base and thus the interest of the child for the provision of a stable family environment is maximally secured.

3.3.12. Remarks

It is the fact that during March 2008 the Government of the Republic of Bulgaria accepted a draft of a new Family Code, which stipulates even more precisely, objectively and clearly the activities in the area of the national and the international adoption (in accordance with the occasional residence of the adopter and the adoptee), defines the specific criteria for work of the respective bodies and thus meets the best ways for protection of the children interests. The draft is presented to the attention of the Parliament.
3.4. **Cyprus**

**REPORT FOR THE EMPIRICAL ANALYSIS ON ADOPTION**

Adoption can be defined as a legal act, which terminates the parental bond of a child from their biological parents and creates a new parental bond between the child and the adoptive parents. In other words, this legal relationship results in the adoptee becoming the legal heir of the adopter and terminates any legal rights then in existence with the biological parents.

In order to examine in more depth how the adoption process operates under the Cypriot law, questionnaires were completed mainly by Welfare Officers, psychologists and lawyers, examining their knowledge on the matter and whether they could propose reforms in the current law on adoption to make the system clearer and more effective.

Most participants did not have relevant data concerning the number of decisions taken on adoption in Cyprus during the calendar years 2005 and 2006. However, many participants distinguished the two basic types of adoption process existing in Cyprus: a) the national adoption process and b) the inter-country adoption process.

Based on data provided by Welfare Officers, 115 adoption orders (100 national and 15 inter-country adoptions) were issued by the court in the year 2005, while in the same year 74 inter-country adoptions were still processing. Additionally, during the year 2006, 125 adoption orders (115 national and 10 inter-country adoptions) were issued, while 64 inter-country adoptions were still processing.

**3.4.1. Difficulties**

Generally, almost all participants agreed that there was difficulty in obtaining the adoption, but there was no answer on the precise number of instances. The main reasons given for the difficulty were mainly legal, social and psychological reasons and delays in procedures.

**3.4.2. Duration**

A wide range of answers was given in the third question where participants had to name the average duration of the adoption process from the moment an adoption request was filed until the process was completed. Generally, participants seemed to believe that the average duration lasted between 1-3 years. Also, they seem to agree that the inter-country adoption process takes longer to complete compared to national adoption process. Specifically, it seems that the average duration given of the national adoption process was 1-2 years, while the average duration for the completion of inter-country adoption process was 2-4 years. This may be the case as inter-country adoptions are more complex and hence more time-consuming.

**3.4.3. Rejected or given up adoptions**

Almost all participants stated that the percentage of cases of which the adoption process was rejected or abandoned was low (estimated approximately on 10%). Additionally, some stated that the percentage would be different when comparing national with inter-country adoptions with inter-country adoptions being rejected or abandoned more frequently (approximately 30-40%). Many possible reasons were given for the abandonment or rejection. Some of these reasons included legal, social and psychological problems. Specifically, prospective adaptive parents decide not to proceed with the adoption due to delays in the procedures (especially in cases of inter-country adoptions, as legal
procedures in the countries of origin of the child may complicate the process). Also, a judge would reject a case if an illegal motive was found behind the adoption. Also, in cases where prospective parents were not found eligible for the adoption because they, for example, could not support financially the child, or because the applicant was not a permanent resident in the Republic of Cyprus during the adoption or a resident in the Republic of Cyprus at least two years before the application was made (this is compulsory under the Cypriot law on adoption).

3.4.4. Difficulties to locate the child

On the question whether there have been difficulties in locating the child, participants stated that there were, but they were not aware of the percentage. Reasons were mostly based on inter-country adoption processes where greater difficulties exist as origin countries create special policies which aim to locate the child in families residing in their state and perceive the inter-country type of adoption as a last solution. Another reason given by participants was the fact that in Cyprus there are no accredited agencies and locating a child becomes more complicated and more time-consuming.

3.4.5. Linguistic problems

All participants agreed that no language problems were observed in the adoption process as all the relevant documents are translated into the appropriate language.

3.4.6. Incomplete information

Cyprus is considered a child-centered society as measured by societal values and the constant pressure exerted on the government for the further allocation of resources of children. Cyprus has endorsed the Convention on Protection of Children and all contracting states, in cases of inter-country adoptions, co-operate and follow procedures which aim to the best interest of the child. Most participants stated that incomplete information during the inter-country adoption procedure was observed in situations where the prospective parents applied to a country which was not a contracting state. Particularly, procedural weaknesses were observed in finding the competent authority of that country, what the national law provisions and how the legal system operated in that country, who was eligible to apply for adoption and what documents had to be prepared and submitted.

3.4.7. Judicial competence

Moving on, almost half of the participants stated that they did not believe there were problems of judicial competence. Some other argued that they did not know if problems existed while a small proportion argued that there were some problems of judicial competence due to legal issues such as problems with the permanent residence of people who wished to make the adoption.

3.4.8. Resistance from the holder of parental authority

Almost half of the participants stated that there was no resistance from the holder of parental authority regarding the adoption. Most of the rest of participants believed that there was resistance from the holder of parental authority when biological parents refused consent for the adoption or withdrew their consent any time before a court order of adoption was issued, if the Court believed that this was reasonable under the circumstances. Very small percentage argued that they did not know whether there was resistance from the holder of parental authority or not.

3.4.9. Obstacle to the effectiveness of the mechanisms instituted by the national legislator
Additionally, almost all of the participants answered that they did not know whether there were major obstacles to the effectiveness, in practice, of the mechanisms instituted by the national legislator. However, few participants pointed out that several legal and procedural issues instituted by the national legislator may create problems to the effectiveness in practice. Specifically, they proposed that some issues such as the criteria which must be met by the adopters to be considered suitable for the adoption and the accreditation of agencies must be re-examined by the national legislator.

3.4.10. Child traffic

Generally, there is no problem of child exploitation in Cyprus. Based on the questionnaire, half of the participants stated that they did not know whether there was progress in the fight against the trade in children in Cyprus, while a small proportion stated that no progress was made in this aspect. On the other hand, some participants argued that there is progress in this matter as more appropriate policies are organized by the police in order to diminish this problem. Also another reason given was the fact that the Convention on Protection of Children safeguards the interest of the child and creates policies which aim to their protection. Also, it aims to the establishment of a system where contracting states co-operate to ensure that these safeguards are respected and hence prevent the trade of children.

3.4.11. Procedure

Furthermore, almost all participants answered that generally they perceived the adoption process in Cyprus to be justified and adequate. Many proposed that reform in this aspect could include an age limit in the adopters in order to avoid communication problems between them and the adopted and that based on the fundamental rights of the children the latter have the right to get informed by the adapters (in an appropriate age when they are mentally capable of understanding the situation) for the adoption. Also, they argued that accredited agencies should be appointed to speed the process of inter-country adoptions.

Moreover, all the participants believe that generally the adoption process is the most adapted process to the interest of the child. However, some of them propose that reform is needed in order to strengthen the fundamental rights of the child by informing the child for the adoption. Also, it was argued that new policies are in need in order to safeguard the protection of the rights of children (in inter-country adoptions) where the adoption process is made in countries which are not contracting states of the Hague Convention on Protection of Children.

Lastly, all the participants generally believed that the conditions and legal criteria applied to the adopting parents and the child are justified and adequate. Again, the main reforms that they proposed are based on the fact that an age limit must be applied to the adoptive parents and that the adoptive parents must be obliged by law to inform the child for the adoption, otherwise their fundamental rights will be breached.

3.4.12. Conclusions

In concluding this report we number below the main conclusions that can be made after the completion of the questionnaire and the reforms that were proposed by the participants:

1. There are two types of adoption process in Cyprus: a) national and b) inter-country adoption processes.

2. Difficulty in obtaining the adoption (delays in the procedure, legal, social and psychological reasons).
3. Inter-country adoptions take longer to complete (2-4 years) compared to national adoptions (1-2 years).

4. A low percentage (10%) of national adoption cases are being abandoned or rejected by a judge. The inter-country adoptions are abandoned or rejected in a higher degree (40%).

5. Difficulties in locating the child, especially in inter-country adoptions.

6. No language problems in the adoption process.

7. Problems of incomplete information more present in situations where the application is made in a country which is not a contracting state of the Hague Convention on the Protection of Children.

8. Few problems of judicial competence due to legal issues such as permanent residence.

9. Some resistance from the holder of parental authority (where biological parents refuse or withdraw their consent before the order is issued).

10. Generally, no problem of child exploitation in Cyprus. Appropriate policies exist and there is also the Convention on Protection of Children.

11. Generally, participants perceived the adoption process as adequate and effective.

12. Participants generally believed that the adoption process is the most adapted process to the interest of the child.

13. Lastly, they generally believed that the conditions and legal criteria applied to the adopting parents and the child are adequate and effective.

The reforms that were proposed by the participants were:

1. An age limit should be imposed by law on adoptive parents for the avoidance of social problems.

2. As the adoption process is based on the best interest of the child, children have the right to know (in the appropriate age) that they are adopted. Law must oblige the adoptive parents to inform the child of the adoption and should point the appropriate age range (in an age where the child is mentally capable of understanding the situation).

3. Accreditation of agencies for inter-country adoptions.

4. New policies in order to safeguard the rights of children in inter-country adoptions where the application is made in countries which are not contracting states of the convention of protection of children.
3.5. **Czech Republic**

3.5.1. Interviews

During the survey conducted for the project, the authorities providing social and legal protection of children, i.e. municipal authorities of municipalities with extended competence and their social workers, regional authorities, the Ministry of Labour and Social Affairs and the Office for International Legal Protection of Children, as well as non-profit-making organizations, judges, lawyers and adoptive parents were addressed.

We endeavoured to form an impartial judgement on the questions and adapted our approach in order to achieve this, addressing persons from various regions of the Czech Republic. The survey comprised authorities from both Bohemia and Moravia. Because of the differences in the competence of the authorities in the sphere of adoption of children, several questionnaire types had to be prepared in order to reflect this fact. Outlined below are the responses to the different questions, structured according to the individual respondent types.

3.5.2. Conclusion

The results of the survey for the project demonstrate that the regulations for the process of adoption of children, including the related rights to property, are adequate. However, the key problem is the lengthy legal proceedings resulting from the absence of any obligation on the courts to resolve these type of cases speedily. This delays the date from which the child can leave the children’s home and move in with his new family. The only procedures which set time limits are the interlocutory judgement and the procedure to determine if the parents consent to the adoption of their child is necessary. In the latter case the law requires that the court accords priority treatment to the matter, and decides as soon as possible.

There are also problems caused by the direct adoption of children. The intent of the legislator has been to enable parents to give consent to the adoption of their child by applicants who are well known to the parents and in whom the parents have faith, but this instrument is also exploited by applicants who are not known to the parents. Both the non-profit-making organizations and the authorities point out the fact that direct adoption can easily be abused, in particular in relation to the child trade. This is even more concerning in view of the fact that there is no typical post adoption follows up in the Czech Republic.

The problems which are indirectly related to the process of adoption include the depersonalized approach to children at children’s homes, which can result in their emotional deprivation, and an inadequate post-adoption service. The courts and non-profit-making organizations also refer to the problem of judges dealing exclusively with the adoption process abroad. In the Czech Republic the adoption of children is decided by judges dealing with the whole area of civil-law relations.
3.6. **DENMARK**

3.6.1. Remarks

The empirical study was difficult in order to conduct in this matter in Denmark. Therefore, the interviewed person refers to the Ministry of Justice.

3.6.2. Procedure

An adoption must always be considered to be in the best interest of the child. This consideration for the child and its future well-being is continually held as the crucial principle in all adoption activities. In this regard there is no difference between the national and international adoption process.

In order to ensure and promote the welfare of the adoptive child, everyone who applies for approval to adopt will be examined by the Danish authorities to prove whether or not an approval can be granted. Furthermore, all applicants who wish to adopt internationally must at least once attend a pre-adoption counseling course.

The procedure regarding the approval of applicants as prospective adoptive parents consists of an examination made by the regional state administrations, called the joint councils.

The Joint Council is the court of first instance to rule whether or not an applicant can be finally approved as a prospective adoptive parent. Additionally, if the investigation after Phase 1 has raised doubt whether the applicant can be said to fulfill the general conditions to continue the investigation, the Joint Council rules whether or not the applicant is seen fit to continue the approval process. The secretariat of the Joint Council performs the actual investigation, including the interviews with the applicant.

A Joint Council consists of three members; a social worker, a lawyer and a physician.

The decisions made by the joint councils can be brought before the National Board of Adoption.

Therefore the adoption process is administrative and not judicial.

The National Board of Adoption makes the matches between Danish children, who are given up for adoption and applicants who wish to adopt a Danish child. There are only about 10-20 Danish children available for adoption every year.

The process is the same in regard to all international adoptions and there is no difference between EU countries and non-EU countries.

Before an approval as a prospective adoptive parent is granted, the secretariat of the Joint Council in the applicant's Regional State Administration performs a thorough investigation of the applicant. The outcomes of the investigation are presented to the Joint Council, who, based on those outcomes, decides whether or not the applicant can be finally approved as a prospective adoptive parent.

The investigation is divided into three phases:

The first Phase concerns the question whether the applicant fulfils the following general conditions for approval as a prospective parent:
• the age difference between the applicant and the child should not be more than 40 years.
• applicants, who want to adopt a child together must have lived together for at least 2.5 years and must be married.
• the physical and psychical health conditions of the applicant must not imply a risk that the adoption will not turn out to be in the best interest of the child.
• the applicants home must be seen fit to house a child.
• the applicant must show proper economical conditions.
• the applicant must not keep a criminal record, which implies that the applicant is not fit to be an adoptive parent.

The applicant will continue to the second phase of the investigation, if the Regional State Administrations or the Joint Council decides that the applicant fulfils the general conditions, or if - under specific circumstances - the applicant is granted an exemption from the rules. If the investigation after Phase 1 has raised doubt whether the applicant can be said to fulfill the general conditions to continue the investigation, the Joint Council rules whether or not the applicant is seen fit hereto. If the investigation implies that the applicant undoubtedly fulfils the general conditions to continue the investigation, the Regional State Administration is authorized to make decision hereto.

The second Phase consists of a pre-adoption counseling course, which is mandatory to all applicants, who have not previously completed an intercountry adoption. The aim of the course is to provide the applicants information in concern to different aspects of intercountry adoption, and to establish a basis for the applicants to assess themselves, whether or not they possess the necessary resources to adopt a foreign child. The course consists of two weekend sessions and one evening session on a workday.

The third Phase consists of one or more interviews with the Regional State Administration. The purpose of this phase is to investigate if the applicant can be said to possess the individual resources necessary to adopt a child. At the end of the third phase, a home study report about the applicant is put before the Joint Council and the final decision on approval is made.

At present, two private non-profit organisations are accredited by The Danish Ministry of Justice and Department of Family Affairs to act as adoption placement agencies in intercountry adoption matters. According to the Danish Adoption Act, intercountry adoption should preferably be performed through these adoption placement agencies. However, if an applicant wishes to adopt a child to whom the applicant is closely related, or for other special reasons, the Danish Ministry of Justice, Department of Family Affairs, can allow the adoption to be performed without the assistance from one of the two accredited bodies.

As described above only administrative organs are involved in the adoption process in Denmark. There are the regional state administrations and the joint councils in connection to those administrations. Their work is described above.

There is also the Danish National Board of Adoption which is the central public authority in general charge of adoption in Denmark. As well as being the board of appeal, the duties of the Board are to supervise the work of the Joint Councils and their secretariats, to observe the national and international development in adoption matters, to gather information concerning adoption, to negotiate with authorities and organizations in other countries and to conduct information activities. The National Adoption Board also takes part in the supervision of the two accredited bodies.

Additionally, as mentioned above the Board matches the Danish children available for adoption with the Danish applicants who have wished to adopt a child born in Denmark.

The National Adoption Board consists of 10 members with diverse professional background. A secretariat of four employees is connected to the Board.
Finally we have the Danish Ministry of Justice and Department of Family Affairs.

The department lays down the Danish rules on approval as a prospective adoptive parent and on the procedures in regard to this matter. The Department is also appointed as the Central Authority according to the Hague Convention.

The Department authorizes the adoption placement agencies, and oversees the agencies’ fulfillment of the conditions in their authorizations.

Finally, the Department arranges the pre-adoption courses as described in the section Danish rules on approving prospective parents.

The Regional State offers a home visit shortly after the child is brought to the family.

In 2007 the Department of Family Affairs launched a 4-year long pilot project where adoptive families are offered 5 sessions of counselling free of charge within the first 3 years after the child is brought to the adoptive family.

A European adoption is not treated differently than an international adoption. No, a European national who resides in Denmark is not treated differently than a Danish citizen. According to Danish law you can only adopt according to the Adoption Act, if you are domiciled in Denmark. If you are domiciled abroad you must follow the foreign country’s adoption law. The question of domicile is looked into by the Department of Family Affairs, and it is in general not a matter of citizenship.

The conditions to adopt are described above as regards international adoption. When it comes to national adoption the approval system is not divided into three phases but only one where the same conditions are looked into. The applicants for Danish children do not have to participate in a pre-adoption course, but the Department of Family Affairs is at the moment working to change that fact.

The conditions to be adopted are primarily that the child is given up for adoption by consent or documented abandonment, and that the adoption seems to be in the child’s best interest. Denmark has very high ethical standards when it comes to the examination of the children’s backgrounds etc. to make sure that adoption is the right decision for the specific child.

According to the Danish Adoption Act the child’s consent to the adoption must be obtained if the child has reached the age of 12. The adoption cannot be granted without the child’s consent unless it is found that obtaining the consent will cause damage to the child. The adoptive authorities must – before obtaining the consent from the child – inform and advise the child about the adoption and the legal effect hereof.

If the child is mature, the consent from the child must be obtained even if the child is less than 12 years old.

It is our opinion that the degree of involvement of children must depend on the age and maturity of the child. As mentioned above, an adoption cannot normally be granted if the child does not consent and has reached the age of 12.

We find that information about the child’s view on the adoption must be collected even if the child is under 12 years. The circumstance in the case and the maturity of the child determines how the information shall be collected. It is important that the child is not faced with a situation it cannot understand.
In Denmark the biological parents are usually also the legal parents. According to the Danish Adoption Act it is a leading principle that consents from the parents must be obtained before the adoption is granted. If one of the parents is not holder of custody over the child, a statement from the non-custodial parent is mandatory.

According to Danish law 3 months most pass before the mother can give her consent to adoption.

The Danish Adoption Act allows adoption despite both parents protest in very rare cases were a child has been placed in private foster care for many years, and when the contact to the biological parents is a threat to the welfare of the child.

It is the State Administration which makes the decision about adoption without consents from the parents in the first instance. The decision can be appealed to the Minister of Justice, Department of Family Affairs and to the courts.

The Department of Family Affairs does not point out any difficulty concerning the procedure of adoption in Denmark.
3.7. **ESTONIA**

3.7.1. **Difficulties**

When the adoption has been obtained with a lot of difficulties. Unfortunately there is no statistics available about the exact numbers, when the adoption has been obtained with difficulty and also there is no statistics available about the decisions when adoption has been denied.

According to interviews made, there have been few cases, when adoption has been obtained with difficulty. Main difficulties, which were mentioned:

- Delays in court (big work load of judges);

- Adoptive parents have high demands to children (only few possible adoptive parents are ready to adopt older children and children with special needs), so there is not enough children to adopt;

- Cases, when the adopter has turned directly to court (without even contacting child protection specialist before it) – problems with documentation presented;

- In case of international adoption there has been problems with appearance of adoptive parent to court (adoptive parent must appear to court);

- Legal problems (problems with depriving parental rights from biological parents, when it is needed and justified, problems with necessary documentation);

- Adoptive parents are unprepared (not enough information, experience etc);

- Problems in co-operation between conforming government services.

3.7.2. **Duration**

The adoption process in Estonia can be divided into two parts:

**Adoption process before the court** (adoptive parent will file an application to County Government, finding out suitability of possible adoptive parent, taking a course about adoption matters, matching period, preparing necessary documents to court). According to interviews made (see Annex of the Study) the adoption process before the court takes approx. 1 (one) year (average duration). But there have also been some cases, when the duration of this process has taken 2-3 years (because of lack of the “suitable” children to adoptive parent).

**Adoption process in the court** (a court decides an adoption on the basis of the application of a person wishing to adopt). According to interviews made (see Annex of the Study) the adoption process in court takes aprox 1 month (average duration).

So, average duration of the national adoption process from the moment an adoption request is filed until the process is completed, is aprox 1-1.5 years.

In case of international adoption (incl. European adoption) the suitability of adoptive parent will be found out by authorized organizations, which are accepted by Minister of Social Affairs. Authorized organization will send all data/documentation about adoptive parent and other necessary information together with application to adopt to Ministry of Social Affairs.
There is no exact information available about the average duration of the process made by authorized organizations, but when necessary documents have been sent to Ministry of Social Affairs and "suitable" child have been found, the adoption process also takes similar to national adoption approx 1-1.5 year (average duration).

There will be delays in court, when the adoptive parents do not appear at requested time, also there will be delays, when there is no children to adopt available.

### 3.7.3 Rejected or given up adoption

Percentage of cases, in which the adoption process is rejected or abandoned

Unfortunately there is no statistics available about the exact percentage of cases, when the adoption process has been rejected or abandoned.

According to interviews made, there has been only few cases in Estonia, when adoption process has been rejected or abandoned.

Decision to reject the adoption process has been made few times by court (for example judge of Harju County Court Ms Sirje Õunpuu has made all together 3 decisions to reject the adoption process), mainly by reason, that possible adoptive parent did not appear to court repeatedly and by reason, that by opinion of court the adoption was not in best interests of the child.

Decision to abandon the adoption process has been made few times by possible adoptive parent (before the court), mainly by reason, that possible adoptive parent did not fit to child and because possible adoptive parent had a biological child of her own in the middle of the adoption process.

Decision to reject the adoption process has been made few times also by County Government child protection specialists (before the court), mainly because of the reason, that possible adoptive parent did not have enough resources for adoption and because possible adoptive parent did not fit to child.

### 3.7.4 Difficulties in locating/finding the child

Unfortunately there is no statistics available about the exact percentage of cases, when there has been difficulties in locating/finding the child, but according to interviews made it is a common problem to find a “suitable” child to possible adoptive parent (although child protection specialists are trying to use principle, that they choose a family to a child not otherwise).

Possible adoptive parents are usually ready to adopt only healthy children, whos age is up to 3 years and there is not enough children, that fit to these “terms”. This is why some possible adoptive parents can stay in the “waiting list” for years.

### 3.7.5 Language problems

According to interviews made, there have been no language problems during the adoption process.

### 3.7.6 Problems of incomplete information during the adoption procedure

According to interviews made, there is a common problem with incomplete information in the first stage – possible adoptive parents do not have no information about where they must turn with wish to adopt and where they can get information/consultation about adoption.
There has been possible for adoptive parents to get information about adoption process only from child protection specialists of county government/local government, but as the qualification/competence of child protection specialists differs a lot, there has been cases, when to possible adoptive parents has been given incorrect data about the adoption process (what documents are needed, where to turn etc).

Also different child protection specialists have presented different demands about terms/demands for possible adoptive parent (salary, living space etc), because the law stipulates only common terms for adoptive parent (a person at least twenty-five years of age who is capable of raising the adoptive child, caring for the child and maintaining the child may be an adoptive parent).

There have been also problems with incomplete information about adopted child (his health situation etc) – in some cases the adoptive parents have not been informed about some health problems of the child.

3.7.7. Problems of judicial competence

According to interviews made, in some cases there has been a problem with competence of child protection specialists – to possible adoptive parents has been given incorrect data (incl different demands) about the adoption process (what documents are needed, where to turn etc), the adoptive parents have not been informed about some health problems of the child/about problematical relatives of the child, due to superficial attitude of some child protection specialists, there has been cases, when the adoptive parents are not ready to be a parent and deal with problems after adoption (unadequate preparation of adoptive parents).

According to interviews made, in some cases there has been a problem with competence of judges (who has decided the adoption in court) – in one case, the judge invited to court session also the biological parent of the child, which was a clear violation of confidentiality of adoption, and in one case the adoption process was delayed because of some incompetence of the judge.

According to interviews made, in some cases there has been a problem with some government services (Citizenship and Migration Board, Estonian Health Insurance Fund), after the adoption has been decided, as these services have demanded information about adoption matters, that should be covered with confidentiality (biological parents etc).

3.7.8. Resistance from the holder of parental authority

As the process, where the biological parent will be deprived of his/her parental rights (by court decision), must happen before the adoption process (as a separate process), then in adoption process (in court) there can not be no resistance from the former holder of parental authority, because this matter has to be solved before it is even possible to submit an application to court for adoption.

But according to interviews made, in some cases, when it is necessary/justified to deprive parental rights from biological parent (in order that it would be possible to adopt the child), it has been in some cases quite impossible, because it is hard to find biological parent/or biological parent does not appear to court.

According to interviews made, when biological parents have already given their consent for adoption, there has been no later resistance from them.

3.7.9. Major obstacles to the effectiveness, in practice, of the mechanisms instituted by the national legislator
According to interviews made, the major obstacle to the effectiveness of the adoption process is, that many important questions are not clearly regulated in the law (the situation will be better after the bill of Family Law Act will come into force), so at the moment there are many different practices in use.

According to interviews made, there has been cases, when big work load of judges has been an obstacle to the effectiveness of the adoption process (delays).

According to interviews made, there has been big problems (delays) with process, where biological parent will be deprived of his/her parental rights (by court decision) – children must stay many years in substitute homes and they can not be adopted, because biological parents are not deprived from their parental rights in reasonable time.

According to interviews made, one of the problems has also been different competence level (qualification) of child protection specialists and judges, who deal with adoption matters.

According to interviews made, it was also mentioned, that the problem is, that there is no common/one register about all the possible adoptive parents and children (who can be adopted) – at the moment every county government has his own register.

3.7.10. Progress in the fight against the trade of children

According to interviews made, this matter has not been a problem in Estonia (that means, there is no information about possible cases of trade of children in Estonia).

3.7.11. Is the adoption process justified and adequate

According to interviews made (see Annex of the Study), the main opinion was, that the adoption process at the moment is not justified and adequate and there should be made necessary changes:

- Training course (for example PRIDE-training) before adoption must be obligatory to all adoptive parents (at the moment it is voluntary), also there has to be regulated minimum requirements to the program of this training;

- There has to be one common register in state about all the possible adoptive parents and children (who can be adopted);

- Confidentiality matter must be more clearly regulated (also concerning the penalties, when this obligation is violated);

- The process, where biological parent will be deprived of his/her parental rights (when it is justified/needed), must happen more quickly, then now;

- When child is adopted, then he/she should get automatically the citizenship of the adopter;

- There should be exactly regulated all terms, when it is allowed to adopt (to give) the child outside Estonia (international adoption);

- The supervision (period max 2 years) after the adoption must be obligatory (at the moment the law does not stipulate no supervision obligation after the adoption);

- There has to be more accurate regulation about adoption (what documents are needed, demands to adoptive parents, etc.), in order to guarantee, that similar practices are used;
- There must be regulated, what are necessary qualification demands to persons, who deal with adoption matters (child protection specialists etc);

- There has to be clear regulation, under which the adopted child has the right to get information about his/her biological parents, sisters/brothers, when his/she becomes adult (18-years old).

**3.7.12. Are the conditions and legal criteria applied to the adopting parents justified and adequate**

According to interviews made, the main opinion was, that there should be more precise regulation in the law about terms/demands to possible adoptive parents, because the law stipulates only common terms for adoptive parent (a person at least twenty-five years of age who is capable of raising the adoptive child, caring for the child and maintaining the child may be an adoptive parent).

According to interviews made, there should be fixed min/max age differences between the child and adopter.

According to interviews made, training course (for example PRIDE-training) before adoption must be obligatory to all adoptive parents, so that the adoptive parents are better prepared to deal with possible problems after adoption.

**3.7.13. Are the criteria applied to children to be adopted justified and adequate**

According to interviews made (see Annex of the Study), there should be stipulated by law, that sisters/brothers can not be divided between different adoptive families (this principle is also used in practice), unless there is no extraordinary circumstances.

According to interviews made, the process, where biological parent will be deprived of his/her parental rights, must happen more quickly, then now – at the moment children must stay many years in substitute homes and they can not be adopted, because biological parents are not deprived from their parental rights in reasonable time.

According to interviews made, the main opinion was, that criteria applied to children to be adopted are justified and adequate.

**3.7.14. Conclusions**

According to interviews made (see Annex of the Study) and according to experience of the attorneys, who made this Study, there should be made following changes/amendments:

- The process, where biological parent will be deprived of his/her parental rights (when it is needed/justified), must happen more quickly, then now – at the moment many children must stay for years in substitute homes and they can not be adopted, because biological parents are not deprived from their parental rights in reasonable time;

- There must be prescribed by law, that the child must be at least 30 days old, in order the parent could give his/her consent to adoption (this demand is already prescribed in bill of Family Law Act);

- There has to be obligatory supervision (period max 2 years) after the adoption both in cases of national and international adoption;
- Training course (for example PRIDE-training or other) before adoption must be obligatory to all adoptive parents, so that the adoptive parents are better prepared to deal with possible problems after adoption;

- It must be obligatory (stipulated by law), that before the adoption the child and the adoptive parent must meet in order to check, whether they are suitable to each other (*matching*);

- It must be stipulated by law, that it is not allowed for biological parent and adoptive parent to meet, unless there are no extraordinary circumstances (private adoption must be forbidden);

- When child is adopted, then he/she should get automatically the citizenship of the adopter; There should be also regulated exact terms how adoptive parents are choosed to child;

- There has to be more accurate regulation concerning the demands to possible adoptive parents (salary, living space, training etc.) and there should be fixed min/max age differences between the child and adopter (for example 15-40);

- Confidentiality of adoption must be more clearly regulated (also concerning the penalties, when this obligation is violated);

- There must be one common register in state about all the possible adoptive parents and children (who can be adopted);

- There should be exactly regulated all terms by law, when it is allowed to adopt (to give) the child outside Estonia (international adoption);

- There must be regulated, what are necessary qualification demands to persons, who deal with adoption matters (child protection specialists etc);

- There has to be clear regulation, under which the adopted child has the right to get information about his/her biological parents, sisters/brothers, when his/she becomes adult (18-years old);

- There should be more information available about adoption and more possibilities for adoptive parents to get advice and training. There must be at least one organization, which deals with all matters of adoption (training, advice, information, post-adoption services) – starting from January 2008 there has been established in Estonia non-profit organization MTÜ Oma Pere, whos aim is to deal with these matters, so probably this improves current situation in Estonia;

- In interests of child the adoption process should take less time than 1 year.

It must be clearly stipulated in the law that the adoption must happen only through authorized organizations/government services, which will check and make a preliminary decision, whether person is suitable/ready to be an adoptive parent and whether adoptive parent and child are suitable to each other (it should be forbidden to go directly to court).
3.8. **Finland**

Interviewees have told that the *secrecy obligation* makes it difficult to answer the questions. Here are some points:

They think that adoptive process is slow and bureaucratic in Finland and also the application of the adoption act is very formal.

An opinion shared by the interviewees is that the children should be heard during the process if possible.

They consider it important to direct more attention to adoptive process in Finland and in European Union.

The following matters are considered to make adoptive process difficult:

- Language problems;
- Sometimes it is difficult to get information about the adoption process;
- Petitions have sometimes been rejected;
- Sometimes there are difficulties with legislation.

Adoptive families think that it is expensive to adopt a child. The process is also considered to be too slow for example due to the fact that the adoptive families are being interviewed many times during the process. It is easier to adopt children from foreign countries because there are only a few orphaned children in Finland.
3.9. France

3.9.1. Difficulties

In the reason of the small percentage of adoption compared to the number of delivered approvals (18%) we may consider that the procedure stages between the approval and the final adoption decision are the most difficult to cross.

3.9.2. Specify the type of difficulties: material, legal, social, psychological, times, others (specify) and draw up, if necessary, of the subcategories.

Distinguish the national and international adoptions.

a) Gaps of the post-adoptive follow-up

Then that France deployed many ways to accompany the futures adopting parents from the time of their request for adoption, the follow-up post-adoptive proves to be gaps. Difficulties concerning the school’s results were identified in France.

Moreover, the regularity and the quality of the follow-up of the adoptive children which must be turned over to the country of origin are very heterogeneous.

b) Regarding the legibility of the institutional system for the candidates to the adoption.

It was known as that the reform of 2005 creating the French Agency for the Adoption “AFA” “stopped in the middle of the passage”. Indeed, the agency passes as an authority of regulation (whereas it is not one) and fulfils in an unsatisfactory way its role of operator on the ground. The reform did not reinforce as well the Organizations Authorized for the Adoption whereas they are essential actors of the international adoption.

In France, the candidates to the adoption have many difficulties of comprehension regarding the institutional system set up for the adoption. However, the access to information was simplified since 2005 thanks to the creation of this French Agency of the Adoption and the installation of councils of proximity emanating from this agency.

In addition, many difficulties of comprehension emanate from the differences between procedures relating to an origin’s country within The Hague Convention frame and another one not belonging to the Convention. Indeed, in the first case, the candidate has the choice to pass by the AFA or a OAA (authorised organs for the adoption). It should be noted that these last ones are submerged by many requests and can fix criteria of selection with an aim of selecting the files. If the country do not belong to The Hague Convention, the course of the candidate is even more complex; this one has indeed address himself to the original country via the Ministry for Foreign Affairs and European, to request one or more OAA, or still to address himself to the AFA for a restricted number of countries.

It is necessary to note that the recourse to individual steps, because of the illegibility of the institutional system but also because of its overload put in danger the survival even of the aforesaid system.

c) An expensive procedure
The international adoption has a cost relatively high for the candidates. Indeed, the international adoption has a cost estimated between 2,300 and 10,000 euros for the candidate without including voyage and subsistence expenses to go in the country of origin.

However there is not legal service intended to help the parents.

However, certain departments founded assistances under ceiling or in the form of loan tax range zero.

The Cases of Family benefits can in addition draw this type of funds on their specific equipment of social action. However, with the sight of the national directives over the period 2005-2008, it seems that these funds are weak even non-existent.

When the child arrives at the hearth, the families can however profit from a family allowance to the adoption of 1,727 euros in January 2008. This help is granted according to the resources. The cover rate is rather weak: from 3% to 5% of the parents having adopted between 2004 and 2006 are given this aid.

d) Gaps of the accreditations system

The French procedure of approval proves to be unsuited to the problems of the adoption today primarily international. The certification is ineffective because:

- of the insufficiency of the information exempted to the candidates and its heterogeneity among the departments.

- of the deficiency of the organization of the departments.

Moreover, certain countries of origin emitted criticisms concerning the quality of French approvals. Indeed, for certain countries of origin underlined the heterogeneous character of the French evaluations, and it is in spite of the harmonization of approval and the note in 2006.

The AFA reports that particularly in Colombia, half of the files deposited by its intermediary were the object on behalf of the Colombian Central Authority of a request for supplementary reports, essentially the psychological reports ones. Thailand also issued reserves on the quality of approvals.

By elsewhere, the number of delivered approvals (30,000 people had an approval in France in 2007) is disproportionate with respect to the number of adoption (3,162 for the year 2007) and this, because of the low acceptable number of child available. This system involves many disappointments for the candidates wishing to adopt.

Lastly, the approval process is lived by many candidates with the adoption like a traumatism. Indeed, certain departments impose to the candidates more than 4 interviews (number prescribes by the law), going until imposing the double of it. However, the process of selection is weak since 9% of the candidates were only refusing approval.

e) Inexistence of “funds of support”

Certain countries of origin underlined the fact that “funds of support” were not distributed by France contrary to another host country. In effect, the embassies have a very weak budget to this and the majority of the Organizations Authorized for the Adoption cannot have this type of mission because they are not ONG.

f) Pressure imposed on the origin’s countries.

The difference between the number of requests of adoption and the number of acceptable children operates a pressure on the countries of origin which are obliged to found many specific criteria of selection or not to answer the requests.
In Latvia for example, more than 400 files of French candidates were sent in 2007 whereas in 2006, 79 adoptions had been carried out only there by French families. This pressure can involve ethical problems in certain countries which did not set up yet the guarantees founded by The Hague Convention.

### 3.9.3. Duration

Being the legal requests, the average duration according to the Ministry for justice appears in the table previously quoted below:

<table>
<thead>
<tr>
<th>Nature de la demande</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Demande</td>
<td>Décision</td>
<td>Durée</td>
<td>Demande</td>
</tr>
<tr>
<td>Adoption simple</td>
<td>6394</td>
<td>6281</td>
<td>4,6</td>
<td>6455</td>
</tr>
<tr>
<td></td>
<td>6190</td>
<td>6133</td>
<td>4,9</td>
<td></td>
</tr>
<tr>
<td>Adoption plénière</td>
<td>3632</td>
<td>3794</td>
<td>3,0</td>
<td>3049</td>
</tr>
<tr>
<td></td>
<td>3489</td>
<td>3450</td>
<td>3,2</td>
<td></td>
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<table>
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<tr>
<th>Nature de la demande</th>
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<th>2005</th>
<th>2006</th>
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<tbody>
<tr>
<td></td>
<td>Demande</td>
<td>Décision</td>
<td>Durée</td>
</tr>
<tr>
<td>Adoption simple</td>
<td>7222</td>
<td>6772</td>
<td>4,7</td>
</tr>
<tr>
<td></td>
<td>3683</td>
<td>3607</td>
<td>3,0</td>
</tr>
</tbody>
</table>

*Source: ministère de la Justice, répertoire général civil, DAGE - SDSED*

The High instances Courts pronounce up today an average of over 3000 decisions of plenary adoption by year within 3 average months.

By elsewhere, the legal procedure of declaration of abandonment was established in 2006 to 7,1 months. The duration of the certification proceeding varies in addition between 6 and 11 months according to departments’. Approval must however be delivered within 9 month after the request.

However, these figures are averages and the duration of the procedure varies to a significant degree of a project with another, in particular according to the original country.

For the international adoption, the AFA brings back a time varying 18 months to 4 years between the acceptance of the file by the country of origin and the proposal of the child. These deadlines are varying according to the countries, to the characteristics of the child and the adopting parents, to the characteristics of the child and the project of adopting.

The statistics suggest an average waiting duration of two years for the international adoptions, and four years for the procedures main roads (sources AFA). It should be noted that in spite of these figures, certain children because they are aged, sick, handicapped or in siblings, wait always to be adopted.

According to the same mode of calculation, which is the average duration of the procedure for the national adoptions? The average duration is four years (source AFA)
According to the same mode of calculation, which is the average duration of the procedure for the international adoptions? The average duration is two years but varies between 18 months and 4 years (source AFA, v. above).

3.9.4. Rejected or given up adoption

The rate of refusal of approval is on average 9% (national and international procedures confused) but from 0 to 62% (source spreads out: Colombani report).

The reasons for the refusal are often not very explicit. Thus, 55% of the refusal is justified by “an insufficient perception of the specificity of the adoptive child”.

The effectively of the system rests on coherence, the interaction and the co-operation of the speakers.

In France, the consular and diplomatic network is unequally informed, the central authority is weak and the “OAA” little professionalized.

The central authority is weakened since 2005. Its withdrawal benefitted the AFA which is placed sometimes in competition to the OAA. Thus, in certain zones, the AFA positions on orphanages or OAA were already present (in Vietnam and in Ethiopia in particular). We may express some doubts on the need for such actions. The weakening of the French central Authority contrasts with the reinforcement of the central Authority of other host countries such as Italy in particular.

The French authorities in addition did not pay enough attention to the development of the “OAA”. Moreover, the probably fact of the creation of the AFA, left them with a limited financial resources. In 2007, the financial support of the Ministry for Foreign Affairs and European was of 130,700 euro distributed between 28 OAA. The subsidies of the ministry for the social affairs were of 110,810 euro in 2003 but fell down to 10,000 euro in 2007.

The control of the OAA by the Ministry for Foreign Affairs and European remains however are careful and limited.

The adoptions carried out by the OAA progressed from 2002 to 2007 but remained minority (41,8% in 2007).

3.9.5. - Are there a progress in the fight against the traffic of children?

The consular networks are in first line for the delivery of the visas of adoptions and thus to fight against the traffics. France has a dense and implied diplomatic network making possible to fight against the traffic of children, but it could be better used.

A better co-operation of this diplomatic network at the same time with the central Authority but also with the embassies of the other states of the European Union present in the country and the multilateral institutions concerned should be installed.

The financial tools of the embassies should in addition be developed in order to set up funds of support.

The humane actions currently resting the ONG whose magnitude is sometimes limited in the country, many associations as well as the AFA wishes to create a foundation having for objective to contribute to the children hood welfare.

3.9.6. In a general way, do you think that the procedure as regards adoption is justified and adequate?
- The institution by the ministry for the solidarity of reference frames of information for the families and would allow them to discharge the departments from this activity and to disseminate complete and harmonized information.

- The evaluation for the granting of approval should be based on national reference frames in order to harmonize the certifications proceedings and the rate of refusal.

- The follow-up of these approvals should in addition be specified since the legislation provides that the people having obtained approval must confirm each year that they always wish to adopt a child. However 30% of approvals are not the subject of confirmation by the candidates.

- The role of the authorized Organizations and abilities for the adoption and that of French association in the countries of origin should be better defined by the central Authority in order to allow an optimal effectiveness of those in the countries of origin and to multiply the international adoptions.

- The means of the French international adoption would be optimized if they were distributed better.

- An action of the central Authority identifying the conditions imposed by the countries of origin and the encountered difficulties would make it possible to better adapt the action of the OAA and the AFA in each country.

- France, not represented in 2007 at the time of the Conference of international law of The Hague where are present the central authorities, should take a more active position there in order to profit from the experience of the other member States.

- The central Authority should become a permanent authority as in the other States and its operation should be clearer and transparent.

- A better exchange between all the speakers in the procedure of adoption would allow more coherence.

- “Funds of support” should be set up for the countries of origin. Such funds exist only slightly in the embassies. These funds of support do not exist either for the OAA which are not, except some exceptions, of ONG. This step would not be dependent with the adoption and the direct financing of the orphanages but would allow a better participation of France to the children welfare in the countries of origin. Some such as Vietnam already expressed this wish.

3.9.7. Is the procedure adapted to the interest of the child?

a) In the case of the national adoption.

The national adoption is currently limited to the only children born under the secret and to those which were the subject of a legal declaration of abandonment (either to the maximum 800 children per annum). However, there is in France, approximately 2 /100 children placed durably who could be the subject of a project of adoption. This question posed a debate between holding of the primacy of the biological family and those of the theory of the attachment. This debate should be started again in order to consider if the legislation must or not evolve/move on this point. One of the solutions suggested would be to develop the simple adoption which makes possible to maintain the bonds with the biological family.

b) In the case of international adoptions.

A better consular organization in the countries of origin would make possible to fight more effectively against the traffics of children. Like it was mentioned higher, a better coordination between the various actors would allow an action more effective and more adapted to the interests of the child. By elsewhere, the formation and the information of adopting parents should be developed in order to allow
the child were placed as well as possible at the time of his arrival in France. Better followed post adoptive must in addition be set up.

3.9.8. Conditions and criteria to which are subjected the adopting parents

Certain countries of origin emitted criticisms concerning the quality of the approvals delivered by France. Like it was seen previously, a harmonization of this system would be desirable. Moreover, the number of granting of approval is in shift with the acceptable children available and often involves a great disappointment in the parents having obtained an approval. Thus, there are currently 30.000 people who saw themselves granted an approval for an annual number of adoption of 4.000 children, that is to say a rate of 18%. The position of the social services as for the question of the homosexual couples should in addition be specified with the sight of the stop of the CEDH of 2008 on this item (v. question about the conditions to be adopting).

3.9.9. Criteria applying to the children entrusted in adoption

The international adoption concerns in France in a great majority the foreign children adoptive by French nationals. Consequently, the criteria of their adoptability are determined by the countries of origin.
3.10. **GERMANY**

3.10.1. Duration

Adoption agency procedure may not be determined unilaterally after, which may also vary in time. The check of the ability of the adopting parents by the local youth welfare office may last in the average between 6 and 12 month. With regard to non national adoptions, the time between the agency and the final decision on the adoption and the issue of the visa for the child may take significantly longer.

3.10.2. Rejected or given up adoption

For Germany, there does not exist an evaluation in this regard.

3.10.3. Difficulties to locate the child

The adoptive parents are looked for the benefit of the child not the other way around. However, UNICEF has experienced that certain countries of origin are confronted with a number of applications for adopting children, which exceeds the number of children which are disponible for being adopted.

3.10.4. Language problems

The purpose of this question is not clear. The linguistic adaptation by the foreign children to the new environment does to our knowledge normally not encounter special difficulties. The linguistic problems which may be caused by the agency of foreign children in the course of such inter-country adoptions, which can be solved by the state authorities and by professional translators.

3.10.5. Problems in the course of adoptions due to insufficient information

The quality and the validity of reports on the children from the country of origin often cause problems. The influence of the health state of the mother and her customs (e.g. alcohol misuse, drugs misuse, aids) have a significant impact on the health and the development of the child. It is not unusual those psychological, physical and intellectual problems of mostly very young children are not assessed properly and that such problems only become apparent at a later stage. The adoption of a foreign child bears considerable risks. Also the information with regard to the origin is sometime incomplete or untrue. An example is that after a stop on adoptions in Nepal and the tailback caused by this in the children’s homes is was reported that the orphans in the children’s homes were send back home to their families (!). Also with regard to the children which should be brought by Arche de Zoe from Tschad to France it was reported that they were orphans. Afterwards it turned out that the children had their origin in Mali and that they nearly all had parents there.

3.10.6. What kind of progress can be seen with regard to the child trafficking?

The problem of the worldwide child trafficking still exists. It is, however, clear that the child trafficking is not in the special focus. The child trafficking with the purpose of illegal criminal acts or war acts is more
in the focus of the sciences. The reason for the child trafficking is characterised by the lack of children in the host countries and a lack of national children which are suitable for being adopted. On the other hand the number of poor children in the countries of origin is significantly high. The child trafficking is furthered by a lack of protective mechanism in the countries of origin, deficits in the legal cooperation between country of origin and host country and by the possibility to publish possibilities on how to circumvent the laws via internet. Lastly also difficulties encountered in the course of the inter-country clarification of the background of the children causes problems as well as the lack of interest of the State Prosecutors to investigate such cases, as they mostly consider that the change of the living situation is favourable for the children. Therefore the State Prosecutors consider the illegal acting as of minor relevance. With regard to the child trafficking for the purpose of adoptions there does not exist in Germany any reliable material. The Federal Criminal Police Office currently evaluate the possibility to initiate a dark figure research on child trafficking.

3.10.7. Procedure

a) In the case of national adoptions

The procedure of national adoptions has been successfully experienced for decades. The professional care provided by the adoption agencies is very good, the legal basis fixed in the Civil Code and in the Adoption Agency Code is very helpful to deal with the adoption procedure and to realise a high number of successful adoptions.

b) In the case of international adoptions

Germany is a contracting partner of the HAÜ. The essential provisions of the HAÜ provide for the introduction of protective measures for the benefit of the child, the implementation of a cooperation system for the regular standardised procedure and the recognition of the adoptions with regard to the contracting states. In the Preamble the subsidiarity of international adoptions becomes apparent... The mechanisms to protect children and to cooperate in the area of international adoptions are well drafted in the Hague Convention. When respecting the Convention then the necessity to obtain the consent of both states, as well the country of origin and the host country according to sec. 17c HAÜ a high bilateral standard is fixed.

Differences between EU and non EU states do not exist, in particular as all states except Greece and Ireland are members of the HAÜ. Inter country adoptions in-between member states are of minor relevance due to the proceeding equalisation of the economic circumstances. The legal handling of the EU members with the countries of origin is based on the HAÜ and is thus founded on a safe legal founding.

The adoption as a measure to safeguard and to assist the children is worldwide recognised with the exception of some countries which are influence by the Koran. Most of those countries accept with the kafala a legal institution, which also serves the protection and the well being of orphans or abandoned children. The adoption can be used as an alternative for children who do not have parents or with parents who are not able to raise them, whereby always the interests of the child have to stand in the focus. The necessity to adjust adoptions to the well being of children is thus worldwide recognised. As a basic fundament, adoptions - national as well as international - have not the purpose to help parents who have no children to get one, but the essential aim is to help the child. The rule that national adoptions have priority over international adoptions is regulated in the HAÜ as well as in the Childrenright Convention of the United Nations of 1989 (Art. 21 b). To safeguard the interests of children if an adoption proves to be necessary, it is indispensable to involve trained persons on a mandatory basis. Those persons need to have the objective of making sure the well being of the children as well as the well being of the child and it must be assured that all persons involved can rely on a competent advice. This is realised by the HAÜ für the member states in Art. 4, 5 and 14. By a professional advice of the family in the country of origin it shall be assured that prior-ranking
alternatives to the possibility of an adoption are evaluated. In case of an adoption all necessary prerequisites shall be made available. On the side of the future parents the involvement of a specialist department secures that the internal and external premises for the assimilation of the child are established and that they are able to bring up the child, but also that they are aware of the psychological and physical risks involved with the adoption of a child which is - in case of international adoptions - mostly more or less unbeknown to the future parents. The intrusions into the circumstances of the private life of the adoptive parents are to be accepted and are justified considering with regard to the impact an adoption has on the life of a child and are also necessary to secure the success of the adoption.

There is not an explicit prohibition of private adoptions. The laws which only regulate indirectly the procedure are not sufficient. Furthermore, the law does not provide for any consequences in cases of private self made adoptions.

- The forms of such self made private adoptions after the implementation of the Hague Convention were adoptions within the family or stepchild adoptions. The HAÜ is also applicable to such adoptions, as the family relationship is no sufficient reason to consider the adoption to the benefit of the child. Therefore the Working Committee of the state youth welfare offices considers a long term advice of such applicants necessary. The present advice in such situations is considered insufficient.

- The same applies for adoptions which could also be considered as national adoptions if the persons would not live in different countries. He points out that some contracting states consider adoptions as national adoptions, such as Rumania, Bulgaria, Brazil, or Italy, despite the relevance of the place of living according to the HAÜ. In such cases no state authority is involved in the decision of the placement. The persons to be adopted are not well prepared and have not been prepared by German authorities. The youth welfare offices are confronted with accomplished facts and are only involved if problems arise due to the adoptions.

- The most severe deficits are allocated to the so called self made adoptions. These are the cases where the persons wishing to adopt a child are taking the destiny into their own hands and are looking by their own for the child they wish to adopt. Sometimes these are persons which are circumventing the way prescribed by law and sometimes they have even be rejected by the state authorities as not meeting the requirements for being considered adequate. They are mostly organising a child against payment of money in the respective countries, often in the US. These are cases which should normally be excluded by the Hague Convention. Often children are subject to adoptions where the social and family origin is unknown as well as their health status and their psychological and social development. Furthermore, the procedure and the payments cannot be tracked.

Presently only in cases of verified child trafficking there exists a possibility to have higher demands to the adoptions in Germany according to sec. 1741 s. 2 Civil Code. As the adoption mostly takes place in the country of origin and as it is hard to prove that the adoption was based on child trafficking, this provision has only a symbolic meaning.

Also the Criminal Law proves to be ineffective as many persons consider that a penalty, i.e. to pay a certain amount or a suspended sentence as being acceptable if this leads to the realisation of the adoption. The alien’s law permits the refusals of the visa with regard to some countries of origin. However, the immigration from many countries does not require a visa. As many children to be adopted are brought within Germany by so called visitor visa, the aliens law does not provide for adequate means to prevent child trafficking.

The key to prevent child trafficking is thus the interdiction of private adoptions.
As refusal to recognise such adoptions would be helpful as the adoption is also the basis for the allowance to stay in Germany. Thus, the refusal to recognise illegal adoptions by changing the law would prevent child trafficking. Presently the jurisprudence has a tendency to accept also adoptions which are based on illegal practices by a very benevolent practice to consider the adoption as being for the benefit of the child. The jurisprudence helps itself by a retrospective evaluation of the applicants without the involvement of qualified persons.
3.11. **Greece**

### 3.11.1. Difficulties

The following different interviews show, which have been carried out that the children placed in institutions and approved organizations were not always free to be adopted. They were placed there at a particular time by their parents (for the reasons of the parental authority exclusion or for non capacity to be provided for their needs) and who did not give their assent and were able to adopt by letting them to grow up in those centers of infantile protection.

Another problem that these children were given by their biological mother to be adopted and the mother had a foreign nationality. She departed again in her country of origin and the problem of the personal assent which must be given in front of the court appeared again. This is described in a text published in a newspaper. It is mentioned that in our country approximately 14,000 children live in centers including 2,000 with handicaps.

The Courts are very strict as for the personal assent of the biological parents and often show inflexible whereas the children are abandoned and the not easily locatable parents (in the precise case it was about a small girl of father native of Niger and Ukrainian mother).

According to an interview of adoptive parents to a newspaper of great circulation, it their A took 6 years to adopt their daughter.

There is a slowness which not only is due to the bureaucracy but also the institutions approved for the adoption do not have enough personal to prepare their evaluation of the requests. According to the same article of newspaper, in 2006 the requests for 2001 were studied. The children of these centers are not only given up by their biological parents but they are also punished daily by the law and the bureaucracy. Their percentage exceeds the 80% children not placed. Mothers often declare false or untrue details and until elements of veracious identities are found, and if they are found that the act of marital status is corrected, almost 1 year and a half occurs. For this length of time, no adoption can advance.

### 3.11.2. Duration

We do not have official information on this subject. The only duration which is known is that the 6 months of social research starting from the deposit of the request to adopt a minor whose conclusions must be lodged to the Court.

However, in practice, various adopting parents called upon a waiting time of approximately 3-4 years so that their request is examined and if we add to this the time needed to put the file in judgement and the decision was pronounced, we arrives at 5-6 years. This duration is considered to be too much long and it is obvious that it must be - in a shortened legislative way.

For the aforementioned international adoptions, no exact duration can be indicated since the procedure is according to what is envisaged by the foreign law, we add still the fact that the necessary documents must be translated and have the Apostille, which lengthens the duration of the adoption procedure.

### 3.11.3. Rejected or given up procedure

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20 Newspaper “kathimerini” 06-03-2003 “looking for unknown biological parents”, K. Onisenko. 15-04-2008 Z. Koutalianou, “a difficult puzzle of sponsor in Greece: the bureaucracy, the lack of information, and the incitation defuses the institution; imprisoning a lot of children within the centers.

21 Newspaper “VIMA” 25/06/2006 page A 40, Journalist-reporter Dimitra Kroustalli
We do not have official information but according to the social services interviews, the abandonment or the rejection of a procedure of adoption is rather rare. The desire to have a child is so large that it carries it towards all cases to drop down an adoption. The cases of abandonment of children who were recorded - and this according to semi-official invocations in the course of the discussions - are when the children proposed are not according to the characteristics which the interested parties want (age, sex etc).

The only case where the procedure of adoption is abandoned is if the candidate's parents are considered not able to adopt and that the report of the social services is negative. Firstly in such cases, the social services which answered the questionnaire have indicated to us that they inform the interested parties in order to do not continue the procedure because in the most of cases the Court follows the services' report.

3.11.4. Difficulties relating to locate a child

The location of the child to be adopted does not raise in theory difficulties, because either the child is in a center and thus the location is carried out without any problem and there is not case where a child would be taken by a center without this last one was not in knowledge; or it is about a private adoption and in this case again, the child is firstly given directly to the candidates adopting parents and this often since birth of the child.

3.11.5. Language difficulties

The difficulties being able to exist regarding the knowledge of the language are posed just in cases where the relative biological parents are of foreign nationality and do not know the Hellenic language and would not have assistance on behalf of translator. However the subject of the language was not called upon in different the interview carried out.

3.11.6. Difficulties regarding the incomplete information

The problem regarding difficulties relating to sufficient and adequate information about the adoption procedure has called upon the most of time by almost all the speakers of the questionnaires and especially of the possible actions to be carried out in order to fall into exhaustive bureaucratic delays. Consequently, most of the time, the procedure is dealt with by lawyer who prepares the file and makes follow the procedure, by leaving the candidates adoptive parents in the incomprehension of the exhausted meetings with a welfare officer of the Prefecture or Center and it is the reason of all papers required whereas their will to adopt is so large. The candidates adopting parents call upon a lack of information in the way that it will happens by beginning the procedure of adoption and also the fact of what an adoption implies, and its consequences. Consequently, the parents would wish in addition either the fact to be informed, to be formed to face certain situations and especially with being able to profit from a psychological support not only throughout procedure of adoption but also after, at the time of the adoptive follow-up.

3.11.7. Problems of competence in the procedure of adoption
Problems about competences were not mentioned because the rules governing the procedure of adoptions when they are done are rather clear and precise and it is improbable that a conflict of competence arises and delays the procedure.

NOTE: For questions NO5 to 8 we do not have yet elements and figures. We are in a procedure of research.

We did not have success in obtaining information of official sources to answer these questions. Again, we wish to mention the reserve of the proper authorities to give us percentages, which lets appear on which level the adoption as such is at an embryonic stage in Greece and nobody attaches great importance to it.

3.11.8. Resistance on behalf of the relative having the parental authority

According to the various interviews this situation is rather rare, because the various social speakers try as well as possible to inform them or the relative (S) biological (S) of the consequences of an adoption, and try to be sour of their will in order to avoid such a situation which would be unpleasant for all the parts.

The other often encountered problem is that the children placed in institutions and approved organizations were not always free to be adopted, because they were placed there at a particular time by their parents (for reasons of the parental authority exclusion or for non capacity to be provided for their needs) and who did not give their assent to them who want to adopt by letting them grow up in these centers of infantile protection.

Always it is the Civil code in its article 1552 makes it possible to exceed this resistance by providing that if the refusal is abusive or if it cannot be really given, the assent of the parents (basic condition according to the law) can be replaced by a decision of the Court. There is thus substitution of the assent of the biological parents by the Court.

3.11.9. Which are the most important obstacles, if they exist, for the effectiveness, in the practice, of the mechanisms provided by the legislator?

The most important obstacles and which are often called upon report to the fact that the institutions ou/et approved organizations and having under their protection of the children to adopt do not have enough personnel to study the requests of adoptions what cause a slowness in the procedure.

Another fact is there are not enough children to adopt, the parents or much more the biological mothers do not give up their child, the evolution of manners and the official assistances towards the unicellular families contributed to the reduction of abandonment of children. In addition, the requests for adoptions are rather numerous and because of administrative slowness’s, many couples turn towards other countries, especially the European east countries to adopt a child. This implies other obstacles because there is not bilateral convention as regards adoption of Greece with other countries (in addition to Romania during certain years) and thus the delay of the procedure is often doubled not to say triplet.

Another obstacle is that often the biological mother is confined in Greece and after it leaves immediately for its country of origin by not leaving any trace, nor of element allowing to find it to have its final assent in front of the court.

Another problem in addition is that often the children remaining in these centers without being adopted have either a problem of health or do not fill the physical characteristics of the applicants. Either if this mention can shock, it is often called upon because as the candidates adoptive parents used to say it, they often seek a physical resemblance between them and the child to adopt to try “to forget” they are
not able to have a child or not to have to reveal it with their entourage. This proves well that the institution of the adoption still remains in Greece a way to give to sterile couples a child and not to find a hearth for a child.

3.11.10. Progress in the fight against the trade of children

The problem of the illegal trade of children is often with the deadline of the newspapers. In May 2005, the Hellenic police force dismantled a gréco-Bulgarian circuit of trade of children. The aforementioned circuit had time to carry out 35 illegal adoptions by selling to 25,000 Euros the boys and 20,000 Euros the girls\textsuperscript{22}.

It was indicated according to reportage at the Hellenic radio in October 2008, that another circuit was dismantled of trade of children who were given to be adopted at Volos (area in the East of the periphery of Athens), these children came from the Eastern European countries especially from Romania or parents Tziganes or Romanian. The network was dismantled because it had been noticed that these last years, the number of adoptive children in the area of Volos had increased and that the source of these children were as a majority of stock Rumanian, Tzigane or Romanian. It is thus obvious that steps are taken to dismantle such circuits even if unfortunately they still exist.

And according to the answers of the questionnaires, we can say that during the private adoptions, there is an economic exchange, which is presented like a “gift” towards the biological family. The most widespread case is the assumption of responsibility of the expenses of childbirth and the previous period, of the biological mother or a counterpart to be able to set out again in its country of origin if this one is of foreign nationality. In all the cases, this counterpart is consequent and the future adoptive parents avoid saying it.

However, Greece corrected this situation with the Report argued of the Rights of the child relating to the project law “Ratification, Application of the Optional Protocol of the International Convention for the rights of the child relating to the trade of the children, with the infantile prostitution and infantile pornography and other provisions” Announce by the Ministry of Justice 10/01/2008\textsuperscript{23}. The Law 3625/2007 (FEK A’ 290/24.12.2007) ratifies the aforementioned Optional Protocol and the Hellenic State tests this manner of making a projection in the matter.

In all the cases even if we cannot reduce this important step carried out by the State, it is indubitable that the way is still long - especially in the case of the private adoptions so that the economic phenomenon of exchange is erased in the procedure of the adoption.

3.11.11. Criteria applied to the children

On a side, we have those which think that the law is well adapted to the reality in Greece and that it preserves the interests of the child to adopt. They are especially the lawyers/jurists and the social speakers of approved organizations which support this opinion. They support that the law can appear severe but that actually it preserves the interests of “the family union” by giving a paramount weight to the assent of/the relative biological, in order to be sure that this one is given freely and without any constraint. These same people support that the Hellenic Law is one of best which exists (compared to other countries) because it is adapted to the Hellenic society and the various reforms with of the law proves its evolution parallel with the society evolution.

\textsuperscript{22} Newspaper « VIMA » 25/06/2006 page A 40, Journalist-reporter Dimitra Kroustalli.

\textsuperscript{23} Greece has ratified this Protocole Facultatif in october the 7th 2000 but this one is not still ratified. With this law project, once has been voted the situation would change.
However, it is obvious that especially on behalf of the social or psychological assistants or proper official authorities (services of the Prefecture), it would have been difficult that another opinion is not emitted even if after a certain pressure, that the criteria posed by the law are more easily applicable to the children being in centers/approved organizations. Indeed, a child placed in such a center and who is “free” to being adopted, poses neither problem of localization, neither of competence, nor of assent. The various administrative and bureaucratic delays are explained by “excuses” of staff shortage of personnel and especially trained and specialized in the matters and not because of the forecasts and provisions which impose the law.

Other side, if it is true that the law protects from share and others the interests brought into play, it appears useful to us to mention that this one presents an unflexibility on certain points the such assent or the series of certificates and documents in proof to be deposited and that on certain points - and the adoption does not miss with the rule- the laws always present failures and its severity can be circumvented and thus the law does not achieve its goal. Indeed, the only fact that the law itself accepts a distinction between a “public” adoption and a “private” adoption shows that the law does not applied same manner for everyone.

Indeed, some others think that the “private” adoption must be repealed, because there is not real control of the contact of the candidates adopting parents and the biological parents, by thus leaving the adoption in the fields of application of the approved centers, not only to have a certain control for what occurs in the field from the adoption but especially to be sure that this one is carried out into good and of the form. Obviously this opinion, can be contested that these centers of infantile protection approved by the law and of closed type constitutes an exceeded model and without place to exist. Some ones have called upon that in these centers there are risks of ill-treatment of the children (called “the Institutional misuses”). There is a certain lassitude on behalf of the personnel - which wears all the hats of competences and which sometimes are assimilated to the children, and of the inappropriate behaviors can exist (to speak to the children badly, not to pay great attention to them of letting them cry because they had been dirtied or because they were hungry and that one their gave the lunch dinner per hour which was appropriate for the cooks of the center, case of frightened children when they saw for the first time of their life of the animals at the time of an excursion because they did not leave them to do these kind of visits properly). We can as well called upon these centers are badly parcelled out of personnel or personnel not specialized and that thus the majority of the requests remain in a drawer without being examined and thus without a future.

At this stage, we allow ourselves to take again the comment of the doctor gynaecologist at the hospital “Elena Vénizélou”, Mr. Stathis Tsoukalos, also president of the Union of the doctors from the Hospitals in Athens and Pirée as Vice-président of the Association of the Doctors in Athens “the situation unacceptable and completely anti-pedagogic and it creates obviously problems in the psychosocial evolution of the children who remain in maternities instead of being placed in institutions of care approved or better in families to be adopted or in family of sponsorship”. It continues “When it remains so many of requests and so many of children, we have the obligation to take measures. It is the goal which is important and this one is that there is no one (1) child who was obliged to remain in such an entourage - as that of the hospitals, where they are abandoned, for a long period. “In an interview to the lawyer Dimitris Bolis “the Law must undergo reforms so that on the one hand the interest the adoptive child is assured, but that the procedure of the adoption is completed quickly. The Law presents gaps and problems due to the bureaucracy and the staff shortage in the social services and to the fact that often is avoided taking the responsibility to give a child host of such an institution to being adopted. The consequence is that the future adoptive parents are disappointed and turn thus to the private adoption which is carried out sometimes without legality”.

To conclude on these questions, we wish to mention that the adoption law which is not so old states provisions and rules to be followed which generate by themselves delays and a stressing of the bureaucracy. It is about gears which do not have limit nor end, because one implies the other. Moreover, we felt in contact with the questioned people, whom they are adopting parents or professionals on the matter, that the law does not take into account all the “sentimental” weight,
meaning the psychological support during but especially after the adoption act granted towards the interested parts and whom it would be necessary that the follow-up post adoptive is imperative.

3.11.12 Final remarks

The Hellenic law on adoption is a law which is adapted to Hellenic reality and protects the national adoptions. Greece knows a great gap as regards the international adoptions. The common point of all the interview of the people specialized on the matter (intervening social, professors, lawyers etc) is that Greece must obligatorily ratify the International Convention of The Hague of 1993 relating to the protection of the children and collaboration relating to the international adoptions and who envisages a procedure applicable to all the countries left with this one.

This would make possible to avoid administrative slownesses or diversions of law. For the countries not parts with the aforementioned convention, the problem could be regulated by the signature of bilateral conventions envisaging the procedure to be followed on the matter.

Another proposal which often returned was the creation of a National Institution which would be responsible for the adoptions (private, public, national, international) and that in this manner there would be a single procedure and much more flexible to follow.

In the same way we think, personally that sponsorship is a procedure which would facilitate the adoption which is a social subject above all: Many children need sponsorship or adoption and not a protection of an infantile center. Indeed, while referring to us with the found bibliography on this subject, we can stress that sponsorship is an institution put on the side in Greece, with a lack of legislation on this subject, social services which deal with this institution and lack of specialization in the implied personnel. The result in is, that thousands of children remain in centers for many years instead of benefitting from the heat and the attention of a family of sponsorship. The president of the Research center “Rizes” (= origins), Mrs. Mairi Theodoropoulou calls upon that “we are the single European country which has institutions centers which receive so many children. In the rest of Europe when a child is in the need, it is dealt with by the social services which initially regulate its sponsorship and by after its adoption. All this is done automatically without the intermediary of the institutions centers”. It stresses that “abroad there is the relative - professional godfather and even specialized for the babies.” According to it, the reasons of this lack of success of the institution of sponsorship is due to the lack of information on a national scale and consequently the people not knowing exactly with what sponsorship consists, when it is addressed to the institutions centers they ask to adopt.

The existing gaps in the concept of sponsorship are enormous, thus the parents - godfathers do not have the rights which have been given to them. A mother godmother cannot take days of her employment when his/her child is sick, it must require a particular permission to take with herself on holiday or abroad, it is necessary a particular agreement to register the child at the school. The law must change on its points and also envisage a greater formation for the social services in order to make the good choice of the parents - godfathers, to form them and to follow them.

Mrs. Daskalaki, welfare officer in the Center Agios Andréas (Athens) which receives 31 children from 3 to 12 years old notices that there is an increase in the requests of the families to sponsor a child. But in this center, I am the only welfare officer having to regulate these requests for all the periphery of Attiki. The staff shortage and the gaps of law are a fundamental obstacle for the institution of sponsorship. Like says it a welfare officer of the Center for children “MITERA”, Mrs. Sofia Konstantelia “everything shows that sponsorship is an institution to which nobody pays attention”. “The law for sponsorship must risen from a planning. The State must decide what it wants for its children. It wants centers, centers of private initiative, which wishes it to do about the sponsorship institution? and for the adoption? According to this planning, it is sure that less children will be in centers. “It is high time to face this reality” “We cannot determine the life in a center for a child because quite simply the solution of the sponsorship family misses”. According to the rights of the children, he has right that a solution of substitution family were researched and only if this one cannot be found that it goes in a center".
We can thus conclude that if everything shows there is place in our hearts and our houses for these children it does not have there a place in the minds and the hearts of those which legislate and which decide. The goal is one and single that the number of children in the centers were reduced and that they can evolve/move in mediums which by nature are provided for them, meaning families.

We wish also mention there is a project of law in process which envisages the reform of various articles of the civil code which refer to the adoption institution. Always it is that if a greater flexibility is envisaged especially in the case of the refusal of assent by/the relative biological or in the case of an abusive refusal, by envisaging the substitution of this one by decision of the Court having jurisdiction, we let us to evoke our opinion that it is here only about one small step compared to the enormous “jumps” which must be carried out so that the final goal is the child as himself. It is indeed a priority that mentality changes, the adoption is not an institution designed to grant to a married couple or not or a person a child in order to satisfy a feeling and a natural logic “to have a child”, but to grant a family to a child. It is only and single goal which must prevail in reality and absolutly and nothing must be put in obstacle with this reality.
3.12. HUNGARY

3.12.1. Duration

Because there are too many factors that determine the duration of the adoption process, it isn’t easy to answer this question properly. Rather we should examine the duration of the main phases of adoption process.

In general, adoption procedure consists of three main phases as below:
1. Pre-adoption procedure, in which the guardianship authority determines whether the potential applicant parent is eligible and able to adopt a child.
2. A waiting period between the end of the pre-adoption phase and start of approval of adoption.
3. Procedure to approve adoption, in which adoptive parent-to-be found eligible in the former pre-adoption procedure is allowed to adopt a certain child.

A. Procedure preceding adoption

In practice the average duration of the pre-adoption procedure is 2-6 months.

There are legal deadlines related to adoption. Within maximum 15 days subsequent to submission of application the child protection special service shall inform the person intending to adopt a child on the condition for adoption required by law as well as the sorts of documents he or she must obtain for demonstration. After the completion of the above-mentioned the child protection special services shall inform the person intending to adopt the child on the results of aptitude test within 60 days after the submission of application.
At the applicant’s request the child protection special service shall send the partial results of the aptitude test and all documents they have made to the guardianship authority. The guardianship authority makes a decision on eligibility for adoption within 30 days. The authority’s decision remains in force for 2 years. The validity of the decision may be extended by a maximum of one year if no adoption has taken place and applicant remains eligible and suited to adopt. Without bearing a final and absolute decision on eligibility for adoption the adoptive parent-to-be shall not adopt a child in secret, open, or any other form of adoption in Hungary.

B. Waiting period

There is a substantial length of time between pre-adoption procedure and approval of adoption, the length of which, however, depends on several factors. (Waiting time is counted from the date of coming into final and absolute of the decision on establishing eligibility for adoption.) These factors are the followings:

C. Waiting time in case of secret adoption

1. The average duration of waiting time in case of secret adoption (if the parent-to-be wants to adopt a 0-3 years old, white, healthy child) is 2-5 years. This great dispersion has the following grounds.
There are great differences among secret adoptions; the procedure may differ in function to which county the prospective adoptive parents have applied for secret adoption and whether they have been registered in the national registry.
First, the children eligible and suited to adopt are put on a county list kept by the child protection special service; in the event they fail to find prospective adoptive parents for the child in concern within the same county, then the child is automatically registered into the national registry as well. When the prospective adoptive parents submit application for adoption to the child protection special service, then they are automatically registered into the county list of prospective adoptive parents; in addition, they can also apply for getting registered into the national registry as well. Children from the national list can be adopted by parents living in a different county only if they have applied for getting registered in the national list. It means there are registries of children and adoptive parents-to-be eligible and suited to adopt at county and national levels as well.

Waiting period may differ significantly from county to county. The difference is partly caused by the different ratio of the number of children eligible and suited to adopt and the number of parents intending to adopt a child in a particular county. Waiting period is the longest for adoption of newborns; from county to county it varies between 2-5 years in secret adoption. Child protection special services establish a rank of potential prospective adoptive parents in the concerning county; here are the basic factors that determine the rank of parents:

1. The most important is the child’s interest, i.e. what sort of parent he or she would benefit the best.
2. Date of registration of the adoptive parent-to-be at the special service.
3. The prospective adoptive parent’s ideas about the child to be adopted are also very important. The younger child one wishes to adopt, the longer he or she must wait for; the waiting period gets longer if the prospective adoptive parent would like to adopt only a healthy child; it further lengthens if additional details are specified (gender, appearance, characters, etc.). Willingness to adopt brothers and sisters may reduce waiting period.
4. Spouses willing to become prospective adoptive parents are given preference by law to the unmarried.

The rank described above might turn upside down if, for instance, a parent already raising an adopted child would adopt the child’s brother or sister who also becomes eligible and suited to adopt later; in such cases preference is given to the parent who would raise the brothers or sisters together.
Any prospective adoptive parent may also be granted preference if wishes to adopt a child, who, either in an institute for child protection or at foster parents, have established good terms with his or her child adopted beforehand.

2. Waiting time in case of open adoption

In open adoption procedures waiting period may vary in a wide range depending on whether non-governmental organizations facilitate the procedure or not. Processes facilitated by non-governmental organizations overwhelm the number of open adoptions.

In case of a facilitated open adoption it is the non-governmental organization that sets the rules of and updates waiting list, which may differ from those used in secret adoption. Most waiting lists take only the child’s interest, the date of prospective adoptive parent’s registration at the organization arranging for adoption, and the prospective adoptive parent’s ideas about the child to be adopted into account. The waiting time at “Fészek” Foundation and “Gólyahír” society, for example, is 3-4 years. In the course of open adoption babies are adopted in nearly all cases.
It might be the case that open adoption is not facilitated by a non-governmental organization. In such individual cases waiting period cannot be determined, for it changes from case to case.
A person intending to adopt a child may apply and get registered both for open as well as secret adoption. An applicant intending to adopt a child is often indicated in both the county and national registries kept by child protection special services as well as in the lists of any non-governmental facilitating organizations in order to increase the chance for and speed up adoption.
3. Waiting period in other modes of adoption

In case of adoption by spouse or a relative practically there is no waiting period, since after the decision on eligibility for adoption becomes final and absolute the procedure for approval of adoption commences immediately. Similarly to adoption by spouse, there is no waiting period in adoption by foster parent, either. To summarize it we can state the child’s interest, the prospective adoptive parent’s ideas about the child, the mode of adoption, and many other factors influence waiting time; hence determining the average waiting time is not easy.

D. Procedure for approval of adoption

Generally the procedure for approval of adoption takes 40-50 days. The procedure for approval of adoption commences at a joint request (usually requested by the child’s guardian and the prospective adoptive parent); it takes 60 days to complete the procedure; the period includes a mandatory care period of minimum 30 days, in which the adoptive parent-to-be takes care of the child at the parent’s home. In practice the mandatory care period is always 30 days, after which the guardianship authority makes a decision on approving the adoption within a week or two for Hungarian parents and within few days for foreigners.

E. Duration of adoption process in case of inter-country adoption

The average duration of international adoption process is 1-2 years, but only infants for whom no suitable prospective adoptive parents have been found in Hungary are given up for adoption to abroad. Principally foreign citizens are allowed to adopt a child of Hungarian nationality only under secret adoption.

The situation of guardianship authorities is simpler. The documents verifying suitability and eligibility for adoption are prepared abroad, legalized via embassies, and have they translated. Then the documents are sent to the Central Authority, which immediately starts to filter the national registry of children to be adopted to find an infant that corresponds to the needs of the candidate parents. Usually the Central Authority proposes several married couples for adoption for a single infant, whom the regional child protection special service sets up an order.

Like in domestic adoptions, so in inter-country adoptions the municipal guardianship authorities establish whether the adoptive parent-to-be is eligible and suited to adopt or not and they make the final decision on approving adoption. There is a mandatory care period in inter-country adoption too; in such case foreigners must spend the care period in Hungary, after which the guardianship authorities issue decision on adoption almost immediately.

The average lead time of inter-country adoptions also depend on a number of factors. In the course of such adoption it is also the child’s interest as well as the prospective adoptive parent’s ideas about the infant that enjoys preference. The more the prospective adoptive parent is willing to accept an older child or an infant with disease, the shorter he or she must wait for closing the adoption procedure. The Central Authority often makes arrangements to speed up inter-country adoption.

F. Adoption procedure and placing the child to the prospective adoptive parent

It is important to highlight that it is not bound to happen that the child is placed to the prospective adoptive parent after the decision of approval becomes final and absolute. When the blood parent abandons his or her child under secret adoption right in the hospital, then the child is temporarily placed at the adoptive parent-to-be after all required medical examinations are performed; in fact the “temporary” prospective adoptive parents raise the child, although the decision
on approval of adoption might as well be made several months later. The same procedure shall apply for children found in incubator.
In case of adoption by spouse or foster parent the child’s home remains unchanged and continues living in the same environment.

3.12.2. Rejected or given up adoptions

In the course of adoption the guardianship authority makes two decisions; the first one establishes or rejects prospective adoptive parent’s eligibility for adoption, the second one approves or refuses adoption in the specific case.

In pre-adoption procedures (deciding on the adoptive parent’s eligibility for adoption) the guardianship authority seldom makes rejecting decisions. In Hungary as few as 25 applications in 2005 and 12 applications in 2006 were rejected for approval by the guardianship authority (the number of eligible adoptive parents-to-be registered in Hungary amounted to 2369 in 2005 and 1337 in 2006). The reason behind is that if in the course of investigation the child protection special service finds any condition that would presume ineligibility of the parent intending to adopt a child, then the child protection special service explains the applicant why he or she is currently not eligible and suited to adopt. Most parent realize and acknowledge the problem revealed by the child protection special service exist, and they do not request the child protection special service to submit the results of investigation to the guardianship authority, which means actually they cancel their applications for adoption. Sometimes the applicant does not agree with the results of investigations performed by the child protection special service and requests the guardianship authority to repeat the procedure and re-examine the conditions that the child protection special service did not find satisfactory. After the completion of the repeated investigation the guardianship authority has the power to declare such parent eligible for adoption despite the child protection special service’s recommendation provided the result of the repeated investigation is positive. Mostly personality problems and lack of motivation hinder adoption, whereas being badly situated or poor environmental conditions are rather rare.

In sum we can state the number of ineligibilities is much higher than the number of applications for adoption the guardianship authority rejects on account of the above-mentioned.

In the vast majority of cases the procedure for approval of adoption closes with a positive decision on approval of adoption. The current legal rules in this respect explain it all.

In secret adoption the child protection special service selects the adoptive parent-to-be most suitable for the child, to whom they recommend to place the child out. The parent intending to adopt may choose whether or not he or she wishes to get to know the child. If yes, then the child protection special service takes the prospective adoptive parent to the child. First, the parents-to-be take a look at the child and watch how he or she behaves, but do not get in touch. If the parent insists on adoption, then comes the second phase to get to know each other and become friends. In this phase parents visit the child several times and spend more and more time with him; in the beginning they spend an hour or two together, later a whole afternoon, for instance, and finally they take the child home for a weekend. The purpose of the second phase is to establish a bond in the child to the parent and vice versa. Since a successful friend-making phase always precedes the pre-adoption procedure, therefore the 30-day mandatory care period ordered by the guardianship authority is usually just a formality. Within one or two weeks following the mandatory care period the guardianship authority issues a decision on approving the adoption in concern. Rarely the adoptive parent-to-be gives the child back, which means the mandatory 30-day care period after a successful period to become friends failed.

The parents wishing to adopt a child always have the possibility of pulling out of adoption until after the completion of mandatory care period in the procedure for approval of adoption they confirm their intention to the guardianship authority. Mostly parents pull out of adoption in the waiting period, but it occurs seldom if ever: such parents divorce or give birth to their own child during the waiting period.
Under Hungarian law adoption may be dissolved. 19 adoptions in 2005 and another 19 ones in 2006 were dissolved in Hungary. Adoption may be dissolved on decisions partly of the guardianship authority and partly of the Court. The figures above do not include all failed adoption, because the adoption is not dissolved sometimes, yet the child is placed back to the state system; in addition, when the child comes of age, he or she can decide on breaking up with the adoptive parents.

3.12.3. Difficulties to find the child

Usually there were no problems related to the placement of a child due to the period allowed for the parents and child to get to know one another. On the other hand the fact that there are many children very hard to give out for adoption in Hungary. In Hungary only few parents adopt children with mental or physical disability and giving out roma (gipsy) children is not easy at all.

3.12.4. Language difficulties

Language difficulties do not arise. Hungary ratified the Hague Convention. The Convention specifies that foreigners shall contact the competent Central Authority if they wish to adopt a child in Hungary. The Hungarian Central Authority shall give all help non-resident prospective adoptive parents may possibly need. Many require help from foreign non-governmental organizations to facilitate the procedure and not only to obtain the required documents, but also to help organize their stay in Hungary; such organizations often provide interpreter in order to facilitate the proceedings at the Hungarian guardianship authorities.

According to child protection special services with plenty of experiences in eligibility for adoption they receive all the documents required for foreigners to adopt a child in Hungary together with certified translations at the same time. At the guardianship authorities the procedure for approval of adoption is always assisted by an interpreter.

If required, interpreters may help in overcoming language gaps arising in keeping contact with the child as well as during the mandatory care period. Children usually learn the prospective adoptive parent’s language very quickly.

3.12.5. Problems of incomplete information during the adoption procedure

There is no lack of information on procedural process and rules. The reason is that both child protection special services and guardianship authorities give priority to adoptions. Officials in charge for adoption are flexible enough and open to meet prospective adoptive parents to discuss a problematic matter even outside their business hours.

In case of adoption from abroad foreign non-governmental facilitators and Central Authorities cooperate and help in all matters.

3.12.6. Problems of judicial competence

In Hungary the role of Courts in adoption proceedings are very limited. They participate neither in the decision on declaration of eligibility nor in making the decision on approval of adoption. In principle, it is possible to cause such decisions undergo judicial review, but practically never occurs.

The Court is involved in dissolution of adoptions only; competence or authority is not found problematic.
In the course of adoption procedures municipal guardianship authorities make decisions on merit; clear and well-established rules apply to their roles and fields of competence.

3.12.7. Percentage resistance from the holder of parental authority

In case of children eligible for adoption a guard ordered by the municipal guardianship authority exercises the right to control over the child. Usually the guard shows no resistance.

Sometimes the blood parent lies an appeal against the decision declaring eligibility for adoption (usually the guardianship authority makes such decisions when the blood parent keeps no contact with the child during a period specified by law), but it is not typical at all, because lack of relationship between the child and his or her blood parent is a precondition to become eligible for adoption, and blood parents who did not keep relationship with the child are quite unlikely to show interest for the child later, either.

Physical resistance has never occurred.

On several occasions it happens the foster parent attempts to let the child transferred to the adoptive parents. It occurs mostly when a foster parents are not trained enough to know they are not the adoptive parents. Most foster parents, however, are helpful in adoption procedure.

3.12.8. What were the major obstacles, if any, to the effectiveness, in practice, of the mechanisms instituted by the national legislator?

The most important problems among all is the tight human resource conditions, as the person responsible for adoption has other fields of responsibility too; the same problem applies to child protection special services.

It is also important to note that although child protection special services and guardianship authorities are unable to keep deadlines sometimes, but the largest problem is that the waiting time is far too long.

3.12.9. Progress in the fight against the trade in children

Child trading has not been suspected at all.

Child trading cannot relate to secret adoption for in the Hungarian system officers working at child protection special service and guardianship authority visit the child both during the introduction period as well as the mandatory care period on a regular basis. They easily observe lack of emotional bond to the child and if the potential parents do not aim to raise the child.

In case of intercountry adoption both the child protection special service and guardianship authority make decision on the basis of available documents; in 2 months as well as in 1 year after adoption they carry out a follow-up study to review whether the adoption was right or not.

3.12.10. Is the adoption process justified and adequate?

Basically most officers working in this field reckon the Hungarian adoption procedure is righteous and appropriate; however, almost everyone had some proposals for minor or major changes.

3.12.11. Are the criteria applied to children to be adopted justified and adequate?
Basically, a child becomes eligible and suited to get adopted if abandoned and waived by the parents. In special cases the guardianship authority may declare a child eligible for adoption (the number of such special cases is increasing); the Court’s decision on causing the blood parent’s right to control discontinue also makes a child eligible for adoption; children with parents in state of incapability or staying in unknown location, or left in incubators at hospitals are also become eligible for adoption. Most problems in such cases relate to declaration on eligibility for adoption.
3.13. IRELAND

3.13.1. Major obstacles to the effective operation of the procedures of the Adoption Board in issuing adoption orders

Level of transparency is an issue:
   a. The level of information on the website; to what extent can an applicant/user of the service obtains information on what is involved?
   b. Need to have hearings throughout the country with future planning so that the Board goes on circuit regularly and applicants know the timetable
   c. Legal restrictions on disclosure of information is an obstacle, i.e. the Adoption Board does not come under Freedom of Information Act(s) but recognising the need for high level of confidentiality for individuals, i.e. Balance of rights around confidentiality
   d. Legal issues around the rights of fathers restrict the procedures that are possible re birth fathers.

3.13.2. The conditions applied to prospective adopting parents

The conditions for a declaration of eligibility are justified and adequate because it must be ensured that the children are put into a secure and safe environment.

Additional conditions, such as age and reference to specific needs of a child would make the conditions much more adequate and appropriate.

3.13.3. The conditions applied to prospective children

Major impediment for children in relation to adoption is the restrictions regarding marital status of their parents and the very limited circumstances for children of married parents to be adopted. Principle of the best interests of the child guides the decision making however the lack of definition as to what needs to be taken into account is a major impediment.

3.13.4. Procedure

Proposed reforms include:
   a. Change in restriction to marital status;
   b. Birth father’s rights need to be clarified;
   c. Remove necessity for birth mother to adopt her own child with her husband who is not the father of the child;
   d. Remove the restriction on the re- adoption of an already adopted child.
   e. Need for information and greater use of alternative to step-parent adoption such as changing name by deed poll and guardianship;
   f. Use of mediation to assist in impasses between birth parents in relation to planning for children who are now living in re-constituted families.
   g. Bring in Hague legislation. Hague Convention provides for MINIMUM standards so any future Hague based legislation needs to be based on accepted internationally proved best practice.
   h. Process of mediating placements to facilitate the location of the child for adoption.
3.13.5. **Best interest of the child**

The adoption of children within the care system needs to be focused in particular regarding children with special needs and older children and the need of these children for family placement needs to be highlighted in the general media.

Open Adoption: Need to make it possible to attach certain conditions to an Adoption Order to facilitate the continuation of agreements made at the time of the adoption which may lapse over time and at present there is no ability to enforce the agreement. Need to develop more specialist adoption service to assist families post adoption.

More attention needs to be focused on adoption as a viable option for parents facing a crisis pregnancy, particularly where open adoption might become a more developed practice. Crisis pregnancy counselling needs to be embedded within child welfare and the ‘best interest of the child’ principle must be adhered to at this stage also.

Need to have a more informed debate about the place of adoption in Ireland in view of the negative legacy around adoption in the past.

3.13.6. **Trade in children**

The procedures are there to protect children and to ensure against the possibility of trade in children.
3.14. **ITALY**

3.14.1. **Duration**

Average duration of the adoption procedure: from 2 to 3 years and the respondent said that it is too long.

The length of the procedure of adoption does not change in case the child comes from a state belonging to the U.E.

3.14.2. **Rejected or given up adoptions**

- 37% positive conclusion of national adoption
- 21% renounce
- 16% birth of a natural child
- 15% family problems
- 11% to change the accredited body in general by the adopter

3.14.3. **Problems during the procedure**

Most of the times, we noted and claimed a lack of information about the children (when it matters to combine the couple with the child).

3.14.4. **Procedure**

The procedure is justified, even if not properly adequate in all countries, especially after pronouncement of the decree of adoptability of the child by the competent authority of the country of origin: at this point it is important to localize the adoptive family available to receive the child as soon as possible. The procedure seems to be adequate.

3.14.5. **Remarks**

The respondent said that there are too many differences between the decisions of the different juvenile courts.
3.15. **Latvia**

3.15.1. Difficulties

According to the written information received from the Ministry of Children and Family Affairs: “The Ministry of Children and Family Affairs does not have any information on difficulties experienced during the adoption process.”

According to the written information received from one of the Orphan courts of one of the largest cities of Republic of Latvia, there have been no such cases.

3.15.2. Duration

According to the written information received from the Ministry of Children and Family Affairs: “The average duration of the adoption process for the local adoption from the date of receipt of the application to the completion of the adoption process is approximately a year and six months. In the cases of foreign adoptions of children under 7 years of age, we have to wait for approximately 4 years until information on the child to be adopted is provided, which is due to the large number of foreign adopters. However, after receipt of information the adoption process lasts for about three months.”

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia, the average duration of the national adoption process is 1-2 years.

3.15.3. Rejected or given up adoptions

We have obtained the written information from the Ministry of Children and Family Affairs: “The Ministry has not specifically studied the number of adoption cases which are terminated or rejected, but it could be on average 10 cases per year."

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “The adoption process has been refused or terminated at Orphan Court in approximately 8 cases over a period of 2-3 years. Reasons were, for instance, that the child who was placed under care and supervision of adopters did not agree to adoption (the adoptee’s consent to adoption should be obtained where the adoptee has reached 12 years of age); the adopters found during the care and supervision period that they did not want to adopt the child because they could not accept a strange child as their own. In these cases proceedings were always terminated during the pre-adoption period. There was 1 case when spouses wanted adoption but during the adoption process their marriage was dissolved and therefore the adoption case was closed.”

3.15.4. Difficulties in locating the child

We have obtained written information from the Ministry of Children and Family Affairs:

“Difficulties arising during the adoption process are mostly related to the health conditions of the children, because the adopters prefer adoption of a healthy child, while in most cases the children have some health problems, which tend to reduce the number of prospective adoptive families. Neither has Ministry specifically counted the number of cases in which the adopters do not receive the adoptee child.”
According to the written information received from one of the Orphan court of one of the largest cities of Latvia, there have not been such cases.

3.15.5. Language problems

We have obtained written information from the Ministry of Children and Family Affairs: “Language barrier problems are likely to be experienced in foreign adoptions, but this problem is overcome with the help of the interpreter and the adopting family.” According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “There are no language problems. Foreign adopters are already prepared in their country that there could be a language barrier in communication with children and they are trained in making better contact with the child – the language of gestures, involvement of the child in playing games. Frequently enough foreign adopters arrive with books for children and teach children in the foreign language. Children are taught English at school therefore, if the children are older, there are no problems with communicating in English, provided the adopters know the English language. Where necessary, the services of the interpreter are used.”

According to information which we have received from one of the regional courts of Latvia: “Normally, there is no language barrier. Children start learning foreign languages (usually it is English) already at their pre-school educational establishments, therefore conversational language is learned and the adoptee is able to communicate with the adopters. The situation becomes somewhat complicated if the adopters do not speak English (e.g. adopters from France, Italy).”

3.15.6. Incomplete information

We have obtained written information from the Ministry of Children and Family Affairs: “Incomplete information about the child to be adopted does cause problems, but cooperation between the Ministry, out-of-family care institutions and foster families has improved recently”. According to the written information received from one of the Orphan courts of one of the largest cities of Latvia, there have not been such problems. According to information which we have received from one of the regional courts of Latvia, usually there are no legal complications.

3.15.7. Judicial competence

We have obtained written information from the Ministry of Children and Family Affairs: “There have been complications at every stage of the adoption process, but such have been eliminated with assistance of the legal base regulating adoption in Latvia. Therefore the Ministry cannot name or describe a concrete case. There have been only a few complicated adoption processes”. According to the written information received from one of the Orphan courts of one of the largest cities of Latvia there have not been such problems. According to information which we have received from one of the regional courts of Latvia usually there are no legal complications.

3.15.8. Resistance from the holder of parental authority

We have obtained written information from the Ministry of Children and Family Affairs: “The Ministry does not have information on resistance on the part of persons exercising the parental right or guardians, considering that matters of such nature are normally resolved by the respective competent orphan court with the respective parties. Also, these matters are considered when approving the adoption at the court”.

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According to the written information received from one of the Orphan courts of one of the largest cities of Latvia there have not been such problems.

3.15.9. Major obstacles to the effectiveness, in practice, of the mechanisms instituted by the national legislator.

We have obtained written information from the Ministry of Children and Family Affairs: “The Ministry cannot name an obstacle for use in practice of the mechanism developed by the national legislator because the legal base complies with the requirements of the adoption process. Within the context of national adoption the problems arise in relation to adoption under guardianship, but the legislation will be amended also in this regard.”

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “There are no obstacles. The only thing to mention is that pursuant to the Civil Procedure Law Section 415, the appeal on the judgment by the court of first instance can be filed within 20 days after the date of announcement of the judgment. If the shortened judgment is announced, the appeals term is counted from the date on which the court announced the full wording of the judgment. As a result, there arises a situation which can be interpreted as such which does not comply with the interests of the child.”

3.15.10. Progress in the fight against the trade in children

We have obtained written information from the Ministry of Children and Family Affairs: “The Ministry does not have information on child trafficking”.

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “There is no information about trading of children. The adoption process in Latvia is transparent.”

3.15.11. Adequation of the adoption process

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “The adoption process is legally substantiated and adequate. The reforms are not actually necessary. The orphan court and the court verify documents. In the event of foreign adoption the documents are initially verified by the Ministry for Children and Family Affairs to grant the foreigners a permit to adopt a child in Latvia. Participation of the prosecutor in the court hearing at which the adoption is approved is mandatory in order to supervise whether the adoption process is lawful and that no violations are committed during the adoption process. The orphan court provides its opinion at the court verbally.”

We have obtained written information regarding the answers to questions 12 and 13 from the Ministry of Children and Family Affairs: “In the opinion of the Ministry, the adoption process is legally substantiated and adequate, and considerate of the child’s interests both for the national and foreign adoption cases. Consequently, the adoption process requires no reforms.”

According to information received from one of the Orphan courts of Latvia, the situation is as follows: “The situation with adoption deserves negative evaluation because the adoption procedure is still comparatively complicated, labor-consuming and long. Family research of the adopter’s family over the period of six months is comparatively long (our explanation –it is meant in case of national adoption) while the opinion produced as the result of the family research is valid only for one year. Adoption of children to foreign countries has been made complicated by the provision stating that the adopter should personally be present in the Orphan court meeting when taking the child under their care and
supervision, in the meeting where it is declared whether the adoption is or is not in the interests of the child and at the court hearing when the adoption is approved; the adoption cases however are not examined immediately therefore the foreign adopter is forced to come to Latvia for a number of times. The statistical data clearly show that amendments to the legislative acts regarding the adoption procedure have not brought the awaited results.

To shorten the adoption process and to achieve lesser psychological trauma for the adoptees, at least in the cases of adoption to a foreign country it should be provided for that the court examines adoption cases immediately."

We have received written information from one of the Associations: “There would be more adoptions to foreign countries if the term of the adoption process is reduced. If a family from, for example, the USA has to visit Latvia for several times, it requires considerable finances and quite frequently this is perhaps the reason why the process stops or is terminated. I consider that the period should be reduced for families from other countries so that they can sooner start living together with the concrete child. ……. the foreigners should be given some “discount” – by shortening the duration of the adoption process.”

We have received written information from one of the Orphan courts stating the following: “Maximum age for adopters should be stated. The foreign adoption process is lengthy and the adopters have to arrive in Latvia for several times, thus it requires extensive financial resources (transport, renting an apartment in which they can stay with the child over the care period).”

We have received written information from one of the regional courts of Latvia: “In general, the adoption process is legally substantiated and adequate. It is, however, possible that the minimum care and supervision term should be specified by the legislative acts, especially in regard to foreign adopters. It should also be worthy to impose on the Orphan courts the obligation to be more interested in the options of keeping the child with the kin (grandparents, brothers, sisters, other relatives). It has been recently noticed that the decisions on separating a sister and a brother due to adoption of one child are formal.”

3.15.12. Best interest of the child

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia: “Yes. The orphan court conducts family research during the care period to establish whether the adoption is in the interests of the child. During the care period, the orphan court thoroughly evaluates the child’s living conditions with the adopter, the adopter’s skill to care for the child; assesses the formation of mutual emotional ties, mutual correspondence between the child and the adopters in order to establish whether adoption is in the interests of the child and whether true parent-children relationship will arise between the adoptee and the adopters, by visiting the adopters and the child at least once per week at the place of care. If the child has already reached 12 years of age the Regulation Nr. 111 “Procedure for Adoption” stipulates that consent of the child to the adoption should be drawn in compliance with the said Regulation; if the child is under 12 years of age the orphan court always elucidates the child’s opinion regarding the possible adoption by hearing the child at their place of residence.”

We have received written information from one of the regional courts of Latvia: “In general, the adoption process suits the interests of the child. Still, perhaps it is necessary to specify the minimum care and supervision period under legislative acts, especially in relation to foreign adopters, and especially in cases when the adopters wish to adopt an older child (e.g. a teenager).”

3.15.13. Criteria applied to the adopting parents
According to the written information received from one of the Orphan courts of one of the largest cities of Latvia the conditions and legal criteria applied to the adopting parents are justified and adequate.

3.15.14. Criteria applied to children to be adopted

We have obtained written information from the Ministry of Children and Family Affairs: “With the same, we would like to inform you that the provisions and criteria of the adoption process are substantiated and in the interests of both parties, both for the adopters (national and foreign) and the children to be adopted.”

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia, the conditions and legal criteria applied to the adopting parents are justified and adequate.

3.15.15. Remarks

According to the written information received from one of the Orphan courts of one of the largest cities of Latvia:

“It sometimes happens that the foster families in which children are placed and whose task is to prepare children for adoption perform this task insufficiently and deficiently because the foster families are not sufficiently prepared to disassociate themselves from the child in cases of separation (return of the child to the parent, the adoption). It is necessary to train foster families in how to prepare children for adoption and how to facilitate movement of children into the adopter families. Guardians and foster families receive remuneration for their work. Not always are foster families prepared for taking children with behavioural problems in the family therefore they rather prefer taking and keeping younger children. Establishment of guardianship over an adoptee child (especially a young child) for whom a person who is not the child’s relative is appointed as the guardian can be considered a problem.

Frequently enough, before declaration of the guardianship the prospective guardian expresses the wish to adopt the child in the nearest future and wants that the child arrives into the family from the institution as soon as possible, but with receipt of the monthly allowance the guardian no longer shows interest in starting the adoption process and there have even been cases where the guardian turned to the orphan court just shortly before the child’s reaching of age (less than two months remaining until becoming of age, while the child has been under guardianship from three years of age). No time restrictions apply to being granted the status of the guardian, while in order to be granted the status of the adopter the family investigation for at least six months is required. If the investigation periods were equal, it is possible that there could be persons who would turn to adoption. The children becoming teenagers, guardians or foster families often no longer want to keep the children in their families due to the behaviour problems and it is not possible to find adopter families for teenagers because families are not eager to become adopters for teenage children.

The Civil Law Section 169 stipulates that a minor’s parents should grant their consent to adoption if they are not deprived of parental authority.

Section 34 of the Law on Orphan’s Court prescribes that other adoption participants express their consent to the adoption of the child in person to the orphan court of their place of residence, or submits consent certified publicly before the notary or the orphan court. It should be mentioned that consent could be withdrawn, therefore the Civil Procedure Law Section 261 states that parents of a minor adoptee, if they are not deprived of parental authority, should be summoned to the court, because a situation may arise that the adoption process has already arrived at its final stage – approval by the court, but the parents announce at the court hearing that they do not agree to adoption of the child. The Civil Law stipulates that parents can be deprived of parental authority over the child provided the parent has granted consent to adoption of the child. The child, in their turn, can be adopted provided
agreement of parents to adoption has been obtained. Deprivation of parental authority is a time-consuming process. The adopter feels unsafe in this situation because what if the parent withdraws their consent when the child has already been under the care of adopters for a longer period.

The Regulation “Procedure of Adoption” stipulates that the adopter should submit to the orphan court a certificate on the adopter’s health condition in which the adopter’s hereditary and acquired diseases are indicated, which could be considered a problem. It is preferable that the time period for which the person is under health care of the physician who issues the certificate on the person’s health condition is specified here, for instance, at least 6 months, or else it is the commission of physicians who issues such health certificate.”
3.16. LITHUANIA

3.16.1. Difficulties

National adoptions:

Material: no state sponsorship of adoptive families, such as is currently paid to the child at birth; low standards of material wellbeing for adoptive parents.

Legal: the conviction does not preclude adoption, although has to be disclosed during the adoption process. It sometimes confuses officials.

Social: no special leave for persons who had adopted a child, regardless of his/her age (currently, the leave is granted until the child reaches the age of three).

Psychological: not sufficient prospective adoptive parents` psychological readiness to adoption.

Others: Institutional control of adoption is fragmented.

International adoptions

Material: -

Legal: -

Social: -

Psychological: the child is sometimes threatened by his/her relatives that he/she is to be “sold for organ transplant”, etc. Not sufficient prospective adoptive parents` psychological readiness to adoption.

Delays: delays are evident. The majority of respondents emphasized the need to accelerate international adoption procedures.

3.16.2. Duration

National adoptions: 9 months

International adoptions:
1) 48 months for healthy children under 6 years old;
2) 18 months for children with special needs: elder than 6 years old; having health problems; and more siblings.

European adoptions:
1) 48 months for healthy children under 6 years old;
2) 18 months for children with special needs: elder than 6 years old; having health problems; and more siblings.

3.16.3. Rejected or given up adoptions

Adoption process rejected: 4%
Adoption process abandoned: 24%

Reasons:

First reason: Successful adoption in another country: 12%
Second reason: Voluntary withdrawal of application: 10%
Third reason: Lack of necessary documents: (non-renewal of permission to adopt) etc.: 4%
Fourth reason: birth of biological children: 2%

Decisions:

The decisions are made by:
Applicants: 24%
State Child Rights Protection and Adoption Service: 4%

3.16.4. Difficulties in locating the child

1. The child didn’t adapt in the adoptive parents’ family (child’s elder age): 5%;
2. The child becomes irrelevant to adoptive parent when they separate due to a lack of psychological preparation to adoption and training: 5%;
3. For some subjective reasons, the adoptive parents doesn’t make all necessary steps to legalize international adoption in their home country: 1%

3.16.5. Language problems:

No language problems indicated. In case of international adoption language barrier between adoptive parents and adoptees usually disappear in 2-3 months.

3.16.6. Incomplete information:

1. State foster homes delay to provide information about the child, which could be added to the list of adoptive children, during the pre-adoption process: 5%
2. Incomplete information provided by Child’s care institutions and Child Rights Protection Services of the Municipality in child’s habitual residence (Regional services) about the child’s health condition, his/her special needs, his/her relationships with biological parents and other relatives and child’s wishes: 20%
3. The updates of a child's health status are too rare. A new self-check of the information is required: 20%
4. In international adoption cases the need of clarifying information passed by foreign institutions arises (studies of prospective adoptive parents’ psychological readiness to adopt, health status, material conditions etc.): 40%
5. There is a problem of receiving information from other countries (especially non – EU members) about their readiness to recognize adoption and to let the adoptee enter their territory: 5%.

3.16.7. Resistance from the holder of parental authority
1. Resistance from biological parents, who no longer holds parental authority (in cases their parental authority is terminated for an unlimited period by court’s decision), is evident: 3-5%.

2. The prejudice of child’s guardians in respect of adoption because of their material and other considerations (fair to lose child’s guardians leave, material benefits, etc). The problem is that the law requires consent of legal guardians of the child to adoption: 10%.

3.16.8. Major obstacles to the effectiveness, in practice, of the mechanisms instituted by the national legislator.

1. International and national adoption procedures should be regulated separately (not mixed in the same chapter of the Civil Code). It would be a relief for judges on deciding the case.

2. The international adoption should be regulated only by laws, avoiding regulation by ministerial acts.

3. State foster homes delay to provide information about the children, which are under their guardianship and which could be added to the list of adoptive children. The question responsibility for such delay has not been raised.

4. The adoption procedure is still too complicated and formalistic. It should be accelerated, the child should find in a family soon.

5. The courts are not always given the complete information about prospective adoptee’s relatives and other persons who might be interested in the outcome of the case.

6. A probationary period of six to twelve months and transfer the child to be brought up and cared for in the family of the prospective adoptive parents even envisaged in law, is not applied in practice.

7. The law does not provide the list of persons to be involved in court proceedings on adoption – it is up to the judge to decide, whether the particular person has the sufficient interest in the outcome of the case. The problem is evident as materials of the case sometimes not include the information about the child’s relatives and their attitude to adoption.

8. The procedure of parent’s consent to adoption is too formalistic and should be simplified.

3.16.9. Progress in the fight against the trade in children

Progress was significant after Hague convention was ratified by Lithuania. The uncertainty for some people still remains because of the courts’ formal role in adoption procedure and the formal attitude of foreign institutions to reporting on how the child is following adoption.

3.16.10. Is the adoption process justified and adequate?

National adoption: not absolutely.

- The problem of the child’s guardian/curator’s or child’s grandparents’ (where the child’s parents are minors or legally incapable) consent to adoption remains: courts are not given the power to make decisions to adopt a child without the consent of the child’s parents of the family, or family group home or the guardian (caregiver) even if the refusal of consent is ill-founded.

- According to the law the court’s judgment on adoption shall become effective after 40 days (30 days if the habitual residence of the applicants is in Lithuania), unless it is appealed. Until the court’s decision
hasn’t come into force it cannot be executed. This period of time creates legal as well as social problems to adoptive parents and adoptees.

**International adoption:** not absolutely.

- According to the law the court’s judgment on adoption shall become effective after 40 days (30 days if the habitual residence of the applicants is in Lithuania), unless it is appealed. Until the court’s decision hasn’t come into force it cannot be executed. This period of time creates legal as well as social problems to adoptive parents and adoptees.

- The court which considers international adoption case is not provided with any kind of feedback on adoption (reports, etc.).

**European adoption:** not absolutely

- According to the law the court’s judgment on adoption shall become effective after 40 days (30 days if the habitual residence of the applicants is in Lithuania), unless it is appealed. Until the court’s decision hasn’t come into force it cannot be executed. This period of time creates legal as well as social problems to adoptive parents and adoptees.

- The court which considers international adoption case is not provided with any kind of feedback on adoption (reports, etc.).

**Reform:**

1. There is a need to uniform laws regarding the child’s guardian/curator’s or child’s grandparents’ (where the child’s parents are minors or legally incapable) consent to adoption in national and international adoptions. In both cases the court should be given power to make a decision to adopt a child without the consent of the child’s parents of the family, or family group home or the guardian (caregiver) if the refusal to consent is ill-founded.

2. The law should foresee the possibility execute the court’s decision on adoption (international as well) immediately.

3. The law should make it mandatory to present a report on the child’s adaptation in his/her adoptive family to the court which considered the adoption case.

4. The Children’s Rights Protection Service of the Municipality (Regional services) should be eliminated from the adoption process. All functions should be transmitted to persons accredited by the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labor. These persons should work with adoptive families from the beginning till the end.

3.16.11. **Do you think that within the context of the adoption process, the process is the most adapted process to the interest of the child?**

**National adoption:** not absolutely.

- The psychological preparation for adoption is not sufficient.

- The probationary period of six to twelve months and transfer the child to be brought up and cared for in the family of the prospective adoptive parents even envisaged in law, is not applied in practice.

- The selection criteria used for selecting the adoptive family is based on “first come – first served” basis. It is not always good for the child.
**International adoption:** not absolutely.

- The psychological preparation for adoption is not sufficient.

- The probationary period of six to twelve months and transfer the child to be brought up and cared for in the family of the prospective adoptive parents even envisaged in law, is not applied in practice.

**European adoption:** not absolutely.

- The psychological preparation for adoption is not sufficient.

- The probationary period of six to twelve months and transfer the child to be brought up and cared for in the family of the prospective adoptive parents even envisaged in law, is not applied in practice.

**Reform:**

- The prospective adoptive parents` training need to be strengthened.

- Courts should apply probationary period of six to twelve months and transfer the child to be brought up and cared for in the family of the prospective adoptive parents.

- The most appropriate selection of adoptive family for a child must be based on a complex and full assessment of persons seeking to adopt, and not on the accounting date (the date when they were registered on a waiting list) criterion.

**3.16.12. Criteria applied to the adopting parents**

1. The conditions and legal criteria applied to the adopting parents are not justified and adequate in comparison with conditions and legal criteria applied to the guardians/curators of the child. Particularly these criteria should be uniformed in order to avoid situations, when guardianship/curatorship is used as a “platform” to easier adoption: Age; previous convictions; living space per person.

2. The lack of uniform training system for adopters and guardians/curators also constitutes a problem as today the criteria of readiness to look after a child are different.

The prohibition to adopt a child for persons over the age of 50 years should be removed. The maximum age for adoption (50 years) is not justified: the eligibility to adopt should be considered individually, case by case.
3.17. **Luxembourg**

3.17.1. Difficulties

Within the framework of the national adoptions, a few difficulties are met, but the withdrawal period is rather a long time.

Within the framework of the international adoptions, there are not in theory difficulties as for the procedure in the Grand Duchy of Luxembourg.

Concerning the procedure in the Country of Origin of the child, of the difficulties can be met on the level of the duration in particular “matching” or when the legislation of the country of origin has been suddenly modified.

For the surplus, the problems are in general of administrative nature.

3.17.2. Duration

There are not statistics on this point.

The duration varies according to countries of origin.

The average duration of a national adoption or an international adoption varies between 2 to 4 years.

3.17.3. Rejected or given up adoption

There are not statistics on this point.

There are little abandonment or rejection of the procedure of adoption, approximately 10% of the requests for adoption.

The reasons can be an unfavourable report of the adoption services, a refusal of a child by the parents because of a problem of handicap, a divorce, or because the future adoptive mother is pregnant.

There was no case of rejection of the request for adoption by the country of origin or the court of district.

3.17.4. Difficulties to locate the child

In principle, there is no difficulty because each service of adoption has a person of contact in the country of origin of the child.

Only the adoptions carried out in Ukraine may generate difficulties, because the child is not proposed to the future adoptive parents before their departure for the Ukraine.

A child is proposed to them only during their displacement on the spot, of kind that it is impossible for them to attentively examine the file of the child before making their decision.

3.17.5. Linguistic problems

Difficulties can emerge with the Ukraine, but the Grand Duchy of Luxembourg carries out the translation of any useful document, and now has a person of contact in Ukraine, a pediatrician, who facilitates the contacts between the two countries.

For the other countries, no problem is in general encountered.

After the procedure of adoption, the adoptive children encounter as for them linguistic problems on their arrival in the Grand Duchy of Luxembourg.
In effect, they speak the language about their country of origin and have evil to be integrated into the Luxembourg school system which requires the control of Luxemburgish, German, and French, and envisages the training of English.

### 3.17.6. Incomplete information

It happens that the medical file of the child does not correspond to reality. This problem occurred on several occasions with Russia, so that the Grand Duchy of Luxembourg has not carried out any more adoption with Russia for two years. Information is also more difficult to collect with the Ukraine, in particular because the file of the child is not transmitted to the future adoptive parents before their displacement in Ukraine. As with the other countries, no problem intervenes in general because the adoption services have a person of contact in the countries of origin of the child.

### 3.17.7. Problems of legal competence:

No problem of legal competence is known people auditioned until this day.

### 3.17.8. Resistance of the holder of the parental authority:

No problem of this type was noted by the people auditioned until this day.

### 3.17.9. Progress in the fight against the traffic of children

There is no known problem of traffic of children in the Grand Duchy of Luxembourg. At the international level, no problem of traffic of children was encountered in reason of the work of the services of adoption of the Grand Duchy of Luxembourg with people of contact in the countries of origin, and of the prohibition of the free adoption in the Grand Duchy of Luxembourg.

### 3.17.10. Adequacy of the procedure

Concerning the national adoptions, the procedure is justified and adequate. Concerning the international adoptions, the procedure laid down in the Hague Convention is regarded as justified and adequate, in particular on the level of the traffic of the children. However, when the Hague Convention is not in force, certain difficulties may appear, as for example with the Ukraine which does not propose the child to the future adoptive parents before they move in Ukraine.

### 3.17.11. Best interest of the child:

The procedure of adoption is regarded as adapted to the interest of the child. In effect, to the Grand Duchy of Luxembourg the principle of subsidiarity applies: all the ways must be implemented to keep the child near his parents if not, his family if not, a foster family within the framework of a placement, if not that he was the subject of a national adoption and as a last resort of an international adoption.

### 3.17.12. Conditions and criteria for adopting parents

The criteria and conditions imposed by the Luxembourg law to the future adoptive parents are regarded in theory as justified.
However, two points pose problem:
-the plenary adoption is reserved to the married couples and is thus prohibited to the single people; however, the conditions to adopt being controls by the national law of adopting, certain single people of foreign nationality residing in Grand Duchy of Luxembourg are authorized by their national law to carry out a plenary adoption whereas the single people of Luxembourg nationality are not authorized to do the same; this situation creates an unacceptable discrimination;
-no maximum condition of age is imposed by the law; the only way existing at the present time to be opposed at the requests of adoption by too old people, is the establishment of a negative report by the multi-field team of an adoption service; it would be however preferable that the law fixes a maximum age limit.

3.17.13. Conditions and criteria for the child:

The criteria and conditions imposed by the Luxembourg law to the children in principle regarded as are justified.
The fact that the age from which the children can be adopted was increased is regarded as positive.
Certain speakers estimate however that time for consideration granted to the biological parents is too short, in particular for the mothers of a youth.

3.17.14. Comments

Observations emitted by the auditioned people:
-The cycle of preparation of the candidates to the adoption organized by the Center of Resources as regards adoption and the recourse to a service of adoption should be obligatory;
-The plenary adoption by single people of Luxembourg nationality should be authorized;
-A condition as for the maximum age of the candidates to the adoption should be introduced into the law;
-The Central Authority should to dispose of more ways, particularly more than personnel, whereas now it is made up only by a person who is not affected full-time with the operation of the Central Authority;
-When the adoptee must provide for some reason an extract of its birth certificate, it is systematically given to him an act of transcription and not a birth certificate, so that its statute of adoptive child is made available of the people claiming a birth certificate; this difference with the biological children should not exist;

-Certain host countries submerge the countries of origin of requests for adoptions in spite of the number relatively low acceptable children; in the Grand Duchy of Luxembourg a waiting list is carried out in order to avoid this problem; that should also be the case in the other countries;

-The term “abandonment” used in the legislation should be modified, because it could prove traumatising for the children and is thus contrary with the interest of those;
There should be more actions in the beginning of the problem that is to say on the level of the respect and the education of the woman, in particular on the level of contraception, to avoid generating problems of adoption.
3.18. **MALTA**

3.18.1. **Introduction**

It is important to note that during the period of time this survey was being carried out the adoption process was in the process of undergoing a major legal and institutional change, due to the coming into force of the Adoption Administration Act, on the 1st of May 2008 and due to the various amendments the Civil Code (the main legislation which regulated the adoption process before the 1st of May 2008). This process gave rise to various limitations in conducting the survey. One of the first limitations is that the survey could only be carried out on the legal and institutional regime which was in place before the 1st of May 2008. It is important to note that since the new legal regime has been amended to a great extent, as is explained in the Legal Analysis, some of the answers to the Empirical Analysis are not similarly applicable to the new legal regime. Another of the limitations was that the some of the new bodies (eg. The accredited agency and the Adoption Appeals Board) involved in the adoption process, could not answer the questionnaire as they were not previously involved in the process.

Another limitation to this analysis is that since the adoption process in Malta is largely confidential, statistical information on the adoption process or aspects thereof, is very limited. Therefore respondents to the questionnaire could not commit themselves to official numbers or figures or statistical information when answering the questionnaire.

3.18.2. **Difficulties**

**National adoptions**

From the empirical survey carried out:

five respondents said that there were no particular difficulties in the adoptions process;
three respondents said that in very few instances was the adoption obtained with difficulty;
one said that difficulties were met however, did not quantify in how many cases difficulties were met;
two said that they were not aware as to how many adoptions were obtained with difficulty, particularly because they were only involved in a small part of the adoption process (e.g. The judicial part).

The main types of difficulty cited were:

- material difficulty: e.g. a lot of money is required (particularly in international adoptions);
- delays: particularly administrative delays in international adoptions;
- legal difficulty;
- psychological difficulties

Other types of difficulty include: lack of consent by the natural parents (in national adoptions); bureaucracy – administrative “red-tape” (in international adoptions); inadequate screening (both national and international adoptions)

**International adoptions**
Four respondents said that the main difficulty with national adoptions is lack of consent by the natural parents;

three respondents said that in international adoption the main difficulties are: material difficulty since a lot of money is needed for the adoption process (and) bureaucracy;

one respondent cited legal difficulty;

one respondent cited inadequate screening e.g. of health problems;

One respondent cited psychological difficulty;

two respondents cited delays;

two respondents cited material difficulty;

3.18.3. Duration

There is no statistical information to this effect. Most of the respondents (nine) were not aware of the timeframes involved, either because they were not involved in the entire procedure, or because they stated that there were various variables and that therefore it was difficult to establish an average duration of adoption procedures from their experience.

One respondent said that from his/her experience the adoption process took one year;

One respondent said from application to the Court decree the process takes between 6 months to four years;

One respondent said that from his/her experience the Court procedures took around 4 months.

Most of the respondents were not aware of the timeframes involved. Amongst the reasons for this, some respondents cited that the duration depends on a number of factors, variables and therefore could not cite an average time frame. Others were not aware of the entire time frame from the application stage to the final Court decree.

One respondent said that the process generally takes under a year (once a child is available and the matching process is therefore not lengthy);

One respondent said that the average duration of the national adoption Court procedures process is 6-9 months;

One respondent said the Court procedures take generally 4 months;

One respondent said that the process for a national adoption is not long;

One respondent said that this depends on the country from where the child is being adopted, if its from Ethiopia its around 2 years if its from Russia its longer;

One respondent said procedures are generally a few months;

One respondent said court procedures are generally 4-5 months;

One respondent said from application to Court procedures 6 months to four years;

One respondent said that the foreign part of adoption process lasted 1 month.
3.18.4. Rejected or given up adoptions

No statistical information to this effect

From the survey carried out, the majority of the respondents said that they were not aware as to whether there were cases in which the adoption process was abandoned or rejected, as they had no such information and therefore could not reply.

From the respondents who replied to this question, it results that there is a minimal percentage in which the adoption process was either rejected or abandoned. In fact one of the respondents stated that the percentage of abandonment rejection was low; another said that it was almost negligible; another stated that it was less than one percent; another said that from his experience very few cases are abandoned or rejected; another respondent said that from the records he kept it appears that there were 2 in 2005 and 2 in 2006 that were rejected by Court, and none of the court proceedings were abandoned; Another respondent said that although he has no such statistical information, it is in very few cases that the adoption process is rejected or abandoned, under 5 percent of the parents who go through the assessment stage.

The reasons cited for abandonment were: medical problems, change in circumstances e.g. prospective parent gets pregnant, prospective parents feel unprepared to adopt, prospective parents realize they are no longer interested, prospective parents change their mind and decide not to adopt or problems in obtaining the consent of the natural parents.

The decision to abandon the adoption process is taken by prospective adoptive parents. Generally abandonment takes place at the initial stages of the process, in the application stage. Very few abandon the process at a later stage. It is either the Adoption Panel who usually rejects the parents or the Court, depending on the stage of the adoption process.

3.18.5. Difficulties in locating the child

Seven respondents were not aware of whether there were difficulties in locating a child. One respondent cited that the difficulty lies in the waiting stage until the child is located and matched with the parents.

3.18.6. Language problems

The respondents said they were not aware of language problems or alternatively did not answer the question since they were not directly involved in that aspect of the adoption process. Three respondents mentioned that any language problems were overcome since there were interpreters to assist the adopters, in international adoptions.

3.18.7. Problems of incomplete information

Generally respondents either said that from their experience no such problems were encountered, or the respondents were not aware whether there were such problems. However, some respondents, as indicated below, stated that in a few instances such problems are met. One respondent however, stated that in the case international adoptions, there was a high rate of missing information.

a. Which type?
One respondent cited inadequate/incomplete information relating to health issues and criminal record convictions on pedophilia. Two respondents said that the incomplete information related to the background of the child in case the child was abandoned by the natural parents. One respondent said that in some cases information about the child itself may be missing. Another respondent stated that sometimes foreign authorities in international adoptions did not give adequate information as to what documentation was required for the adoption and therefore they state that they need certain documentation, then after some time they require additional documentation.

b. At which stage?

One respondent stated that such problems are generally met at the matching stage, there may be these problems due to lack of information from the foreign authorities or agencies.

One respondent said inadequate information e.g. relating to health issues and criminal record convictions arose at the screening stage.

c. In which percentage?

From the respondents which answered the question, most respondents cited that this occurs in very few instances, however, one respondent cited that it happens in eighty percent of the cases in international adoptions.

### 3.18.8. Problems of judicial competence

Five of the respondents said there were no problems of judicial competence and six of the respondents stated that from their experience, they were not aware of any such problems. One of the respondents said the question was inapplicable.

### 3.18.9. Resistance from the holder of parental authority

Seven of the respondents stated that there was resistance from the holder of parental authority. One of this category of respondents stated that in national adoptions the majority of adoptions are obtained with resistance from the natural parents to give their consent. Another of the respondents however, stated that it was only approximately 5% of the cases in which there is resistance by the natural parents to give their consent. Three of the respondents stated that it was in very few instances or in very rare instances (in the case of Maltese adoptions) that this occurred.

Furthermore, from this category of respondents three of the respondents stated that it’s generally the natural father who does not give his consent for the adoption. According to one of the respondents this resistance by the natural father is generally the case when the natural mother gets married and her husband wants to adopt the child.

Four of the respondents said that there was no resistance from holder of parental authority. Some of these who answered this question were adopters/adoptees and answered the question from their personal experience.

### 3.18.10. Major obstacles to the effectiveness, in practice, of the mechanisms instituted by the national legislator?

A variety of obstacles have been cited by the respondents, in relation to the previous legal regime. Such obstacles can be classified under the following categories:
Procedural obstacles:

Three of the respondents cited that one of the major obstacles under the old regime is that the bodies and the procedures adopted for the adoption process (from the screening to the matching phase) were not established or recognized at law. This meant that although they were generally followed by prospective adopters, there was no legal obligation to follow them;

One of the respondents cited the procedural requirement of seeing a psychologist in the screening process as an obstacle, however, according to the respondent the procedural requirement was justified;

One of the respondents stated that the major obstacle was that it takes long to assess eligibility for adoption perhaps because in the past there was no established/codified procedure for so doing;

One of the respondents stated that since the Court decides whether the adoption decree is to be issued, after the parents have been given the green light to adopt by the competent bodies and after the child has been placed with prospective adopters therefore it is morally very difficult for a Judge to reject an adoption after the child has already been placed with prospective adopters;

Under the previous legal regime were to a large extent not in line with the Hague Convention;

Inadequate screening

One of the respondents stated that a major obstacle is the inadequate screening by the social worker of the prospective parents in some of the cases;

Absence of criminal offences

One of the respondents stated that one of the major obstacles was the absence of criminal offences;

Legal requirements to adopt and be adopted

One of the respondents stated that one of the major obstacles was that children could not be adopted if 18 and over;

one of the respondents stated that one of the major obstacles was the difficulty for siblings to be adopted together when one of the siblings did not fall within the legal criteria to be adopted;

one of the respondents stated that the only obstacle was the fact that there was no upper limit for a person to adopt. But this obstacle was met in negligible instances.

One of the respondents also referred to the possible obstacles which may arise under the new legal regime. In this regard, the respondents noted that under the new legal regime it is not possible for an “accredited agency” to be accredited for parts of the adoption process, e.g. the matching process only.

3.18.11. Progress in the fight against the trade in children

The majority of the respondents stated that they could not answer this question from their experience, and were not aware whether any progress has been made in this regard. From the only two respondents which had enough knowledge and experience in this particular regard to answer the question, one stated that progress had been made, whereas the other respondent stated that when one considers the large amounts of money being paid by adopters in international adoptions to adopt a foreign child, it results that there is no progress.

3.18.12. Adequation of the adoption process
The general response to this question was that the adoption process was justified and adequate, in fact it was only one of the respondents who mainly cited criticisms to the adoption process by citing inadequate screening in some cases and the fact that the adoption cases come before the Court as “fait accompli”.

From the rest of the respondents, which found the adoption process to be generally justified, five of the respondents categorically stated that the adoption procedure was justified and adequate, and did not have any criticisms with regards to the process. One of these five respondents stated that the procedure was robust enough and that moreover, the process was undertaken with professionalism and high standards, in fact it stood the test of time. Another praised the process, by stating that he had a positive experience of adoptions. The rest of the respondents that the adoption process was generally justified and adequate, but some of them considered inadequate and needed to be reformed.

The respondents raised the following criticism:

criticism relating to the requirements to adopt and be adopted which were not justified or inadequate;

persons over the age of eighteen did not have a right to be adopted;

criticism relating to the procedural aspects of the process which were not justified or inadequate;

in both past and present regime the cases come to Court “fait accompli”. The Court/Judge should be involved when the parents are accepted/ rejected by the relevant body in the initial stages of the process;

inadequate screening in some instances;

no right to appeal from decision of Adoption Unit;

no legal obligation for the Court to consider the Home Study Report, to assess suitability of prospective parents;

some aspects of the instances of dispensation of consent needed to be amended;

procedures not fast enough;

in international adoptions there is a lot of bureaucracy;

criticisms relating to expenses involved in the adoption process which make it inadequate and not justified;

not enough control on the amount of money being paid by couples wanting to adopt;

it is too expensive in some instances and in others it is too lengthy particularly when the country involved is not a signatory to the Hague Convention.

3.18.13. Reforms

It is important to note that although the majority of the respondents stated that the adoption process was justified and adequate, yet since they had some reservations to this general statement, they raised suggestions for reform.

The main suggestions in this regard were as follows:

24 In many of the instances, the respondents did not differentiate between national, european and international adoptions.

25 This has been amended under the new legal regime.

26 This has been amended under the new legal regime. There is now a right to appeal from decisions of the Adoption Board.

27 This has been amended under the new legal regime.
there should be better screening of parents;

the child’s views need to be heard/ represented even at a young age;\textsuperscript{28}

the Court/Judge needs to be involved when the parents are accepted/rejected in the initial stages of the adoption process;

persons over eighteen should have a right to be adopted;\textsuperscript{29}

there should be more control on the amount of money being paid by couples wanting to adopt;

Faster procedures would make the process more adequate.

One of the respondents stated that one needs to find out what is happening with regards to adoptions from Russia to amend the situation. Such person suggested that this could possibly take place through the Foreign Affairs Ministry, or else the prospective parents could be assisted from Malta even through the Attorney General.

There should be an international institution overseeing, aiding, assisting adopters in liaising with the bodies in the foreign country in order to reduce time and costs. There should also be a foreign registry/database of children to be adopted.

Better information about the steps to be taken in order to initiate, further and complete the adoption process. This information would make the adoption process more accessible not only to persons who are interested in adopting a child, but also to social workers, lawyers and the judiciary.

3.18.14. Best interest of the child

Out of the respondents who replied the question, eight categorically stated that the adoption process was the most adapted process to the interests of the child.\textsuperscript{30} Furthermore, two respondents stated that although generally the process was the most adapted process to the interests of the child, there were some aspects of the legal regime which did not favour the interests of the child. In this regard, one of these two respondents explained that under the previous regime one of the difficulties was that there was no legal obligation for post-adoption follow ups to take place, e.g. giving the parents and children counselling and support etc. The other stated that there should be more stringent vetting of the conditions of the adopter to adopt and that the Judge should have the discretion to hear the child, in adoption proceedings, if necessary and if it is in the child’s best interest.

It was only one of the respondents who stated that under the legal regime before the 1\textsuperscript{st} May 2008, the adoption process was not entirely centered towards the interests of the child. In stating this, one of the respondents cited the following reasons: - the child did not have a right at law to be represented in adoption proceedings e.g.: through a child advocate and children over the age of eighteen did not have a right to be adopted. The respondent however qualified its criticism by stating that now the adoption process has incorporated these much needed amendments through the new Act and it is definitely more child centered.

Which reform would you propose?

It is important to note, that although it was only one of the respondents who stated that the adoption process was not the most adapted process in the interests of the child, other respondents who had reservations to the adoption process gave their suggestions in this regard. The proposed reforms include:

\textsuperscript{28} There have been amendments in this regard under the new legal regime
\textsuperscript{29} There have been amendments in this regard under the new legal regime
\textsuperscript{30} In many of the instances, the respondents did not differentiate between national, european and international adoptions.
The right to be adopted when over 18 years of age. (Under the new regime this proposal has been put into effect);

The right of the child to be represented in adoption proceedings. (Under the new regime this proposal has been put into effect);

The right of the child to be heard in adoption proceedings from a younger age;

There should be more stringent vetting of the conditions of the adopter to adopt;

The Judge should have the discretion to hear the child, in adoption proceedings, if necessary and if it is in the child’s interest;

Giving the parents and children counselling and support after the adoption has taken place;

### 3.18.15. Criteria applied to the adopting parents

Nine of respondents stated that the conditions and legal criteria applied in the adoption process were generally just and adequate. However, three respondents cited inadequacies in the conditions and legal criteria applied in the adoption process. The respondents explained their answer by citing instances when the criteria and legal criteria to adopt were, in their opinion inadequate. One of the respondents stated that there should be stricter legal conditions for parents to adopt e.g. age: parents at 59 and over should not be able to adopt, and that the screening of genetic diseases should be included in the screening process of parents. Another of the respondents stated that under the previous regime, there were various legal criteria which were inadequate for example a male could not adopt a female, and a married couple could not adopt unless married for 5 years, large age differences between child to be adopted and prospective parent were required. The respondent noted however, that under the new legal regime, these inadequacies have been amended, and therefore the new legal regime is more adequate and justified with regards to the criteria applied to the adopting parents.

### 3.18.16. Criteria applied to children to be adopted

Out of the respondents who answered this question, nine stated that the criteria applied to children to be adopted, were generally justified and adequate.

However, two respondents cited inadequacies in the criteria applied to children to be adopted. One of these respondents cited the difficulty for siblings to be adopted together in view of the fact that the criteria under the old regime were based on the age difference between the adoptee and the adopter. The respondent suggested that this should revise and that the view of children should be represented (in fact these suggestions are incorporated under the new law). Another respondent said that the legal criteria for a child to be adopted under the old law were not entirely justified and cited the restriction that a child over 18 years could not be adopted. The respondent added that under the new law the criteria are more justified.

### 3.18.17. Remarks

The following comments were elicited from the respondents which replied to this question: Two respondents commented that those situations in which prospective parents have to pay huge amounts of money to adopt a child (in the case of international adoptions) need to be addressed. One of these respondents also said that parents should be legally obliged to inform the child about his/her adoption at a reasonable age. The other respondent said that bureaucracy in international adoptions needs to be addressed. Another respondent said that the adoption process has been a positive experience. Another respondent stressed the importance of quicker procedures and adequate age of adoptive
parents. Another respondent said that the implementation of the new legal system will reveal how the amendments will work in practice.
3.19. **NETHERLANDS**

3.19.1. *Introduction*

For the elaboration of the empirical analysis of the adoption procedure various entities and people were approached, among others the Ministry of Justice (Central Authority), the licence holders, the Foundation Adoption Facilities, professors, Courts, lawyers specialised in family law with an emphasis on adoptions, a number of adoptive parents and associations for adoptive parents, adopted children, associations for adopted children and in addition associations for natural mothers of adopted children.

In the Netherlands doubts are, to an increasing extent, cast on the international execution practice surrounding adoption. Key words in this context are ‘well willing amateurs’, ‘market forces’ and ‘corruption’. Multiple respondents are of the opinion that the Netherlands, in association with other ethically operating countries, should act as a pioneer in order to solve the issues surrounding the current system and to render the system more professional and more transparent. This starts with the further professionalisation of the execution practice in the Netherlands but cannot be limited to this.\(^{31}\)

During the past period the following measures were taken in the Netherlands to improve the quality of the adoption procedure.

The quality requirements of the licence holders were sharpened. The Ministry of Justice prepared, in association with the licence holders, a quality framework\(^{32}\) for the execution of the activities by the licence holders. On the one hand this regards quality requirements with regard to the management, such as requirements related to the personnel and the organisation of the licence holder, and on the other hand content related quality requirements with regard to the adoption process. The quality framework aims to contribute to a more professional task performance by the licence holders.

The contact with foreign authorities has been intensified. In association with the Ministry of Foreign Affairs and the Permanent Bureau of The Hague Conference for International Private Law the contacts with foreign authorities of other countries (sending as well as receiving) will be intensified. In this way it is tried to increase the mutual information exchange and transparency with regard to the manner how the principles of The Hague Adoption Convention are interpreted.

The amendment of the Wobka.\(^{33}\) In 2006 a draft proposal was drawn up which anticipates, among other things, a number of amendments of the Wobka on the point of quality and supervision with regard to licence holders. The bill aims to focus the supervision task of the Youth Care Inspectorate on the quality in general. The supervision on the financial administration of the licence holders will be performed by the Ministry of Justice. The proposal also anticipates an amendment of the preventive supervision in the sense that licence holders can only perform mediation activities in non-member countries with an authorisation per country of the Minister of Justice.

In June 2006 the Minister of Justice commissioned an independent committee to address the question how a balanced interpretation can be given to the interests of adopted children on the one hand and the wishes of the adoptive parents to form a family on the other and which task and role for the government derives from this. On 29 May last this committee issued a report ‘Alles van waarde is weerloos’ (“Everything of value is defenceless”) with recommendations for improvement of the

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\(^{32}\) “Kwaliteitskader vergunninghouders interlandelijke adoptie” June 2008 (see website Ministry of Justice: [www.justitie.nl](http://www.justitie.nl)).

\(^{33}\) For explanation of Wobka, see Judicial analysis.
international adoption. The Ministry of Justice is currently examining what the implications of these recommendations are.

### 3.19.2. Difficulties

#### National adoption

It appeared from the reactions that difficulties in case of national adoption are out of the question.

#### International adoption

The difficulties that occur in case of international adoption are, among other things:
- the lack of the required principle permission;
- difficult bonding between the adopted child and the adoptive parents;
- development disadvantage of adopted children;
- bureaucratic difficulties as a result of legislation. By way of example the establishment in the Netherlands of the place of birth of an, anonymously abandoned, adopted child.

One respondent referred to the delay in partial mediation agreements as a difficulty in case of international adoption. This could partly be blamed on the fact that at the Ministry of Justice, upon the approval of these agreements, they are assessed on the basis of criteria on which the agreements have already been assessed and have already been approved in an earlier stage.

### 3.19.3. Duration

#### Statistical data

The table below provides an overview of the length of the procedure at the Courts in the Netherlands. A distinction is made between regular adoptions and partner adoptions. This table does not include the adoptions via The Hague Adoption Convention. The table provides the interval of time between the submission of the request up to and including the judgment of the Court.

<table>
<thead>
<tr>
<th></th>
<th>Regular adoptions</th>
<th>Partner adoptions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 3 months</td>
<td>437</td>
<td>111</td>
<td>548</td>
</tr>
<tr>
<td>3 to 6 months</td>
<td>209</td>
<td>71</td>
<td>280</td>
</tr>
<tr>
<td>6 months to 1 year</td>
<td>51</td>
<td>22</td>
<td>73</td>
</tr>
<tr>
<td>1 year and more</td>
<td>66</td>
<td>18</td>
<td>84</td>
</tr>
<tr>
<td>Total</td>
<td>763</td>
<td>222</td>
<td>985</td>
</tr>
</tbody>
</table>

It follows from the reactions of the lawyers that the average time between the submission of the petition and the judgment is 4 to 5 weeks, if the verbal hearing is waived, and 8 to 12 weeks if a verbal hearing does take place. An appeal deadline of three months is to be taken into account before the judgment becomes definitive.

#### National adoption procedure

Three respondents indicated that the phase as from the registration with the Foundation Adoption Facilities up to the adopting parents’ placement on the waiting list takes about 2 years. How long the adopting parents then need to wait before a child is proposed to them depends on the number of children which is available for adoption. One year after a child has been placed at the adopting parents, the adopting parents can lodge an adoption request with the Court.
It follows from the feedback on the questionnaire of the five respondents that the period between the submission of a request with the Court and the adoption judgment obtaining the force of res judicata amounts to an average of 9 months.

**International adoption procedure**

One respondent indicated that it may differ per country and from time to time how long the adoption procedure takes.

Seven respondents answered that at the moment the procedure as from the registration with the Foundation Adoption Facilities up to and including the placement of the adopted child in a family takes approximately 3 to 5 years. One of these respondents indicated that the duration may depend on the bureaucratic system of the country in question.
One respondent answered that the procedure takes 2.5 to 3 years.

Five respondents are of the opinion that the phase as from the registration with the Foundation Adoption Facilities up to and including the award of a principle permission takes approximately 2 to 2.5 years. Three of these respondents indicated that the duration of the phase as from the registration with a licence holder up to and including the placement of the adopted child in a family depends on, among other things, the number of children which is available for international adoption in the country of origin, the wishes/possibilities of the adopting parents and the situation in the country of origin. The waiting period at the licence holders amounts, according to the same, to approximately 1 to 4 years. The fourth respondent indicated that the waiting time at the licence holders amounts to approximately 5 to 8 years.

One respondent involved The Hague Adoption Convention in its feedback. It indicated that the duration of the adoption procedure depends on the country of origin of the adopted child. In the situation that the child comes from another member country, the procedure in the Netherlands will take 2 to 8 weeks. If the child comes from a non-member country a procedure in the Netherlands of about 9 month should be taken into account.

### 3.19.4. Rejected or given up adoptions

**Statistical data**

The following table provides an overview of the rejections and withdrawals of an adoption procedure.

<table>
<thead>
<tr>
<th>Period</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawals of the request for award of principle permission</td>
<td>1218</td>
<td>1230</td>
</tr>
<tr>
<td>Rejections in connection with unsuitability of the adopting parents</td>
<td>20</td>
<td>25</td>
</tr>
<tr>
<td>Rejections in connection with overstepping of the age limit</td>
<td>19</td>
<td>17</td>
</tr>
<tr>
<td>Rejections in connection with premature application second or subsequent child</td>
<td>93</td>
<td>103</td>
</tr>
<tr>
<td>Rejections other</td>
<td>0</td>
<td>6</td>
</tr>
</tbody>
</table>

Three respondents answered that they are not familiar with data about rejections and withdrawals. One furthermore noted that this can be blamed on not registering these decisions separately. In case of withdrawals there is no judgment of the Court.

One respondent answered that during the past 20 years it did not occur that international adoption requests were rejected. A rejection does occasionally occur in case of partner adoption. This can be the question if the other parent objects to the request in a well-motivated manner, for example by pointing to the fact that he/she is still fulfilling the role of parent in the life of the child. The possibility
exists that the request is then yet withdrawn and instead of partner adoption conjoint authority is requested. It appeared impossible to mention percentages. There is only question of incidental cases.

Two respondents indicated that in a small number of cases the adoption procedure is rejected or withdrawn. One of these respondents gave as a reason that the parents are, either physically or mentally, unsuitable. The relevant decision is reached by the Ministry of Justice (Council for Child Protection). Sometimes this can take place on the recommendation of the licence holder.

One respondent answered that about half a percent of the cases is rejected. Between the moment of registration with the Foundation Adoption Facilities up to the decision to adopt a child about 50 to 60% of the adopting parents withdraw. It is noted that this has almost always been the case.

One respondent noted that rejection of a principle permission by the Ministry of Justice occurs relatively seldom.

According to three respondents the main reasons for withdrawal of the application for a principle permission by the adopting parents are:
- pregnancy and birth;
- financial reasons;
- age of the adopting parents;
- divorce.

The main reasons for rejection of an application for a principle permission by the Minister of Justice are, according to three respondents:
- age of the adopting parents;
- unsuitability of the adopting parents;
- the application for a second or subsequent child was filed prematurely.

The long waiting time/duration of the procedure as reason for withdrawal was mentioned as feedback by two respondents. One of these respondents also referred to pregnancy and divorce as reasons for withdrawal.

One respondent noted that upon withdrawal of an application it is not always clear as to whether this withdrawal is definitive. The adopting parents could, for example, have called upon another licence holder.

3.19.5. Difficulties in locating the child

It follows from the reactions of the respondents that no issues are known. One licence holder emphasised that as a licence holder it does not locate children. This would, after all, imply that children are searched for and this does not belong to the tasks of a licence holder. Children in, for example, China and India are often brought to children's homes by the police. Sometimes the biological mother or the neighbourhood council brings the child or, in the worst case scenario, the child is literally thrown over the walls of the children's home. Partner organisations always check the story behind this. A distinction should also be made between countries that are member to The Hague Adoption Convention and non-member countries. The Central Authorities of the member countries are formally responsible for the procedures prior to and surrounding surrender, not the licence holder. In member countries the licence holder formally has the obligation to be alert and there moreover appears to be a moral obligation to be extra alert when it comes to the correct execution of the procedure. In non-member countries the licence holder formally also has the responsibility to check the partner organisations. It appears that this responsibility is taken very seriously.
One licence holder noted that a part of the intended issues can be blamed on the fact that when locating a child in case of international adoption licence holders must be used which only have a limited number of contacts in the relevant countries but can, however, fully claim these countries.

3.19.6. Language problems

It follows from the reactions of the respondents that there occasionally are language problems in the country of origin. Most did, however, indicate that there are no language problems in the relation with the foreign authorities/institutions as almost everybody speak English. One of the licence holders noted that cooperation and contact with the partner organisations, which often employ local employees, are good. These employees speak the language of the country and have knowledge of the culture. It is common for the employees at the office of the licence holder to also speak multiple languages. In every country of origin there is at least one employee who speaks the language of the country.

Two respondents indicated that there are always language problems, but it was noted that these are always solved quickly.

3.19.7. Problems of incomplete information

National adoption procedure

Two respondents indicated that there are no known issues with regard to incomplete information in case of national adoptions. One respondent supplemented this by mentioning that in case of incomplete information or data about the child, an inquiry takes place in order to complete the child dossier.

International adoption procedure

Six respondents indicated that the information about the child is often incomplete or incorrect. This then regards the lack of birth certificates/birth register, resulting in an incorrect age of the adopted child. Three respondents indicated that the medical information is not always correct and is often difficult to obtain. Information about habits/development of the child is almost always missing.

One respondent indicated that the result of incomplete information and the reservation of countries to supply information is that the adopted child is not placed with the adoptive parents.

3.19.8. Problems of judicial competence

National adoption

Issues of a legal nature did not derive from the reactions.

International adoption

It follows from the reactions that the issues that occur regard the lack of population registration/birth certificates/birth register. Other problems did not come to the fore.

3.19.9. Resistance from the holder of parental authority

Four respondents indicated that they are not familiar with cases where the holder of parental authority offered any resistance.
One respondent indicated that in some partner adoption cases there had been question of resistance of the holder of parental authority. In those instances it regarded a relative veto right (article 1:228 paragraph 2 BW).

3.19.10. Progress in the fight against the trade in children

One of the respondents indicated that each adoption case where there could be question of trade in children was further examined at the location where the child was found (abandoned) and where the child sojourned at the children’s home. This respondent never found any indications which could point to trade in children.

One respondent answered that progress was made in the fight against the trade in children as an increasing number of countries has signed The Hague Adoption Convention. However, another respondent answered that The Hague Adoption Convention offers no sanctions and just beautiful words. According to the latter respondent the conclusion is that as long as the countries of origin ask and receive so much money, trade in children will remain.

3.19.11. Adequation of the adoption process

National adoption

Two respondents indicated that national adoptions are basically justified and adequate. The latter on account of the fact that national adoptions are usually partner adoptions. One respondent noted that the adoption procedure could, in the opinion of the same, be better.

International adoption

Four respondents indicated that international adoptions are basically experienced as justified and adequate. Mentioned as a reason: the mediation of the licence holders, the screening in advance, the supervision by adoption agencies and the assessment at the end of the procedure by the Court. One respondent noted that the long waiting time is neither in the interest of the child, who is staying at a children’s home, nor in the interest of the adopting parents.

One of the respondents feels the criteria are not justified and adequate. In the opinion of the same there would be too little control on the matching procedure and on the method of placement by mediating entities. The same moreover argued that adoptive parents can indeed go to the Complaints Committee, however that this usually exclusively takes places through the mediator. According to the latter mentioned respondent this would not be correct. An adoptive parent should be able to address the Complaints Committee directly. The same is moreover of the opinion that the quality of the work of the mediators is subject to too little criticism. Moreover, it is experienced as absurd that something of such fundamental importance, namely the placement of a child in a family, is performed by volunteers.

One respondent is of the opinion that the adoption procedure is not adequate and that there would be question of excessive bureaucracy. There is ample resistance at the Ministry of Justice to solve the issues practically. According to this respondent there is a non-productive wish in the Netherlands to force the Dutch legislation and regulations on other countries instead of respecting the local interests.

3.19.12. Best interest of the child

National adoption
Two of the respondents are of the opinion that the interests of the child in national adoptions are safeguarded sufficiently. One respondent indicated that the interests of the child are safeguarded sufficiently. However, in the opinion of the same, dogmas and the position of biological parents receive too much emphasis.

**International adoption**

Two of the respondents indicated that an adoption must always take place in the interest of the child, such in conformity with the starting point of The Hague Adoption Convention.

One of the respondents indicated that in case of international adoptions questions can be asked in the interest of the child as, after all, there is no idea about the examination abroad.

One respondent reported that a child is not always better off in a family instead of in a home. In the opinion of the same a family should first be sought in the living environment of the child. International adoption should be a last resort. As the adoptee is older cultural and language linkage will play a more important role.

One of the respondents feels that international adoption is not in the interest of the child. The bureaucracy is inverted and excessive. The interest of the child is professed in name but in practice the directly involved parties seem to forget the interest of the adoptee. This respondent proposes the following changes:

- more discretionary power for the licence holder/abolition of monopolistic positions;
- choice for a foreign licence holder;
- broader and better facilitation of partial mediation;
- harmonised European regulations;
- focus on individual (adoptable) children, their possibilities and opportunities. More confidence in foreign authorities/contacts instead of starting on a basis of distrust;
- abolition of waiting lists and regulation criteria by the government on information and household surveys;
- simplification of regulation for residence permits. After all, why should a residence permit be requested for a foreign adopted child after permission to adopt the child has already been obtained in the Netherlands?;
- house adoption with the Ministry of Social Affairs or Youth and Family, at least with an entity where the interest of the child does come first.

**3.19.13. Criteria applied to the adopting parents**

Three respondents gave the feedback that they consider the conditions and the legal criteria justified and adequate. One respondent indicated that everything used to go fairly smoothly. The same did not experience any difficulties.

One respondent answered to, on paper, agree with the conditions and legal criteria but in the opinion of the same some criteria are vague.

One respondent indicated to agree with the conditions and legal criteria in the Netherlands. The same does not always agree with the criteria in other countries where reference is, by way of example, made to China. There the condition exists that adopting parents should both have at least Senior General Secondary Education (“HAVO”) because they would otherwise not be good parents.

One respondent indicated that specific legal criteria are unnecessarily limiting and do not always lead to the desired result. Accurateness is desired, however this accurateness is not accomplished by presenting infinite questionnaires to foreign contacts to which socially desired answers should be given. Good contacts could thus be frustrated whilst the procedure currently applied does not bring unreliable
contacts to the fore. There where the Netherlands intends to impose the Dutch requirements on procedures used abroad, such as for example in the area of surrender and in case of adoption judgments in the name of one partner within the marriage whilst the foreign country intends to pronounce in two names, this will lead to incomprehension and unworkable situations rather than a useful interpretation of an adoption procedure. Some legal criteria are moreover redundant and the necessity thereof has not been proven. This applies, for example, to the age limits. These seem to be based on an historical development rather than on a scientific motivation. From a legal point of view the conditions and criteria therefore seem justified and adequate as it is assumed that there is evidence on which the standpoints are based. Yet practically speaking in the form of a smooth and workable procedure in which children are provided with parents the applied criteria are not justified and adequate.

3.19.14. Criteria applied to children to be adopted

One respondent feels that the criteria applied to children to be adopted are justified and adequate.

Two respondents answered to, on paper, agree with the criteria thereby noting that some criteria are very vague. One of these respondents wondered if a child could not have just as well, or perhaps even better, be assisted in the country where he/she was born, referring to the enormous problems which occasionally occur in puberty. The other respondent argued that the criteria should be such that a child could at least receive a second chance.

One respondent partly agrees with the criteria. It is, in the opinion of the same, good to require that it has been established that a child can be adopted and that no inappropriate financial gain is obtained in the adoption procedure. The requirement that the country of origin must consent with a proposal in advance starts to become discussable. It is not always possible to obtain this consent in advance. In particular if the adoption procedures abroad are organised differently. An adoption judgment abroad provides sufficient evidence that adoption is possible in this country and that this country consents with the same.

Three respondents indicated that the procedure and the conditions imposed on the national adoption take the interests of the child, the parents and the adoptive parents sufficiently into account. These respondents also provided the feedback that the Netherlands has an accurate procedure for international adoption which is based on the principles and starting points of the Convention on the Rights of the Child and The Hague Adoption Convention. In order to guarantee that the adoption serves the highest interest of the child an accurate screening and selection of adopting parents and the child to be adopted takes place and requirements are imposed on and supervision takes place of the organisations which are allowed to mediate during the adoption of a foreign child.

3.19.15. Conclusions

Adoption in general

One respondent indicated that problems may occur with adopted children who come to the Netherlands and where there has been question of a weak adoption. A weak adoption should one year later be converted into a strong adoption in the Netherlands. If the adoption is not converted into a strong adoption then the child may later be confronted with problems of a legal nature. 34

Another respondent addressed the legal requirement that none of the legal parents can object to the request. The respondent is confronted with the problem that the parents in a country such as Haiti do give consent to the adoption of their child but that adoption in Haiti is something else than an adoption in the Netherlands. Namely, in case of an adoption in the Netherlands all familial relations between a

34 See answer question 4 judicial analyses.
child and the original parents are interrupted and this is not the case in Haiti. The problem, which the respondent brings to the fore, is as to whether the consent a parent in Haiti gives to the (weak) adoption can in the Netherlands be construed as not objecting to the (strong) adoption.

Three respondents indicated that in recent years the Ministry of Justice has regularly been confronted with situations in which people residing in the Netherlands intended to adopt a child from an Islamic country by means of an ‘acte de kafala’. The translation of this term is literally: ‘deed regarding the acceptance of the care of somebody’. The Moroccan Code of Family Law determines that adoption is null and void. It should therefore be deduced from this that ‘kafala’ cannot be put on par with an adoption. Up to now the policy in case of ‘kafala’ is that when there is no question of a family foster child in the sense of the aliens legislation the procedure for international adoption must be followed. The choice for the road of international adoption leads to problems as adoption is prohibited in many Islamic countries. The biological mother can, if she is known, not provide an official declaration in which she gives consent to the interruption of the familial relations between herself and the child. The authorities cannot officially consent with the placement of a ‘kafala child’ in the Netherlands in view of adoption as this kind of declaration of the mother is, according to Dutch legislation, required.

One respondent also provided the feedback that the adoption cases it handles are often procedures where the adoption or the route thereafter did not proceed according to the rules. The Court then often takes a practical standpoint and puts the interest of the child first.

One respondent made the comment that ever more frequently the adopting parents experience the costs an obstacle.

One respondent (licence holder) argued that adoption from America should not be necessary. It still happens because it constitutes the sole manner for the gay movement to adopt children. This is, in the opinion of the same, the sole reason why partial mediation is still included in the law. In the view of the same the partial mediation should be removed from the law. It would not be of these days to have adopting parents personally carry out and supervise the procedure. Private adoptions must discontinue as these cannot be supervised. This respondent stated, however, to be willing to supervise procedures where parents personally present the contact and as from that moment distance themselves from the procedure. The licence holder then provides for the supervision, in consideration of the own values and standards, which exceeds the ‘paper supervision’ required by the Ministry of Justice. It was also brought to the fore that a negative advice presented by a licence holder is occasionally overruled by the Minister of Justice.

One respondent noted that the biggest problem in case of adoption is the massiveness. This is not only caused by the law but also, particularly, by the adjustment and the expansion of the requirements by the Court. This respondent argued that adoptions by the female partner of the mother, partner adoptions, where a child is born in a relation of two women, is still of utmost important at the moment however that the same is hopeful that these adoptions will no longer be required in the future thanks to an amendment of the law.

One respondent indicated that poverty in India is a reason to surrender a child for adoption. The parents are in that case not able to raise their children.

One respondent indicated that a discrepancy is observed where two partners of the same sex (women) have entered into a registered partnership or are married and one of the two is pregnant through artificial insemination. The following examples are mentioned:
-the duo-mother cannot recognise the foetus prior to the birth. Whilst a man together with his female partner can yet recognise the foetus at the municipality, nobody wonders as to whether this man is actually the biological father. If it is clear in case of two women that the child has been fathered by an
anonymous sperm donor and the women are married or have entered into a registered partnership the same kind of regulation should apply to them. Recognition through the municipality is a fast and cheap manner. The only extra requirement which can be imposed is a proof of the insemination by an anonymous donor.

This also prevents the next problem; if the mother deceases during childbirth it is unclear which requirements are imposed in order to allow adoption of the child. It seems that in case of lesbian couples the one-parent adoption without care period is replaced by a one-parent adoption with care period. Due to the mere death the risk is created that other requirements are imposed on the adoption, namely the care of the minor child during a number of years.

One respondent noted that the biggest obstacle in case of international adoption is both the national legislation and the execution thereof. The legislation does, for example, not allow a conjoint application of couples of the same sex (married and/or living together). As a consequence the principle permission is limited to one parent and in the Netherlands a separate adoption route according to Dutch law should be followed for the partner of this parent. The same applies to married or cohabitating couples of which one of the partners has accomplished the statutory maximum age limit. An adoption in the name of the youngest parent, followed by a second adoption procedure in the name of the oldest partner, is indeed possible but a conjoint and simultaneous adoption is not.

One respondent was of the opinion that not the term ‘child’ should be used within the framework of this survey as also within the framework of the discussion regarding adoption, but the term ‘adoptee’.

One respondent advocated the possibility of unlimited revocation of an adoption by an adopted child. The current legislation only offers the room of 5 years after a child has become of age. This period of five years is not based on scientific research and seems to have been chosen by the legislator arbitrarily.

**Natural mothers**

One respondent argued that, in the adoption debate, the interests of the natural mothers are regularly neglected. The natural mothers are too little taken into consideration.

**‘Special need’ adopted children**

One respondent indicated that some poignant cases are known with regard to ‘special need’ adopted children. A brief explanation of these cases is provided below.

Two families who arrived in China and could finally hold their adopted child in their arms discovered that the adopted child was a more serious ‘special need’ child than initially communicated. Both families then decided not to continue with the adoption. With regard to the one adopted child it regarded a very serious progressive and life-threatening neurological disorder instead of an operated club-foot. This adopted child was cared for by the adopting parents in China for four days. Eventually it became known that the foster mother had intentionally included false information in the medical dossier after which the child wrongly ended up in the adoption process. The other adopted child would be autistic. The parents, when they discovered this, decided to return the child to the home within a day. The child who used to reside in a home, which had meanwhile been destroyed by an earthquake, then resided in a bunker for a number of weeks. One wonders if the adopting parents were sufficiently aware of the consequences to this young child. Namely, the child is taken away from everything which is known and familiar to him/her with all serious consequences of such to the child. Moreover, the life in a home, where there is not a lot of time and attention for the child, may cause the child to, during the first period of time, not show him- or herself. It can moreover be added that the diagnosis of autism by a general paediatrician in a single day is nearly impossible.
The problem in the aforementioned cases is that China does not allow licence holders to personally supervise the health of the adoptee before the child is presented to an adopting family which is open to a ‘special need’ adoptee.

It certainly occurs more often that an adopted child has much more serious handicaps than indicated. For this reason the adopting parents often need to reach the impossible decision to leave their adopted child in the country of origin.

Sometimes the situation is also different, according to the respondent. Adopting parents to whom a child had been proposed were informed a couple of weeks later by the authorities in China that the adoption could not continue. The reason given was that one of the parents had suffered from cancer fifteen years ago and had meanwhile recovered. This adopted child had been proposed by the licence holder before the child had been released for adoption by means of the Chinese adoption procedure.

**Interest of the child**

Two respondents argued that the child, if he/she can be assisted in the country of origin, will be better off. Only if further possibilities are lacking in the country of origin should the child be proposed for international adoption. This policy, which is in the interest of the child, prevails over the interests of the adopting parents. Adoption should be the last resort. The interest of the child always comes and must always come first. Adoption is, however, preferred instead of growing up in a children’s home in the own country because growing up in a children’s home in the own country is bad for the child in connection with the risk of a development disadvantage. Research teaches that every three months in a children’s home implies one month of development disadvantage. The objective should be that adoption ends because the countries of origin can place ever more children in a family in the own country and can offer children more extensive care. This should be stimulated.

Multiple respondents provided the reaction that the time has come to discuss the principal question as to whether it is still in the interest of a child to be adopted in a different country than the country of birth. In consideration of the fact that a considerable number of adopted children, mostly in puberty, will have significant problems resulting from a disturbed bonding and the feeling of living in two worlds.

One respondent stated: ‘I do not think that a child is always better off in a family than in a home. I am, however, convinced that first a family should be sought in the living environment of the child and that international adoption should be a last resort. As the child is older cultural and language linkage will place a more important role.’

One respondent indicated that it frequently occurs in practice that political interests prevail over the interests of the child and his/her biological parents. An example is adoption from China. It is known that adoption from China is a risky adoption as it can usually not be supervised as to whether the requirements for adoption are met and little is known about the background of a child. Yet adoption from China occurs very frequently in the Netherlands. That the course of affairs is not examined more critically might be associated with the political interest of the Netherlands not to disturb the relation with the country.

**Adoptees versus adopting parents**

One respondent provided the feedback that in recent years a decrease has been observed in the number of children available for adoption as they can and are placed locally more often. This is also the result of The Hague Adoption Convention. Moreover, there are ever more parents who want to adopt children, so it is expected that the tension between the demand for children to be adopted and the availability of the same will further increase the coming years. This respondent also noted that the Kalsbeek Committee recommended increasing the age of adopted children from 6 to 8. A child of 8 is more attached to his/her culture and environment and will fit in the school system with more difficulty than a child of 6. First have this examined before this kind of important decision is reached. The interests of the adopting parents become ever more important than the interests of the child.
Another respondent also indicated to be aware of the fact that international adoption is vulnerable because the number of foreign children which qualifies for adoption is structurally lower than the number of adopting parents who want to adopt a child.

One respondent indicated that the long waiting time is neither in the interest of the child in a home nor in the interest of the adopting parents. In the opinion of the same the country of origin should handle the formalities faster after the matching so that the child does not unnecessarily reside in a home. In Haiti, for example, the adopting parents, once they are informed who their child is, sometimes need to wait for two years before they can get their child.

**Adopting parents**

Two respondents provided the feedback that starting point upon adoption must be the interest of the child; the child must be placed with the right adopting parents. Stretching of the age limits of the adopting parents in the law, on account of their wish to adopt, cannot take place.

One respondent was of the opinion that the length of the adoption leave must be compatible with the pregnancy leave, in connection with the bonding of the child. The same also noted that homosexual couples abroad are almost without exception excluded from adoption. And some heterosexual couples must marry in order to qualify for adoption. The same moreover stated to have experienced that since last year China has imposed the requirement on adopting parents that they at least dispose of Senior General Secondary Education (“HAVO”).

One respondent indicated that there is a group of adopting parents which is of the opinion that the relevant licence holder is doing too little to develop new channels. These parents have a lot of criticism. There is also a group of parents which blames the licence holder for transparently discussing the risks of abuses.

**Information course**

One respondent feels that the waiting time in the Netherlands for the information course should be abbreviated. Moreover, briefly before the meeting between the adopted child and the adopting parents more information should be supplied about living in a home and what an adoption transfer means to the development of a child. The same is also in favour of more information for the adopting parents about what they must expect, when they finally hold the child in their arms. Here, attention can possibly be paid to the placement of a ‘special need’ child. In the compulsory course it is requested to consider the idea what it would be like as a child to suddenly be taken away by strange, foreign people, but usually it takes many years after the course before the adopting parents can finally adopt a child.

One respondent was of the opinion that a good screening is important. Meanwhile a new model is used at the Council for Child Protection which, according to the same, works better than the old model. Initially the Council had three meetings per adopting parents. This has been reduced to two plus one, if necessary. For example in case of doubt or if the adopting parents indicate to be willing to adopt a ‘special need’ child requiring special care and attention. The adoptive parents receive the responsibility for a child of another person, so they can be screened on this, according to the respondent.

**Background information**

One respondent provided as feedback that the countries of origin realise the importance of sound background information of the child ever more. The same indicated that the relevant licence holder tries to obtain as much information as possible in order to accomplish a matching as optimal as possible. Yet in some countries it still occurs that not all information is complete or correct. The adopting parents are prepared for this. In general it is not unwillingness but culturally determined that the entities in the countries of origin attach less importance to the supply of background information. The standpoint of the countries of origin is than often that only the future is important, because the past is irrelevant. The respondent made the comment that a good relation with the country of origin of the child can lead to mutual trust. It is important that it is known there what the method of working and thinking in the
Netherlands is. A licence holder can, of course, always ask for more information, both in the medical and in psychological area.

If there are doubts about the development of a child on the basis of the available information it could be that the child is followed for a period of time before proceeding with a matching with adopting parents. It does, however, happen that in a country, such as for example China, little or no information is provided about the biological background of the child. Chinese adopted children have almost all been abandoned. Nothing can be done about that. Communication about the possible insecurity this brings along takes place with the adopting parents.

One respondent stated that it often occurs that the little information available about the background of the child is also difficult to verify by the adopting parents. Another respondent also stated that information about the background of the child is regularly missing. The cause hereof can be found in the Indian society. In India it is a disgrace being a single mother. These women are sent away with their children and often end up in a home. At the home they are pressured to surrender the child for adoption. Even though in violation of the wish of the mother, she will often surrender the child under pressure.

One respondent, who personally adopted two children, noted that with one adoption he knew nothing about the background of the child and the biological parents. The child had been abandoned. With the other adoption he had indeed been informed about the background of the child and the biological parents.

One respondent indicated that if a social worker in India is asked for information about the child the standard answer is that this information is unknown. Sometimes these data are available, but are not supplied. This is for the protection of the identity of the natural mother. If a natural mother is at a later stage yet confronted with her child this may lead to expulsion from her family.

Two respondents indicated that if countries are reserved when it comes to the supply of information the adoption procedure should not proceed. One of these respondents only referred to medical information in the answer. The other respondent indicated that information is of essential importance and that, as a licence holder, it takes into account that some countries do not dispose of psychologists and social workers.

Three respondents indicated that the Dutch licence holders have the obligation of best intents in pursuance of the law to collect as much information about the origin and background of the adoptee as possible. On this point the licence holders depend, to an important extent, on the authorities and institutions in the country of origin. The respondents furthermore noted that in recent years it has only occurred once that it afterwards appeared that the information about the adopted child supplied with the matching proposal was incomplete.

One respondent provided as feedback that the supply of information in the adoption procedure differs per country. The one country is organised and correct in the supply of information. South Africa, for example, supplies complete information, whilst some other countries are more reserved. With regard to countries that are reserved on this point a distinction should be made between member and non-member countries. In some member countries, for example China, is it difficult to inspect the system of the central authorities as the information from the children’s home is directly forwarded to the central authority and in turn the latter only supplies a part of the information to the licence holder. This limited information ends up at the licence holder and is included in the child dossier.

One respondent provided the feedback that a complete dossier is pursued as much as possible. This is also stated in the quality framework. But this is not always possible, for example if the child has been abandoned. It can also differ per country, sometimes as a result of the lack of a good administration.

One respondent established that as from the first moment it must be tried to collect as much information about the background of the child as possible. If accurateness comes first as from the first
phase of the adoption and an extensive examination of the background of a child has already taken place before the adoption is released this will prevent many problems in the future. This respondent therefore also argued in favour of the following cumulative conditions for adoption:

- only adopt from member countries to The Hague Adoption Convention;
- only adopt from countries which – demonstrably – comply with the rules deriving from this Convention;
- the Central Authority supervises that actions are in accordance with the principle of legitimate expectation. If reasonable doubt exists about the origin of a child, the concerned entity should present all requested information about the child and, if unavailable, a field examination regarding the origin of the child should yet be carried out. If this does not remove the doubt, adoption of the child in question should be waived.

Language problems

One respondent provided as feedback that the communication in the country of origin can be problematic. The following example is provided. An introduction with 7 host mothers in the country of origin of the adopted child whereby the respondent, together with 6 other couples, only had one hour to speak with these host mothers whilst only 1 guide was available for this. In case of another adoption the travel group of the respondent consisted of multiple families who were going to adopt an older child and they also experienced language problems. The example mentioned here regarded a child who had to go to the bathroom on the bus. It was already too late before somebody finally understood what was going on. One other adopting parent informed the respondent that the adopted child bonded more with the guide than with him as the former, obviously, understood him.

Licence holders

One respondent (licence holder) indicated that as a result of the ‘Quality Framework Licence Holders International Adoption’ it is impossible for some licence holders in the Netherlands to comply with the quality requirements included in the quality framework within the imposed deadline. A number of requirements has been included in this framework which cannot be expected of volunteers. As a consequence a number of licence holders will discontinue within two years.

Two other respondents (licence holders) answered that they will comply with the quality requirements within the imposed deadline. They do not expect any problems on this. Upon the preparation of the plan of approach it became clear that attention should essentially be paid to rendering the Higher Vocational Education (“HBO”) level of work and thought of the volunteers, who do not dispose of a HBO diploma yet, clear. Moreover, the financial administration should be expanded. The respondent could not predict if all licence holders will comply with the quality requirements. The other respondent stated not to be able to answer this question; there is no insight into this. It is, however, known to the same that abroad ever higher requirements are also imposed on the employees of the licence holders, in particular psychological and social education requirements.

One respondent indicated that matters such as project assistance and sponsoring should not be taken care of by mediating institutions. There is, namely, a risk that agreements are, for example, made between the country of origin of the adopted children and the licence holder about the money which is rendered available for projects and the number of adopted children that qualifies for this.

One respondent indicated that the relevant licence holder shortly before the conjoint meeting was not informed of the documents required in the relevant province in China in order to organise the adoption according to The Hague Adoption Convention. Thanks to other adopting parents, who travelled to China two weeks before him and had experienced problems on this, he could yet inform his travel group about the correct documents.

One licence holder argued that a part of the activities for international adoption is by law delegated to the licence holders. The system is organised such that there is no free choice regarding the licence holder and that there is therefore no competition between the licence holders. Licence holders do not operate in each other’s working area. The adoptive parent depends on the licence holder active in that specific country. As a consequence the stimulus for the licence holders to be efficient/customer-
oriented is missing. According to the current legislation foreign (for example) European licence holders cannot be used. The consequence is that there are countries from which couples from the Netherlands cannot adopt children because there is no Dutch licence holder that is or wants to be active for this country.

Moreover there are countries that, as a result of bad experiences with specific licence holders in the past, no longer wish to cooperate with them. Due to the current monopolistic position other licence holders cannot be active in the relevant area. There where licence holders are not welcome at all, the Dutch Central Authority will neither be willing to forward dossiers and to in that sense facilitate adoption.

Aftercare
One respondent indicated to refer adoptive parents and adopted children to aftercare.

One respondent answered that the relevant licence holder offers aftercare without time limit. In this context the same noted that young adults, adopted as a baby, can also call upon the licence holder for aftercare. Another respondent noted that in the opinion of the same sufficient aftercare is being offered. The same also stated not to have any personal experience with this as he did not need it.

One respondent provided as feedback that the relevant licence holder has an aftercare team which consists of volunteers who in daily life are employed in the psychological, pedagogical or medical sector. These volunteers can telephonically be reached for a conversation. Adoptive parents also receive, some time after the arrival of the adopted child, an inquiry form on which they can indicate if they want a contact for aftercare. If they want this they will be called. The aftercare team listens to the stories and gives advice. If more care appears necessary they are referred to regular care and assistance.

One respondent indicated that the licence holders are by law obliged to provide 1 year of aftercare. The relevant licence holder provides for aftercare for a longer period of time thereby making use of professionals and volunteers. Both the professionals and the volunteers are free to visit the adoptive parents. The adoptive parents can also call upon the aftercare of a licence holder if they consider this desirable.

One respondent stated that there had indeed been problems in the aftercare. During the preliminary procedure everything is done in order to match the adopting parents with an adoptee, via principle permission etc., however after the placement little to nothing is taken care of. The organisation of the aftercare would be worth a brainstorm session. The same is of the opinion that it is important to keep in touch with adoption companions, this is now too much without engagement.

The reaction of another respondent is in line with this. It was noted that the Council for Child Protection had very accurately screened the family during the preliminary procedure. After the adoption had been realised nothing was heard anymore of the Council or any other organisation.

Another respondent noted that the offered aftercare usually means little to nothing. Often expert care in this area is missing at counselling centres and family doctors. Initiatives of adopted parents in order to arrive at a pragmatic and qualitatively good system usually come to a dead end due to bureaucracy. The initiative runs, for example, under the authority of the Ministry of Justice which eventually decides that it is not part of its working area. It is then transferred to another Ministry which then sets aside all the results and personally wants to conduct a study. In this way many years later nothing has been done yet. On this point the government acts obstructive rather than stimulating. Furthermore, feedback and learning from experiences are still fully absent at the moment.

One respondent feels that standard video interactive counselling some months after arrival in the Netherlands should be requested by every adoption family.
One respondent noted that, compared with the seventies, there is currently more aftercare available. The same then thinks about VIA (Information International Adoption), FIOM and many other care and assistance organisations. These organisation know ever more about adoptions.

**Difficulties after placement**

One respondent indicated not to be aware of difficulties once the adopted child is placed in the adoption family. According to this respondent the current extensive screening of the adoptive parents should be sufficient.

Two respondents argued that there are indeed difficulties after a placement. An example is the placing in care of adopted children. It happens ever more frequently that adopted children require more specific care and attention. In consideration of the past it is noted that nowadays adoptive parents do, nonetheless, know what they are getting into, their realisation has increased. In this context information facilities and information meetings play an important role.

One respondent indicated that the parents do not always write and hand in a follow-up report, for example because the child is not doing well or because the adoptive parents are caught up in divorce proceedings. Legally there is no sanction available.

One respondent indicated not to consider it desirable that abandoned adopted children should for the rest of their lives fill in “place of birth unknown”. In the Netherlands a registrar of births, marriages and deaths did not know what to do with the request for registration of an adopted child as the place of birth was missing. The Dutch Consulate in Beijing was then contacted and some weeks later the child was registered at the municipality with the annotation “place of birth unknown”. It seems desirable that the place, where the adopted child is found, is considered the place of birth of the adopted child. Another respondent also argued that a solution should be found for the missing birth certificates. If an adoptee wants to get married a birth certificate must be presented. This often appears impossible because it is not available. It moreover becomes clear that the place of birth is not always mentioned, but instead thereof “place of birth unknown”. This is very confronting to the adopted child.

One respondent noted that the problems experienced by adopted children are not always related to the adoption. There are also other causes for these problems, for example with regard to the upbringing. The same observed that, where the problems with adopted children are concerned, the cause is always sought in the adoption. However, in the opinion of the same, the position of the adoptive parents should also be examined. One could wonder if these parents are properly counselled. There are many organisations offering assistance but the question remains as to whether the parents who need this help actually call upon this help.

One respondent indicated that in health care attention is not paid to the consequences of adoption to health care. Adoptees do, however, often require adoption specific assistance, both physically and mentally. Since the creation of adoption there has been a need for this. As not a single entity has documented how many cases this precisely regards the problems cannot be recorded and it can therefore not be demonstrated that research regarding adoption specific assistance is required. Due to a lack of documentation and hence a lack of research there is still no adoption specific assistance available. Recording this demand for assistance could provide a different picture of adoption and its consequences.

**Financial and economic interest**

One of the respondents is worried about the possible financial and economic interests which could play a role of importance within the framework of international adoptions. The number of people with an adoption wish well exceeds the number of available children. This could lead to illegal adoptions, abuses and the payment of huge amounts of money for children.

One respondent (licence holder) argued to financially depend on the number of placements. Nonetheless this licence holder stands for quality rather than quantity. Ethics should, according to this licence holder, be decisive in this work. Only if local solutions are missing can there be question of
justified adoptions. Worldwide there are many organisations that are based on this principle. The respondent advocated one large licence holder in the Netherlands as this would benefit the professionalism.

One respondent provided as feedback that only large mediation organisations can offer quality. In the Netherlands there is room for a maximum of two or three licence holders and these should, where their finances are concerned, be less dependent on the number of annual placements. The same is also of the opinion that the financial dependency stimulates the hunt for adopted children. There where money is paid to entities in countries of origin of which the expenditure is unclear the contact with the relevant country of origin should be discontinued. The argument that other countries will then receive the children is irrelevant. The Netherlands can surely serve as a pioneer as the identity and the feeling of self-appreciation/respect of adoptees are served by absolutely pure, controllable and transparent adoption procedures.

One respondent indicated that professional entities involved in adoption are not and cannot be objective as they financially depend on specific parties.

**Control and supervision**

One respondent is of the opinion that control of the governments of the sending countries by the relevant licence holder is hard to realise. Also the Ministry of Justice, appointed as first meeting partner of the central authorities of the sending countries, has limited possibilities of control. In the current situation there is, for example, no possibility of sanctions if sending countries, which ratified The Hague Adoption Convention, do not comply with the requirements imposed by the Convention. A control body at a European level, for example an international authority, with far-reaching authorities would be very desirable.

Another respondent is also of the opinion that there should, in case of international adoptions, be a better, more official and formalised supervision of the course of affairs in the countries where the adopted children come from.

According to one respondent there is too little control on the matching procedure and the placement method of the mediating entity. Adoptive parents can call upon the Complaints Committee but this exclusively takes place through the mediator. This is not correct according to the respondent, this should be possible directly. Moreover, the quality of the work of the mediators is insufficiently subject to criticism. The respondent feels it is absurd that the placement of an adoptee in a family, a task of such fundamental importance, is performed by volunteers.

One respondent criticised the control on the licence holders which is carried out by the Youth Care Inspectorate. This could be better. In this context also indicating that a better control is not a guarantee for a solution of all abuses. The control abroad is now only a 'paper control'. This licence holder also argued for an independent international adoption authority as, in the opinion of the same, there should be more control on the execution of The Hague Adoption Convention, to the word and spirit. In particular to the question if sufficient attention is paid to national instead of international adoptions. This respondent feels that this should be controlled and that it should be tried to stimulate these countries to enhance national adoptions. Counselling should be provided by an independent committee. Moreover, agreements should be made about the number of national adoptions which a country should accomplish. The Hague Permanent Bureau has a facilitating task in the execution of The Hague Adoption Convention, the organisation and the supervision of signing of this Convention. This is not far enough. Apart from a facilitating task, there should also be control. Despite of having signed The Hague Adoption Convention, many countries do not fully apply this Convention (yet). Moreover, the same advocated cooperation with child protection in the countries of origin instead of cooperation with children's homes. This could lead to the adopted children being placed locally more often, as the children's homes are controlled this way. This is a good thing. Initially the children’s homes could personally decide how many children could be proposed for national and international adoption.
One respondent addressed internet adoptions. The same noted that extra attention of the Ministry of Justice and the Council for Child Protection is desired.

One respondent indicated to regularly be confronted with problems at licence holders or the government. The problem is often that there is little willingness to look for a solution or that concerned officials/employees of licence holders do not have a positive approach towards adoption and therefore only cooperate with difficulty or not at all. Moreover, at the Ministry of Justice the interests of the child factually come first however in practice the Ministry of Justice focuses on procedure and regulation. As a consequence the process becomes ever more bureaucratic, more difficult and the process is an obstacle for the parents to find a child rather than an assistance. Due to the high level of dependency an adopting parent can do little against this. For the further progress of the (follow-up) procedure they once again depend on the cooperation of the same person. Once the procedure has been completed people prefer to spend time and energy in the upbringing of the child rather than afterwards be put in the right in a complaints procedure.

In order to render the adoption system self-learning and self-cleaning it would be good if in case of adoption use could be made of the institutions of other European countries. Moreover, adoption should be part of Ministries which are engaged in the protection of the interests of children.

Trade in children

One respondent (licence holder) indicated that trade in children can take place in any country. If a country is facing tremendous poverty and by selling a child one can make a monthly or annual salary the selling of a child will be attractive. Unfortunately there are malign people who abuse this. This licence holder referred to a situation in which there was question of trade in children. In this situation the adopted child was taken from the family as the child had been obtained through a crime. In some individual instances this is, perhaps, not the right choice, because it again implies change to the child, but it is necessary that an example is set in these kinds of situations. This to prevent other people from doing the same. Then children should be placed in a host family, the people who illegally brought the child to the Netherlands should be punished.

The standpoint of Courts in this matter is often different, they depart from the assumption of “family life” and therefore often decide that the child can stay with the family. It is then about the interest of this one child, without taking the stimulating effect this could have into account. In case of doubt about the correct manner of surrender of an adoptee, the child is sent back, regardless of the stage of the adoption procedure.

By way of example reference was made to two biological mothers in India who were of unsound mind. Their children were temporarily placed with child protection with the objective of temporarily taking over the care and not to surrender the children for adoption. The official entity there presented these children for international adoption. Ten months after the children had been matched (the children were still in India pending the judgment of the Court) it appeared that the children had not been released for adoption. The licence holder then informed the adoptive parents that the adoption could not proceed and then revoked the proposals. That is hard, because it is clear that these children cannot grow up with their mothers and will therefore most likely stay in a children’s home until they are major of age. However, the licence holder does not want to have children adopted who have not been surrendered correctly as it does not want to be suspected of trade in children. The expectation of the respondent is that the desire to have children will increase in the future resulting in an increase of the trade in children. This respondent also noted that the countries of origin receive more money if they propose children for international adoption as national adoption costs more time and effort. On the one hand this is reproachable because at this level it is stimulated that children are offered for international adoption. Yet on the other hand it is also true that if national adoption would be just as expensive as international adoption children are neither adopted domestically.
Money is of significant importance to the children’s homes in India. It becomes ever clearer that there are homes that cooperate on the trade in children. It cannot be controlled what part of the money ends up with the mothers.

One respondent indicated that The Hague Adoption Convention does not dispose of any sanctions and that it only contains beautiful words. As long as the countries of origin continue asking and receiving a lot of money the trade in children will remain. Whilst they should factually pay for the care of the child in the receiving countries. Think, for example, about the fact that many adopted children are ‘special need’ children, hence require extra care of the adoptive parents and the entities active in their country. This respondent is also of the opinion that when it becomes apparent that a child could afterwards not have been adopted there should be guidelines as to how the government should act. The same also noted that in case of illegal adoptions the legally abused concept of ‘family life’ should be declared non-applicable. These adoptions should be annulled and the child should be returned to the country of origin.

One respondent made a case for criminalisation of illegal adoption. At this moment a specific regulation is missing in the Dutch Criminal Code and in case of illegal adoption the punishable act is prosecuted in pursuance of other offences such as, for example, forgery in deeds. The imposed punishment does, as there is not a specific criminalisation of illegal adoption, not have the intended effect and punishment is too mild.

Roots
Two respondents indicated that it is a pity for the children, that if they would later want to, information could not be retrieved about their biological parents. The respondent was aware of this before he decided to adopt children from China. It is not clear if more daughters than sons start looking for their biological mother.

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One respondent indicated that at one point in their life adoptees want to know more about their roots. There are, however, no guidelines for the institutions in the countries of origin to handle this in a professional manner. The respondent is of the opinion that holding back knowledge about their biological parents could have a negative impact on the life of adoptees. The Hague Adoption Convention should, in the interest of adoptees, provide guidelines with regard to information about roots. Available information should only be missing if the child has been abandoned. The KRO television shows “Spoorloos” (“Untraceable”) places adoption in a certain daylight. According to the show all adopted children start looking for their parents. This does, however, not appear to be the case. The respondent also noted that it is good that one of the licence holders set up a roots department. It is tried to unite the youth and thus share stories which can be very important. There should be a separate interest organisation for each adoption country of origin which has no formal connection with the organisation that took care of the adoption. The interests can be different. It is also suggested that the adoption foundations transfer an annual amount per adoptee to the interest organisations. The respondent is of the opinion that adoption is more than bringing the child to the Netherlands. After that there is also an information obligation towards the adopted children. The adopted children should be able to meet each other. The same did not provide a recommendation how this could be accomplished yet pointed out that the parents in the Netherlands currently have no obligation in this direction, i.e. that adopted children can meet each other.

One respondent provided as feedback that in South Africa the biological parents are usually known and traceable so that the contact can easily be established. Yet in a country like China, where most of the children have been abandoned, it is more difficult. Rules should be drawn up for this because in the opinion of the same each adoptee is entitled to know who his/her biological parents are, unless this would jeopardise the lives, or one of the lives, of the parents. There are still cultures where in particular the biological mothers incur risks if it becomes known that they, for example, had an extramarital child. It is feasible in countries where a good administration is pursued to establish data about the roots of the adopted child. This has not always been the case. In the seventies and eighties, for example, it has not always been administered properly what the background of the child is. In 2008 the countries from
which adoptions take place are, in the opinion of the same, however perfectly able to have a good registration system. The question is, however, to what extent foreign organisation wish to cooperate on this; that is difficult. In India, for example, where it is currently tried to obtain as much openness about child dossiers and names of biological parents, this leads to ample resistance. In some countries the child is entitled to information as soon as the child reaches the age of 18. The adoptee can then personally lodge a request.

One respondent indicated that his two adopted children personally searched for their roots. As adoptive parent the informed them of everything he knew and where the children wanted this, he assisted on the search.

Scientific research
One respondent is of the opinion that scientific research can only be performed by fully independent entities/people and therefore not under the authority of adoptees, natural parents or adoptive parents. A scientific scrutiny/evaluation of the official entities, for the preparation of adopting parents, processing of complaints and the placement of children is desired.

One respondent observed that adoptees, at least foundations that look after the interests of adoptees, are passed when it comes to the policy, the management and the execution of adoption. In the opinion of the same adoptees are not involved in important matters surrounding adoption. Adopted children are often approached individually to relate their personal story yet are not considered as a target group which can – and should – join in the discussion and decision-making within the framework of adoption. The specific knowledge of adoptees is not made use of. All concerned parties should be represented in all research and at all entities. This respondent observed that mostly adopting/adoptive parents are involved in the policy, management and execution as a result of which the method is basically founded on the interests of this group as a consequence of which the interests of the child fade into the background. This respondent is therefore in favour of objectification of the concerned parties at the entities.
3.20. **Poland**

3.20.1. **Duration**

The length of the adoption procedure from the moment of filing an adoption application until the ruling is usually as follows:

- in case of domestic adoptions: from 3 to 4 months;
- in case of European adoptions: from 4 to 8 weeks;
- in case of international adoptions: from 4 to 8 weeks.

Foreign adoption cases are usually completed within the first term, so as to avoid petitioners’ repeated appearance at court. In cases of this type, arrangements pertaining to dates are usually made over the telephone: the judges suggest a date of personal contact period, and the petitioners’ proxy or a representative of the adoption-and-care centre consult the petitioners in order to determine if it is possible for them to arrive on the suggested date (thus, arbitrary arrangements are avoided, for it is better if the personal contact period and the adoption hearing date are appointed with consideration of the petitioners’ personal and professional situation). The personal contact period is appointed in such a way so that it finishes just a few days before the adoption hearing date. On the date of the hearing, the judges already have at their disposal an opinion on the course of the personal contact period, which allows for a substantive closure of the case at the first term, with a one-off arrival of the petitioners in Poland during the proceedings.

3.20.2. **Difficulties**

The results of the research conducted demonstrate that there was no single situation where an adoption application would be overruled. However, there were instances of returning the application due to belatedly amended formal defects which hindered pursuing the application. Application dismissal could only take place if the opinion of the experts or the adoption-and-care centre upon the end of the personal contact period was unfavourable and the petitioners would sustain their application.

The main obstacles occurring during the adoption procedure at the court proceedings stage are as follows: improper course of the personal contact period, when, only after assuming control over the child, the petitioners decide that they are unable to cope with the situation or when the child does not accept the petitioners. Another impediment in the correct course of the case is the necessity to adjourn the adoption proceedings because of the biological parents’ motions, who, in the face of a potential adoption, after several years characterised by a complete lack of interest in the child, file a motion for restoring their parental rights, consequently blocking the adoption procedure for some time.

No problems were noted with establishing the whereabouts of a child, since the child stays at an orphanage or other family-and-care centre after the court receives the adoption application.

3.20.3. **Language problems**

No linguistic problems were stated, as the foreign adoption procedure (European and international) is carried out with the participation of an interpreter. Nevertheless, such problems may occur in the phase of personal contact between the petitioners and the child or the adoption-and-care centre’s employees.

3.20.4. **Competences**
The petitioners are each time informed on the overall situation of the child (material situation, health status, descent, genetic history and other existing problems). There were neither any disturbances of the information flow between the petitioners and the competent institutions.

Adoption applications are filed with the courts of proper jurisdiction for the place of residence of the petitioners or the child’s guardian. Should the motion be filed with the wrong court, the case is delegated pursuant to the proper jurisdiction, so as to ensure its quickest possible settlement.

3.20.5. Resistance of the holder of parental rights

In adoption cases, the child’s legal situation has to be confirmed, i.e. the parents are dead, or have been deprived of parental rights by a final court ruling, or have granted consent to the child’s adoption without indicating specific persons (the so-called “blank consent”), or are legally incapacitated by a final court ruling. There are situations where the biological parents, deprived of parental authority, hamper the adoption process by i.a. filing motions for the restoration of parental authority already upon the commencement of the proceedings. Such doings cause the adoption proceedings elongation and a sense of uncertainty of the petitioners who originally were positively motivated.

The first contact of the child with the future parents takes place at an orphanage, in a special room or group. It is of utmost importance that an initial bond is formed between the minor and the adoptive parents. This is why, before taking the child home, future parents first keep on seeing the child at an orphanage for as long as it takes before the child accepts them.

3.20.6. Criteria applied to children

Below are the criteria that children should meet in the adoption proceedings: confirmed legal situation, age below 18 years, no prior marriage and a consent of a minor who is over 13 years old. Minors under 13 are heard by the court which takes their opinion into account, unless the minor considers him- or herself the adoptive parent’s natural child and the disclosure of the adoption secret would stand against the child’s well-being. Thanks to these rules, practically every child can be adopted, regardless of their health status, past or intellectual level.

3.20.7. Criteria applied to future parents

Subsequently, a set of criteria that the future adopted child’s parents should fulfill is given: age 25-40 years for the persons who wish to adopt an infant and over 40 years of age for those who wish to adopt an older child, good physical and mental health, income per family member largely exceeding the minimum subsistence level, good housing conditions, no criminal record. The petitioners’ qualifications are previously assessed by a psychologist and a school counsellor from the adoption-and-care centre. Throughout the court proceedings, an employee of the adoption-and-care centre and a court-appointed social worker only check how the petitioners are dealing with the child care.

3.20.8. Adequation of the procedure

According to the majority of the persons enquired, adoption in Poland (domestic, European and international) under regular procedure does meet the expectations of both the adopted and the adopting parties. Court and family-and-care centres’s employees have no serious reservations in this matter. Still, some issues emerge that are particularly worthy of investigation.
a) Judges pronounce different legal interpretations. Sometimes they do not consider the opinions and positions of the adoption-and-care centres which are not legally binding, but refer to the employees` experience;
b) The prolongation of procedures aimed at depriving the biological parents of the parental authority (this applies in particular to alcohol- and drug addicts as well as criminal offenders);
c) Biological parents filing motions for the restoration of parental authority during the adoption proceedings (their consent is not required for the commencement of the adoption procedure, however, if they learn about it and wish to take part in it, they are granted the status of a participant).

The child’s well-being is at the centre of the adoption procedure, both domestic and foreign (European and international). The Polish Supreme Court has emphasised in one of its rulings that "the prerequisite of the child’s well-being is decisive in determining whether adoption may be allowed. The child’s well-being (interest) is of primary importance and requires consideration in each case pertaining to the custody of a minor, therefore also the cases of minor’s adoption”.

3.20.9. Best interest of the child

Term « child’s well-being » under the provisions of the Polish family law refers to "a set of material and non-material values necessary to ensure the child’s proper physical and mental development and to appropriately prepare the child for the future work, according to the child’s talents". The above is an indispensable precondition for adoption, and one of great importance in the Polish family law, including the law related to adoption.

3.20.10. Trafficking of children

The trafficking of children is a crime. Poland already has a network of institutions and organisations fighting against the trafficking and providing help for the victims. These entities include:

a) *Polish Police* – on 5 September 2006, pursuant to the decision of the Police Commander in Chief, a special Team for Fighting against Human Trafficking was created at the General Police Headquarters. Its tasks include the co-ordination and surveillance of the activity of teams created in Regional Police Headquarters and in the Police Headquarters for the Capital City of Warsaw; preventive actions; initiating the process of training officers who fight against human trafficking and the trafficking in human organs; paedophilia and child pornography. The teams and co-ordinators at the Regional Police Headquarters follow the rules specified in the Operating algorithm for the officers of law enforcement agencies in case of discovering the crime of human trafficking; performing reconnaissance; monitoring potential human trafficking spots, participating in international operations and trainings related to the fight against human trafficking. More information on the police activities against human trafficking can be found at the website (in English) http://www.policja.pl/portal/pol/90/4889/Polish_National_Police.html;

b) *Fundacja przeciwko Handlowi Ludźmi i Niewolnictwu La Strada* (The La Strada Foundation against Human Trafficking and Slavery) – as of 1995, the Foundation has been supporting women - victims of human trafficking. It organises preventive information campaigns (addressed mainly to girls and young women), as well as free-of-charge legal, medical, psychological and other types of counselling for women (Poles and foreigners) who became trafficking victims. More information can be found at the website (in English): http://www.strada.org.pl/index_en.html;

c) *Fundacja „Dzieci Niczyje”* (The Nobody’s Children Foundation) – The foundation is a non-profit, non-governmental organisation, the purpose of which is to protect children from abuse and to provide help to the abused children, their parents and guardians. The foundation maintains a Consultation Centre for children from outside of Poland who are under no care, and also for children who are victims of trafficking. The foundation actively participates in developing a new model of providing help to such
children in Poland, under the National Programme for Fighting and Preventing Human Trafficking. More information can be found at the website (in English): http://www.fdn.pl/strona.php?p=6;
3.21. **PORTUGAL**

3.21.1. **Introduction**

The positive evolution of the Portuguese adoption system – since their 1st contact with the matter – in terms of:

- the legal system;
- burocratic system;
- social mentalities’ impact;
- the inexistence of a true intercountry adoption culture – very few intercountry adoptions performed each year;
- the inexistence of a different treatment of intercountry adoption and European adoption – the difference is between The Hague Convention member states and the others;

The main obstacles regarding the effectiveness of the adoption processes are:

- definition of the child’s adoptability condition;
- excessive duration of the procedure (preliminary and judicial proceedings) due to:
  - different interpretation of the legal frame;
  - lack of human resources;
  - lack of qualification of human resources;
  - lack of coordination of the services;
  - difficulties regarding the obtainment of the required consents;
- the decision about the life project of the child is an extremely difficult moment;
- the legal frame is adequate and modern, even more since the reform of 2003;
- the urgent need of an effective and systematic evaluation of the system;

Fragmented development of the activities:

- lack of an orientation guideline;
- lack of a common reference throughout the entire process.

3.21.2. **Difficulties, rejected or given up adoptions**

**Jurists:**

The main obstacles exist before the judicial process itself (this one is quite fast).
Sometimes the work with the family of origin can be an obstacle as it extends the duration of the child’s project of life definition.
The main obstacle is the fact that the candidates are very selective, which makes the pursue for a child who suits them very hard.
The main obstacles exist, mostly, in the preliminary procedures (the conditions of the adoptability and selection of the candidates).

As for the cases where adoption was rejected or abandoned, some of the main reasons appointed were the lack of human resources and the inactivity of the social services action regarding the intervention in child at risk situations.

It was also said, in the cases where adoption was rejected or abandoned, the main reasons are psychological factors – when the integration doesn’t succeed.

The great lack of human resources, in the social security services, was appointed as one of the main difficulties. Therefore this can be the cause of the flaws and delays that occur in the pre-judicial phase.

Existential difficulties on the effectiveness of pre-adoption accompaniment. There are not enough human resources to assure the social and psychological perspectives of all the pre-adoption services.

Concerning the intercountry adoption, most jurists interviewed were not able to answer due to their lack of experience in the matter.

**Psychologists and social services:**

It was expressed that the main obstacles in the adoption processes are located before the judicial adoption process.

The cases of unsuccessful adoptions can be explained by: the lack of an adequate selection and preparation of the candidates; and also the lack of expertise of the human resources.

About the cases where adoption was possible although with difficulties, the psychological child’s condition was appointed as the main difficulty. The second one was the lack of human and financial resources.

As for the cases where adoption was rejected or abandoned, the main reasons are social factors (when it becomes known that the family does not have the required conditions). Psychological factors are also determined in the unsuccessfulness of adoption process.

In general, this abandonment or rejection of the adoption process occurs due to reasons relating the child (in opposition to the candidates, the social services decision or others).

There is a lot of indecision regarding the definition child’s project of life.

The inadequacy of the selection process was also appointed as one of the unsuccessful adoption cases.

From the moment the couple takes the child home, all the accompaniment and the evaluation is made by the Social Security Adoption Services. Some say that it is starting from this point that the main delays are caused - there is a certain lack of responsibility from the Social Security part in this phase.

Some, do not consider that the Social Security organisms (along with SCML) are the main and determinant actors on the success or failure of the adoption process – there are many other institutions working on these processes.

About intercountry adoption, it was mentioned that there is the need for specific training in the matter.

**Institutions:**

The main difficulties of the cases were adoption is obtained with difficulty, or even abandoned are the delays of the services and lack of support – the solution for this problem is recruiting well trained experts.

The rejection/abandonment is mentioned to be mainly due to the adopting candidates (selectiveness) and to the child.

There is also a big factor which contributes to these difficulties - a great absence of a precocious intervention with the biological families.

Thus the main obstacles exist before the judicial adoption process itself.

From the perspective of the one who is adopted, children over 6 years old and with special needs have more problems?

From the perspective of the one who adopts, the main difficulties are the ones that result from the duration of the process, long interviews and absence of accompaniment.

There is a great deal of bureaucracy in the whole process.

About the cases where adoption was possible although with difficulties, the difficulty regarding the decision upon the adoptability condition of the child was appointed as the main obstacle.
As for the cases where adoption was rejected or abandoned, the main reasons mentioned were psychological and social.

**Policy-makers and intellectuals:**
The main obstacle in adoptions that happen with many difficulties is the excessive *investment* in the biological families, which happens more before the judicial process itself.
Consequently, the main factors that contribute to these difficulties are social, psychological and the lack of means. The Adoption Services are responsible for this situation, due to the lack of human and technical support.
The main obstacles exist before the judicial adoption process itself (this one is quite fast).
These lack of success’ cases are due to the candidates and the social security services.
In the situations where adoption is rejected or abandoned, the main contributing factors are sociological, psychological and lack of means too.
The two main obstacles are the legal and social conception of adoption as an imitation of biologic filiation.
The inadequacy of the selection process was also nominated as one of the causes of unsuccessful adoption cases.

**Adopting parents:**
One of the most negative aspects and greatest difficulties was the period of time they had to wait until the child was ready for adoption (this was an unanimous opinion).

### 3.21.3. Duration

**Jurists:**
The average duration of an adoption process is an irrelevant question given the fact that the child is already under the adopting parents’ candidates care. Therefore, the sentence is nothing but a formalization of a pre-existing bond.
Regarding the pre-adoption period, in order to improve its duration, it is necessary to have more qualified human resources and to reorganize the services functions.
Its duration is not satisfactory but some improvements have been put into practice.
The average duration is not satisfactory due to a number of required diligences and reports not always presented on time.
There are many delays related with the judicial process: the greatest difficulty is related to the consent (fulfilment of the requisites concerning the consent’s dispense and the consent itself). These factors contribute to a greater length of the whole process.
The duration of the process is a legislator’s choice due the option of the biologic family’s predominance. Therefore the great deal of diligences done in order to reassure the return to the family of origin, aren’t always as effective as they could be. In fact, the rules that regulate the child’s life projects’ construction imply adoption as subsidiary option.
In terms of inter-country adoption, most of them allege not to have much experience or information about it, although the rough idea they had was satisfactory.

**Psychological and social services**
The average duration of an adoption process is, overall, positively seen.
Concerning the pre-adoption period (preview to last, at most, 6 months), it was said that it is not always possible to keep up with it the deadlines; Therefore the court is frequently requested for postponing it.
About inter-country adoption, we were given a positive opinion about the 3 Mediation Agencies currently working in Portugal: it has improved its average duration.
Others consider the average duration of an adoption process very bad.

**Institutions**
Both the judicial process medium duration and the whole adoption process medium duration are not adequate.

Regarding the pre-adoption period and its duration, it’s necessary to invest in the human resources so that it’s possible to demand them the accomplishment of the stated duration limits of each specific phase.

About intercountry adoption, its process duration time is considered bad (although the bureaucracy level is seen as satisfactory).

Even with the reinforcement of the district adoption teams and the increasing of the family courts’ number, the deadlines established by the law have no conditions to be accomplished.

**Policy-makers and intellectuals:**
The slowness is enormous – the adoption duration is excessive.
The bureaucracy is total.

About the 6 months period of pre-adoption it is said that it is too short and does not respond to the needs of evaluation of the relation ship between the child and the new family. Therefore, this period should have an flexible duration.

**Adopting parents:**
Great level of bureaucracy.
The average duration is seen in a negative way.

3.21.4. **Difficulties in the child’s selection**

**Jurists:**
Regarding the fact that parents are very selective in the choice of the child, it is a true criticism. Therefore there’s an important work to be done by the Adoption Services with the adopting parents.

Parents being very selective regarding the choice of the child, is not a real issue anymore, due to the work that the social security services have begun to develop with this candidates.

Excessive duration and consequent lack of motivation, regarding the selection process as a whole.

**Psychologists and social services:**
About intercountry adoption, it was not given to us much useful information.

This is can be explained by the fact that many of the interviewed technicians didn’t have much experience in the matter (as receiving State or as State of origin), due to the subsidiary principle; In fact, when the child is not adopted in the interviewed people’s district, the services then chooses a candidate from another district.

Even though there are no cases of intercountry adoptions, there are children appointed to it – thus, with no results so far.

The greatest difficulty in the realization of the superior interest of the child is the definition of its life project.

The need to diminish the period of inquire on the child’s adoptability condition, was mentioned as an important measure – there are a lot of young adoptable children who’s life project wasn’t yet defined.

**Institutions:**
There should be no age limits on an adoptable child – this creates great problems of children lacking the definition of a life project.

There isn’t a fast enough intervention in children in risk situations – there is the need to require well trained teams, able to work directly in an effective way with biological family.

There are different visions on the same situation: Social Services / Court.

**Policy-makers and intellectuals:**
Parents are very selective in the choice of the child they want to adopt – it is a cultural matter. The solution is to alert the media for the need to promote the adoption of children evidently rejected by
the biological parents. There is also an important work to be done by the Adoption Service (which does not happen yet but should be rapidly put into force).
The critics done about the selectiveness of parents regarding the child’s profile are understandable but, at the same time, the candidates have some legitimacy in wanting to chose the child.
Regarding the definition of the child’s project of life, there is a great difficulty in deciding in a useful time period (excessive duration of the decision process) and, also, a difficult to fulfil the adoptability conditions.
There is an urgent need of a more precocious intervention near the children in risk.

**Adopting parents:**
The interviewed parents didn’t do any declarations on this matter.

**3.21.5. Incomplete information problems**

**Jurists:**
The articulation work between the court and the social security services is not a problem. It is positively evaluated being considered as essential in the whole process.
There is a great importance of the reports (needed to the judge’s decision), which are very well structured and justified. Thus this positive situation only happens in areas of small jurisdictions (where communication is easier) and not in the big ones.
Concerning the intercountry adoption, most jurists interviewed were not able to answer due to their lack of experience in the matter. Although, most affirm that the Convention of Hague brought a great deal of improvements.

**Psychologists and social services:**
There is a that has been leading to a better cooperation between the different services positive mentality development: there is a very good cooperative work, and a very good proximity relation with the Public Prosecutors, which enables a faster and more effective definition of the child’s situation.
There is a great lack of communication between the Social Security Services.
As for the flaws / obstacles in the working relation between the Courts and all these technicians (social workers, psychologists, etc), it was affirmed that the greatest one is the existing difficulty of the judges to understand the children and families’ reality.

**Institutions:**
The duration of an intercountry adoption process is considered as bad, which can be partly interpreted by a lack of articulation between authorities from the different countries and also some incomplete information problems:
waiting for information about the candidates or the child; or afterwards ;
waiting for the required reports.
Concerning the work experience between the competent institutions and the courts, the coordination work starts very early in the process – though it was mentioned it could improve even more.

**Policy-makers and intellectuals:**
In case of national adoption, there is a great lack of training and formation from the technical part – this is also one of the reasons why adoption is, some times, obtained with difficulties or, even, abandoned.
Some times it means that the required reports are not as detailed and complete as they should be which can mean a delay in the entire process.
In terms of intercountry adoption, there is a need to create partnerships with other States (from the EU and others).
Still regarding the intercountry adoption.
It ass said to be an obscure system.
There is still a great work to be done in national adoption before passing on to Intercountry.

**Adopting parents:**
Given the fact that this is more an internal problem of articulation between the different services, the interviewed adopting parents could not tell us much about this subject.

3.21.6. Consent and possible reluctance of the parental authority

Jurists:
Regarding some obstacles that have its origin on the parental authority figure’s consent, there is no need of any legal changes in this matter – the consent’s existent formalism should remain, especially on what relates to its irrevocability from the biologic parents part.
It was a good choice of the Portuguese Law (unlike other countries) the fact that the parents consent does not depend exclusively on whether they are, or not, deprived of the paternal power.
Difficulties related with the consent create problems in the judicial process itself too: fulfilment of the requisites concerning the consent’s dispense (it is a hard process to get there) and the consent itself.
Regarding the Article 1981º c), 2\textsuperscript{nd} part, of the Civil Code, there is a flaw in the legal system which can lead to a bad interpretation: it has been leading, some times, to a non presence of the biological family on the process of promotion and protection of care award to a person selected for adoption or institution, or, also, on the process of judicial care award. Thus it can allow a non accomplishment of some of the most basic principals of our Constitution, such as the contradictory principle and the great protection given to the biological family.
The mentioned situation causes also delays, given the fact that the court is often asked by the biological families for the review of its decisions.
Delay provoked by the inexistence of prejudiciality of the maternity and paternity investigation processes regarding the adoption processes.

Psychological and social services:
Positive overview of the legal system regarding the consent’s procedure. Thus, it was mentioned that in some districts the cases of consent’s dispense are very rare, normally being necessary to appeal to the judicial means.
The concept of consent is not so vague – the most important thing is to act in time in order to prevent the difficulties originated by possible reluctances from parental authority figure.
Regarding the required consents and the consequent difficulties, the need of a systematic work with the biological family in order to facilitate the consent for adoption (if that was properly done the process would be much easier) was mentioned.
The irrevocability of the consent was positively appreciated as it gives the process an important security / stability.

Institutions:
It was a good choice of the Portuguese Law (unlike other countries) the fact that the parents consent does not depend exclusively on whether they are, or not, deprived of the paternal power;
Training of the human resources is considered crucial so that the biological parents behaviour can be properly evaluated and in time for an early intervention (and, therefore, so that a decision can be made).
The irrevocability of the biological parent’s consent is positively seen.
It is quit unusual to have adoption procedures where the consent was voluntarily given.
The previous consent is indeed one of the most difficult moments of the adoption procedure.

Policy-makers and intellectuals:
Regarding some obstacles that have its origin on the parental authority figure’s consent, there is no need of any legal changes in this matter – the law is satisfactory in this regard.
It was a good choice of the Portuguese Law (unlike other countries) the fact that the parents consent does not depend exclusively on whether they are, or not, deprived of the paternal power;
The existence of great social prejudice towards biological parents who voluntarily gave their consent for adoption is a blocking factor.
There is the need of a more effective work to be developed by the Social Security Services with the origin family – in order to avoid the resistances. Regarding the definition of the child’s project of life - there are difficulties in obtaining the biological family’s consent – this leads to a blocking factor, which is the difficulty in deciding about the child’s life project.

**Adopting parents:**
Obtaining the consent does not seem to be a priority of the system, as it should be.

**3.21.7. Main obstacles detected concerning the effectiveness of the legal frame in the different services action.**

**Jurists:**
The essential measures for perfecting the system came, mostly, from the practical stages: in a better articulation / communication between the different services and figures involved.

**Psychologists and social services:**
It was expressed that the main obstacles in the adoption processes are located before the judicial adoption process – the 2 main obstacles are: the social tradition still not favourable to adoption; and the lack of support to the adopting families. The contribution of the private institution’s involvement is viewed, by some, as excellent and the autonomy level of the private institutions involved, as good. There is a big lack of articulation between the different services involved; Although, the Immediate Intervention Plan was mentioned as a cause of improvement in the collaboration among all the Social Security services, and between these and the courts. On the subject of the coordination with the Adoption Services, it was said that there is an excess of formalism and bureaucracy experienced in the day to day work and a lack of communication between the Social Security Services. One of the essential measures to perfection the system would be the creation of a greater autonomy of the institutions towards the Social Security services and the Courts. The greatest critics appointed were:
lack of technicians;
lack of training and coordination of these technicians;
lack of financial resources, which leads to many situations of dependency towards the voluntary work.

**Institutions:**
The essential measures for perfecting the system have its origin, mostly, on the practical side of the adoption process (before and aside of the legislative side). There are some difficulties on the technicians services itself, which can be solved with the recruitment of well trained professionals. The autonomy level of the private institutions involved is considered bad and it also creates difficulties on the definition and separation of each entities functions. Regarding intercountry adoption, it was said that the SCML’s experience in intercountry adoption worked better before the existence of the Central Authority – i.e. when the adoption was directly treated by SCML with the mediation agencies.

**Policy-makers and intellectuals:**
There is a lack of an orientation regarding the services actions – a general guideline of action that could be a common reference for all the experts working in adoption. Regarding the adoption post-control, what was established on the Convention of Hague on this matter was still not implemented in Portugal due to a certain lack of means for that effect. As an essential measure for the improvement of the adoption system, it was appointed the need to define the principles and philosophy of the adoption process.
This principle does not exist, but it leads different opinions (about all the difficulties those rise from this).
There is a total gap between the technical speech of the services and the reality in the land; There is a lack of formation, motivation, availability, material and human resources (that also are reduced), technical and tactic implementation in the field. There is a fragmented view of the dossier of the child’s rights. The work done by the Social Security Services should be coordinated, thus it is not – there are too many teams working in the same subjects but not necessarily in the same direction. The social workers lack: training, evaluation and accountability.

**Adopting parents:**
On what concerns the pre-adoption period, it was said that it is, in general, useful and adequate, including the Adoption Services’ accompaniment the Adoption Teams accessibility was positively mentioned too).
Regarding the judicial procedure itself, a positive evaluation was done, considering that the judicial intervenients have an adequate training. The adoption system is not effectively started and conducted by the responsible services. The contribute of the private institution’s involvement is often seen as good or very good.

### 3.21.8. Progresses in fighting children traffic

**Jurists:**
Most of the interviewed people didn’t know much about this subject. They could only tell us that it is important to have more trained experts working in prevention.

**Psychologists and social services:**
The interviewed psychologists and social services could not tell us much about this subject.

**Institutions:**
The interviewed institutions could not tell us much about this subject.

**Policy-makers and intellectuals:**
Most of the interviewed people didn’t know much about this subject. They could only tell us that there still isn’t a definite solution for it, but only the fear that the flexibility of the intern adoption regime and the search for international adoption are leading to a situation of children’s traffic, in a substantial sense.

**Adopting parents:**
The interviewed adopting parents could not tell us much about this subject.

### 3.21.9. General overview on the Legal frame and its practical adequacy :

**Jurists:**
The complexity of the juridical frame is an obstacle. Thus, there should be created a Code of the Minor’s Rights in Portugal (but only in terms of reuniting information and giving consistency to the adoption system).
Current need of a larger number of specialized courts and judges (judicial ones and Public Attorney). Even so, these last ones are getting better and more specialized. It is a very good thing that the adoption bond is constituted through a judicial via. It could not happen other way.
On the other hand, the possibility of the adoption bond being constituted by a non judicial via is also seen in a positive way (although some of this theory defenders have restrictions to it: it can be so, as long as the adoptability condition remains constituted by a judicial via).
The juridical frame could be simplified. The juridical frame is not an obstacle – the Adoption Law is very good. Regarding the sentence’s (which has decreed an adoption) review and its system, the institute is considered to be well adjusted to the practical needs – it should be, however, possible to have other exceptions for extreme situations. In terms of Intercountry Adoption, most of them allege not to have much experience or information about it, although the rough idea they had was satisfactory.

Psychologists and social services:
Current need of a larger number of special courts for the minors’ and family. The judges (judicial and Public Attorney) have specific training competences and adequate awareness for the relevance of the tutelary and adoption processes. They are, in general, receptive to the information given by the technicians. Regarding the 2003’s legislative Reform, its impact was defined as satisfactory. Though not as good as expected. Although the 2003’s legislative reform is positively appreciated, it was stressed that any legislative reforms depend on the human resources that put it to force. On the other hand, the 2003 legislative reform, was also said to be a very important development and that the practical readjustment to the new deadlines was not hard. The need to simplify the processes and proceedings was appointed as an essential measure for the improvement of the adoption system – thus the adoption legal frame and its adequacy is seen in a negative way (still too much bureaucracy). Some others, see the legal frame positively. Non-belief on the constitution of the adoption bond through a non judicial via – court.

Institutions:
The complexity of the juridical frame is not considered a relevant obstacle. The existence of an unique Code of the Minor’s Rights is considered to be useful. Regarding the sentence’s (which has decreed an adoption) revision, this institute is adequate. About intercountry adoption, its legal frame was considered satisfactory.

Policy-makers and intellectuals:
The complexity of the juridical frame is an obstacle. The adoption law is very good, quite adequate and modern. Even so, there should be created a Code of the Minor’s Rights in Portugal (but only in terms of reuniting information). Current need of a larger number of specialized courts for the minors’ and family processes. The existing legal frame is, on the other hand, considerate as adequate by some others. The law is not factor of blockade in the adoption system. The impact of the 2003’s legislative Reform is positively evaluated (mostly on what concerns to diminishing the process duration and to the judicial process). Regarding Intercountry Adoption: The Commission created to revise the national legislation on adoption decided to leave the Intercountry adoption for a 2nd moment (after 2003). Today that revision was not yet done. There is an enormous quantity of legislative matter in this particular matter to alter / to modernize / to speed up. We have not enough protocols.

Adopting parents:
The legal frame and its adequacy were considered good.

3.21.10. General overview on the adequacy of the process regarding the child’s best interest – Child’s adoptability conditions
**Jurists:**
Adoption should always be revocable, if that reveals to be of the child’s best interest.
As for the child’s hearing during the procedures, that it is a vital procedure, although it is recognised as a very complicated moment due to the child’s vulnerability, but also to its the capacity of manipulating answers.
It could be more important to find out if the children’s’ institutionalization and adoptability could have been avoided if only there would have been given a greater support to the biologic family.

**Psychological and social services:**
The greatest difficulty in the realization of the superior interest of the child is the definition of its life project, meaning that the major difficulty lies before the adoption process itself.
Regarding the definition of the child’s life project, it was appointed that there are too many experts participating in this decision.
It’s urgent to decide as fast as possible the return of the child to the biological family or its retrial for adoption.
There is a lot of indecision regarding this definition.
The difficulty in deciding in a reason time.
On what respects to the superior interest of the child, the lack of human and financial resources are appointed as the main difficulty to its fulfilment.
The difficulty in fulfilling all the adoptability conditions.
The obstacles to the effectiveness to the child’s best interests were appointed to be both in National and Intercountry adoptions and are related with the excessive duration of the entire procedure.

**Institutions:**
The adoption system is not properly defending (in practical terms) in the best interest of the child – there is a need to change mentalities.
There should be no age limits on an adoptable child – this creates great problems of children lacking the definition of a life project.

**Policy-makers and intellectuals:**
It is fair that adoption is irrevocable but only when it does not mean an unjust sacrifice and compromise of the child’s interest.
Great critics regarding the definition of the child’s project of life were expressed: difficulty in deciding it in a useful time period (excessive duration of the decision process); and hesitation regarding the decision. This is due to a serious lack of trained human resources.
There is a great lack of a common orientation regarding this matter – a general guideline of action that could be a common reference for all the experts working in adoption.
There is also a lack of preparation of the adopting family.
The obstacles to the effectiveness to the child’s best interests were appointed to be mostly in national adoptions (because in Portugal the rule for Intercountry Adoption is the subsidiary principle).
The State is not competent of resolving the children's protection problem. The one who dominates the services is the State.
There is a big distancing (as there was always) of the children dossier. There is no European Court of the Rights of the Child. There is a social hypocrisy regarding child.
Lack of a child emergency system (lack of a national net of precocious, temporary, scientific and safe child fostering).
A child like emergence is lacking in Portugal: an intervention in the first days of life or even before the child to be born.

**Adopting parents:**
The interviewed adopting parents gave as a good overall view on this matter but did no give us any specific information.
3.21.11. General overview on the adequacy of the criteria and conditions regarding the adopting parent’s selection

Jurists:
There is the need of national criteria in order to define the candidate’s selection process. Excessive duration and consequent lack of motivation, regarding the selection process as a whole.

Psychologists and social services:
Inexistence of transparent criteria.
The candidates are not properly accompanied.
The process of candidates’ selection was considered essential for a good adoption process. It was expressed that the one of the main obstacles in the adoption processes is the duration of the waiting period for the candidates.
Difficulty to find adopting candidates for older or with special needs children. Even though, the social workers have been doing a work of awareness of the candidates – the same can be said about children with other adoptable brothers and sisters.
The candidates selection whole process is adequate: there are a few guidelines about the candidate’s selection criteria, which source is the Social Security institute.
The average waiting time for the first interview appointment is one week.
The inexistence of a proper preparation of the candidate’s was negatively mentioned.
The obstacles to the effectiveness to the adopting parents interests were appointed to be both in national and Intercountry adoptions.

Institutions:
There is the need of national transparent criteria in order to define the candidates selection process.

Policy-makers and intellectuals:
There is a need to do a deeper study and evaluation on the candidate’s motivations.
The candidate’s selection can be frequently invasive.
The inexistence of an accompaniment of the adopting candidates thought the process was also appointed as a problem in this matter.
The criteria of selection of the candidates are very advanced and adequate in theory, but not in practice.
A lot of the candidate parents for adoption saw their candidateship rejected – very often with great critics to the selection system.
It is urgent to develop a pro adoption mentality.

Adopting parents:
About the selection period for an adoption candidate, from the perspective of the services functioning, bureaucracy, duration and adequacy, this all process is considerate adequate.

3.21.12. Added contributes and opinions :

Jurists:
The post-adoption control is still not implemented in Portugal (people are totally abandoned), which conducts too many obstacles. Although some Foster Centres do it voluntarily.
The essential measures for perfecting the system came, mostly, from the practical stages. Inexistence of post-adoption control, all over the country (in general).
The deadlines established by the law have no conditions to be accomplished.
The adoption process and its legal system do not separate completely the procedures that relate to different measures of promotion and protection. They should be separated depending on whether they still imply a bond with the biological family or no. The law does not separate, in a clear way, the procedures which should be different not only to protect the child but, also, to avoid even more delays).
Psychologists and social services:
As for the unsuccessful cases of decreed adoptions, its main causes were considered to be: the non existence of a proper preparation and accompaniment of the adopting parents; the need of well qualified human resources was also appointed.
The adoption post-control does not really exist and it is determinant: it would be better if the existing interest in the moment of couple’s selection was kept in the post accompaniment. 
Still regarding the non existence of post-adoption controls, it was said that: it would be determinant the existence of medical and psychological teams as well as counselling in an adoption situation (it would then be able to prevent difficulties and endorse the development of a stable and healthy relationship between the adopted child and the adopting family).
It is also said that the existence of support cabinets where adopting parents and adoptive children could seek for help in specific questions that arise (sometimes long after the adoption was pronounced), could help to improve the post-adoption control.
There is an element of unconsciousness of the services that abandon the parents and the children at their own luck, after the adoption bond is constituted.
There should be preventive teams working permanently in this cases.

Institutions:
There is a very big absence of a precocious intervention with the biological families.
On what concerns the post adoption control, it is affirmed that what was established on the Convention of Hague on this matter was still not implemented in Portugal due to the lack of means for that effect.
Regarding the lack of supports towards the adopting families when they adopt children with special needs and advanced age, there should be specific supports (protocols with private institutions). If the were supports, there would be much more adoptions.
The creation of Foster centres working in a childhood emergency system (in which we can mention the Aboim Ascenção Refugee, pioneer of this successful system in Portugal): with a great deal of independence (containing in its organization many specialized technicians) and with a successful working method that always intervenes in order to give its children a life project, as fast as possible.
Due to very low numbers of intercountry adoption, one can say that there isn’t a true intercountry experience in Portugal.

Policy-makers and intellectuals:
One the essential measures for perfecting the system, is the creation of a more realistic concept and the promotion of an adoption really based on the child’s interest, who is to be protected by adults that do not want the child for themselves exclusively (meaning that adoption shouldn’t also cut the bonds with the biological family in a total way).
In Portugal there is no effective child’s protection policy (only stray attempts of solution), a national co-ordination is lacking - Someone who would represent the of the children in all public policies is still absent - in the sense of national coordinator of the interests of the child: someone who has notions and knowledge of the dossiers all of the children: of the prevention, protection, etc.
On what concerns the post adoption control, it was affirmed that: it wouldn’t be that necessary if the matching of the child with the candidate was adequate; – that is to say that if the selection of the candidates was properly done and if the choice of the child for each candidate was equally well done, there would be no need for special post-adoption supports.

Adopting parents:
The interviewed adopting parents did not add any important information.

3.21.13. Problems detected on the Portuguese adoption system

From all the research work done – the doctrine, the jurisprudence, the interviews carried out, also from the analysis done on the collected data, and finally the information from the press (media) - we could conclude that there were some problems, emerging repeatedly.
These recurrent problems can be systematized in 6 main categories which can be applicable both national and intercountry adoption:

- Putting into practice the legal frame;
- Flaws in the administrative organization system – delays;
- The candidate’s selection problems;
- Definition of the child’s project of life;
- Selectiveness of the adopting candidates;
- Judicial system;
- Post adoption stage;
- Intercountry adoption;

**Putting into practice the legal frame**

The legal frame on adoption is consensually said to be good, however problems in bringing into action the legal frame are clear:

Different interpretation of the legal frame – the main principles is not properly defined;
Bureaucratic culture – large number of proceedings – there is an urgent need to define the mechanisms and measures that, in a short term, could manage to improve and standardize the proceedings in the adoption system in all its phases;
Not enough specialized preparation / training which leads to a late intervention of the services, and therefore to missed opportunities, and bigger delays;
Bad allocation of the human resources - Insufficient and disproportionate distribution of the experts;
Very high number of processes per professional – this is one of the most persistent critics appointed by almost every interviewed person, and occurs in all the professions related with the adoption process (judges, district attorneys, social workers, psychologists, etc.);
Shortage and non efficient use of the financial resources;
Urgent need to invest in a self responsibility culture and professionalization of the teams, by combating the self teaching method and reduction of the current dependency towards the voluntary work;

The excessive duration of the process both from the child’s perspective and the candidate’s perspective is named as one of the principal obstacles:

Huge variation between the average duration of the adoption process (since the beginning until the adoption is decreed) – from 1 year and a half to 7 years;
Duality of criteria regarding what should be the superior interest of the child, in the evaluation of the biological family’s competences and the decision of the adoption as the child’s project of life;
Regarding the definition of the child’s adoptability, the distribution of functions between the different services is frequently not clear;

Obtaining the required consents is still somehow a difficult process:

Social prejudice towards the adoption;
It is quit unusual to have adoption procedures where the consent was *voluntarily* given - administrative care award represented 8.25% of the in 2005 and 7.66% in 2006;
Difficulties in finding the parents or other biological family whose consent is required;

**Flaws in the administrative organization system - delays**

**Fragmented development of the activities**

The inexistence of intervention in a net system is definitely one of the major problems:
Fragmented action caused by the inexistence of inters ministry convergence;
Insufficient protocols / working procedures for an inter institutional action that allows each actual
service to know what to do (and not to do) in every specific situations;
The articulation between all the institutions / services involved is almost inexistent;
Dysfunctional and incoherent action of the Social Security Services competent to work in the adoption
process, due to the absence of common guidelines that could be a common reference;
The Adoption Teams (one per District) are still unable to work together properly;
The National Lists for Adoption are secret, and are working mainly at the District’s level, not reassuring
the quick national information they were planned to assure.

It should also be pointed out, that as a result the delays defined by law are very often not respected. In
fact, the 6 months period the evaluation of the candidates (study and investigation period), and also for
the pre adoption period, is considered insufficient by those who work in the adoption services.

Lack of qualified staff

The lack of human resources is notoriously one of the main problems detected and it is mentioned in
every report regarding the adoption system. Likewise, all the interviews done – with the Social Security
Services, Foster Care Institutions, Judges and Adopting parents – pointed out the imperative need for
well trained professionals, and said its shortness meant that the (legal) deadlines for each phase of the
process were frequently not fulfilled.

It’s unanimous, as well, the need for more training / qualification of the professionals, in almost every
area (judicial or administrative, and also of the institution’s workers).

The Adoption Services, specially, should have adequate and continuous training – which is not yet the
case;

The fact that the system still depends (too much) on the work of volunteers is also a problem. On one
hand because it means the public system cannot yet provide a satisfactory answer, and on the hand
because these volunteer work is not as qualified as the professional work.

The candidate’s selection problems

The criteria for the candidate’s application as well as the criteria for their selection are not yet clear and
transparent;

The excessive duration and consequent lack of motivation, regarding the selection process as a whole
is also a problem;

Definition of the child’s project of life

There are too many children’s institutionalized:
The intervention model is considered to be conservative – it is not yet assured that the institutional care
is only for a short period of time;
There is yet a long way to go on the Foster Institutions work;
Large nº of institutionalized children, not all with their legal status defined;
In 2006 only 9 % of all the institutionalized children’s projects of life of was adoption (national /
intercountry);

This is perhaps the major difficulty appointed in the entire process:
It is considered by the professional to be the most difficult moment;
Mainly when there are contacts of the child with the biological family;
Hesitancy in the choice of the most adequate project of life – to many (lost) opportunities given to the biological family;
It’s also important to clarify the concept of urgency – urgency in the definition of the conditions of adoptability of the child;
Thus, the decision is frequently not made and implemented in the so called child’s useful time;
This leads to an excessive average duration of the institutionalization period.

Evolution of the projects’ of life according to the child’s age – 2006

<table>
<thead>
<tr>
<th>Age of the child (years)</th>
<th>Percentage of children who’s Life Project was decided to be Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 3 years old</td>
<td>40%</td>
</tr>
<tr>
<td>4 - 5 years old</td>
<td>31%</td>
</tr>
<tr>
<td>6 – 9 years old</td>
<td>18%</td>
</tr>
<tr>
<td>10 – 11 years old</td>
<td>9%</td>
</tr>
<tr>
<td>12 – 14 years old</td>
<td>4%</td>
</tr>
<tr>
<td>15 – 21 years old</td>
<td>0%</td>
</tr>
</tbody>
</table>

Nonetheless, in the same year, only 13% of the institutionalized children with no visits (from the biological family) where defined to be adoptable (Project of life ADOPTION).

Selectiveness of the adopting candidates

One of the main problems identified is the discrepancy between the child’s idealised characteristics by the majority of the adopting candidates and the real characteristics of the institutionalized adoptable children - both in national adoption and intercountry adoption:
The candidates have a preference for younger children, while the majority of the adoptable children (49% in 2004) has between 7 and 12 years old.
The candidates also wish to adopt children with no siblings and no health problems, although there are a great number of adoptable children either with health problems, either adoptable sibling.
There are no special provisions or support measure for families that adopt children with special needs, which makes it (the appointed selectiveness) an even more serious problem.
This problem is even more severe in intercountry adoption as the signalization of the child to intercountry adoption only occurs if it’s not possible to place the child in the national adoption system; likewise, the adopting candidates (resident in Portugal) can only access the intercountry adoption system if it’s not possible to locate an adoptable child – with the required characteristics – in the national adoption.

Judicial system

Regarding the judicial system, it is acknowledged the insufficiency of specialized Family and minor’s Courts.

It was agreed as an urgent measure the implementation in the whole country of, at least, specialized sections in every district’s court.

Some critics were made to the non sufficient preparation of the judges for these specific subjects (acquaintance of social and psychological subjects related to adoption issues);

Deficit of technical support departments in the courts – mediation, psychology, etc.;
Bad bureaucratic organization – there is no centralized computer registration which means that the processes’ appendage rule is not easily accomplished;

Post adoption stage

The inexistence of post adoption control was noted to be a big flaw of the Portuguese adoption system.

Post adoption phase monitoring is not provided by Law, and therefore it is merely occasional. In fact, there are no public services such as: counselling, groups of mutual aid, scholastic support, etc.;

Hence the Central Authority (for Intercountry Adoption) Report of 2007 recommends the promotion of this type of post adoption services;

There is a Good Practice Manual waiting for governmental approval since 2007;

It is also said that there will be a Manual for adopting candidates until the end of the current year;

Intercountry adoption

Despite what happens in other European Countries, one can say that Intercountry adoption in Portugal is just beginning its true development.

This early stage means that adopting candidates that wish to do an international adoption face a variety of problems such as lack of information and support. The main problem is, in fact, the lack of complete and up-to-date information to be provided by the Social Security Adoption Teams, that work close with these families. These teams should be able to answer all their questions.
3.22. **Rumania**

### 3.22.1. Difficulties

The adoption procedure is (Law no. 273/2004) is very difficult, it plays with the patience and the nerves of the potential adopting parents.

There are some situations met in practice where the child has been abandoned by his/her mother, immediately after birth, either in maternity or in the street. In such a case, it was difficult for the authorities to establish the child’s residence, to obtain the mother’s consent, in many situations it lasted even a year until the child’s mother was found or until the Direction for the Child Protection requested to the court the opening of the internal adoption procedure for these underage children.

Of course, the material differentiation exists for the family which applies for the adoption of a child – it has to present enough material and moral guarantees in order to adopt and, obviously, the families that cannot make this proof cannot adopt a child, but this criterion did not determine getting with difficulty as long as the potential adopting parents got their certificate.

It was answered in the chapter about the distinction between the national and international adoption.

### 3.22.2. Duration

The average period up to the adoption approval.

- From the date of the sentence of opening the internal adoption procedure – 5 months
- Entrusting in order to adopt – 8 months
- Not entrusting in order to adopt – 4 months
- From the date of the disposition of the family/person certificate – 7 months

Note: The spouse adopting the other spouse’s child represents an exception (he/she does not have to make the whole adoption procedure), he/she does not need to obtain the certificate, the entrustment for adoption, he/she may state directly the application at the court of law for the adoption approval.

The average period between the moment the adoption file has been done and its finalization varies between 3 and 4 months respecting the above-mentioned deadlines.

### 3.22.3.

The are very few adoption processes that are abandoned, and there are no statistics for this matter, but there were cases where the families that had the child entrusted for adoption could not adapt to this one or noticed that the underage child cannot adapt to them and they have informed the court of law about this aspect.

The judges and the social workers said that, sometimes (extremely rare cases), they have discovered a disease of the child or of the parents (incurable diseases) and could not accept such an idea, so they did not finalize the adoption.

b) The decision, in this situation, is taken by the families where the underage children are because the court of law and the Direction for the Child Protection and the social workers visiting them always ask the couples having children entrusted for adoption “if they have accommodation, health, compatibility problems with the child”.

### 3.22.4. Difficulties in locate the child
We cannot say that there are difficulties in locating the child. There are difficulties in finding the residence of the mother who abandoned her child. A real problem is indeed the number of the adoptable underage children which is much less than the Romanian families that have received a certificate allowing them to start the adoption procedure.

Statistically, according to the data registered in December 2007, in the National Adoption Book, more than 1400 families want to adopt a child, whilst the number of the adoptable underage children is under 500.

There have been progresses in the measures for the child protection before entrusting them for adoption/the adoption approval, so that, statistically, was noticed that 42% of the children are fostered to other persons or families, 50% of the children are fostered to the maternal assistant and only 8% are fostered to relatives up to the IV degree, to the Fostering Centre, to the House of family type or the guardianship was instituted.

3.22.5. Language problems

It could be language problems in the counties of Harghita, Covasna, Mures and Satu Mare where the Hungarian population predominates and this language is mainly spoken.

We could talk about some possible communication problems if a family who does not speak Hungarian and has its residence, for example in Pitesti, adopts a child who speaks only Hungarian. But these situations are extremely rare and they can be resolved.

3.22.6. Competences

According to the legal dispositions, the court of law (The Court – Section The Underage Children of the Family) on whose administrative and territorial radius the underage child has his/her residence is competent to solve the adoption process.

If the child’s mother is not found, as we answered at the question no. 2, in order to establish the residence of the child and, consequently, the competent court of law, there is the possibility to foster as an emergency solution, thus the residence of the child will be at the Fostering Center in the locality (town).

In conclusion, if there are any problems of legal competence, they are related to the residence of the underage child, previous to the opening of the internal adoption procedure. Statistically, there could not be determined a percentage, because they are solved as emergency problems, as we have showed.

3.22.7. Resistance from the holder of the parental rights

There were refusals (resistance) from the parents, and less from the authorities, but according to the dispositions of the art. 13 in the Law no. 273/2004, “exceptionally, the court of law may pass over the natural parents’ refusal or, if it is the case, the guardian’s refusal to consent to the adoption of the child, if it is proved, by any means, that these ones abusively refuse to give their consent for the adoption and the court of law appreciates that the adoption is in the superior interest of the child, also taking into account his/her opinion given with express motivation of the decision on that matter”.

I consider that a major obstacle is represented by the modification of the Law no. 273/2004, in the sense that “The court of law may request again the consent of the natural parents for the adoption, if there are signs that after the date when the consent became irrevocable have occurred new elements able to determine to change the initial consent. The Direction that requested the opening of the internal
adoption procedure has the obligation to inform the court of law, by the direction on whose administrative and territorial radius the adopting person/family has their residence, if it is the case, about the existence of any new elements concerning the situation of the natural parent or of the extended family, that could determine the modification of the objective of the individualized protection plan.

The summons of the natural parents to appear before the competent court of law to approve the adoption is made by an invitation addressed to them, in the board room, without giving any information concerning the file or other data that would allow, in any way, to reveal the identity or other information concerning the adopting person or family.

If the parents come in person before the court of law and express their refusal to approve the adoption, the court of law suspends the resolution of the application for the adoption consent. The declaration of the natural parents and the conclusion of suspension are communicated to the competent direction, which will formulate a review application for the decision of opening the adoption procedure.

The review application is solved in the board room, by summoning the natural parents, the direction which requested the opening of the internal adoption procedure and, if it the case, the direction on whose administrative and territorial radius the adopting person/family has their residence. The prosecutor’s participation is compulsory.

The review application suspends the solution of the application which entrusts the child for adoption or, if it is the case, of the application for the adoption approval, if any of them is registered on the roll of the court of law.

If the court of law decides the cancellation of the entrusting measure, it will decide, at the proposal of the general direction on whose administrative and territorial radius the child has his/her residence, a temporary measure for the child protection, until the review solution is done”.

3.22.8. Traffic of children

There is no more children traffic or problems in this matter, after the application of the Law no. 273/2004.

In the case of the national adoption, this is a measure for the child protection and it is the most adequate, because the underage child grows surrounded by the love and the affection of a family. It is extremely important for these children, Romanian citizens, to be adopted by a family in Rumania in order not to lose the contact with the roots (the Romanian language) and the national traditions.

But this aspect does not have to be rendered absolute if the natural parents agree upon for their child to be adopted and if there is (in the individualized protection plan initiated by the Direction for the Child Protection) no family in Rumania to adopt this child or no relatives of the underage child wishing this, the international adoption of the underage child should be approved.

Finally, this is the reform we propose, because there are situations where there are no persons or families in Romania willing to adopt children over 6 years old.

By approving the international adoption the Rumanian authorities should also give to these children the possibility to enjoy the parental care and protection.

3.22.9. Adequation of the adoption process
We believe that the adoption process is the most indicated and serves the best the underage children interests.

Yes, they are justified, but we consider that they are not the most adequate because the adoption procedure is extremely long and bureaucratic (starting with getting the certificate, then there are drafted a lot of reports between the step of entrusting for adoption and the adoption approval, a period when the potential adopting family is frequently visited by the social workers).

We think that, after getting the certificate, as a result of the control of the family for all the aspects, the period between the two above-mentioned phases could be simplified and shortened.

Because when we talk about children we talk about protection measures on this matter, Rumania, as we have mentioned, made a real progress.

3.22.10. Procedure


Until 2005, these Conventions have not been fully respected in Romania. On the other hand, some stipulations have been violated with the risk of violating the basic rights of the children in our country. Although many signals coming from the international community have existed in this sense, almost nothing has changed in the domain of the adoption. In the past the children in our country were seen as merchandise, that could be changed at the will of some persons wishing to adopt and not being able to adopt a child in their own country (as the studies made in that period show), either because they did not fulfill the imposed conditions concerning the national adoption, which are usually much more restrictive than those for an international adoption, or because in their country of residence are respected the stipulations of the international Conventions as far as adoptions are concerned.

Thus, the elaboration of a new legislation, as far as adoptions are concerned, that entered into force on 1 January 2005, started from the fact that the international adoptions had followed certain procedures that were in contradiction with the international conventions ratified by Romania, mainly the UNO Convention concerning the children’s rights and the Hague Convention concerning the child protection and the cooperation in the field of the international adoption.

We must underline the fact that the new legislation in the field has as objective of the adoption to find a family for a child, and not to find a child for a family.

In the new legislation are regulated the following aspects which were not regulated in the previous legislation:

The situations and the procedure declaring a child adoptable (when the individualized protection plan of the child stipulates as finality the internal adoption, this finality being stipulated only if the steps for the child’s reintegration in the biological family or his/her integration in the extended family failed);

In the old legislation a child could be adopted upon the child’s parents consent which was made in a notarial form (without existing a counseling of the parents concerning the consequences of this decision), as well as in the Law no. 47/1993 concerning the legal declaration of the child abandonment; this law was criticized because it didn’t stimulate the reintegration activities of the child in the family, the child being declared adoptable, thus giving priority to the adoption and not to the child’s place near his/her parents, which was in contradiction with the stipulations of the UNO Convention concerning the children’s rights.
the opening of the national adoption procedure which is made only by the court of law, only after this one made a rigorous control of the steps taken for the child’s reintegration in the biological family or for his/her integration in the extended family;

In the old legislation, the centralized list with the adoptable children in the whole country used to be sent in all the counties by the ancient Central Authority in the domain; the procedure encouraged to find a child for a family wishing to adopt, and not to find a family according to the needs and the particularities of the children; the practice demonstrated that some families knew the children before being declared adoptable, thus violating the regulations of the Hague Convention.

to keep the right to consent for the adoption of the child for the parent deprived of his/her parental rights or for those to whom the punishment of the interdiction for the parental rights has been applied; this stipulation results, on the one hand, from the temporary reversible character of the measure of depriving of the parental rights, and, on the other hand, from the permanent and irreversible character that the adoption has on the natural filiation;

In the old legislation, the rights and responsibilities of the parents towards their own children were not stressed, not even in the above-mentioned circumstances.

the obligation to counsel the biological parents or the legal representatives before they give their consent for the adoption; the court of law is thus sure that the parents freely consent and that the consent was not obtained in exchange of money or of any kind of service;

In the old legislation there is no such stipulation, on the contrary, the child could be declared abandoned „without consultation“ if the family was not interested in the child for a period exceeding 6 months (according to the Law 47/1993). Many parents having contented for the adoption of their children did not have the chance to benefit from support services in order to be informed about the rights and obligations they have, and about the consequences of the given consent. Besides, the intermediaries and even the professionals suggested the abandonment of the children by their parents for the children to be adopted.

The adoption is treated as an institution of civil right and not as a protection measure as it was regulated in the old legislation, in other words it no longer addresses automatically to all the children needing a protection measure, but to those for which such legal operation is adapted to the needs and the special situation of the child.

The study was based on the Law no. 273/2004, the Decision no. 1075/2005 (attributions of the Romanian Office for Adoptions), the Order no. 24/2004 (the purpose CZ), the Order no. 289/2006 (activity CCS), the Convention concerning the child rights ratified in the Law no. 18/1990 Republished, the Order no. 21/2004 (activity SR), the Decision no. 1442/2004 (the activity of the authorized private organizations), Emergency Order no. 102/2008 (to modify and complete the Law no. 273/2004 concerning the adoption legal system), on texts from the written media, the websites of the Romanian Office for Adoptions and the answers of the persons (within the General Direction for Social Assistance and for the Child Protection) enumerated in the table hereinafter.
3.23. SLOVAKIA

3.23.1. Difficulties

The court deciding about the entrustment of the child into the pre-adoptive custody or on adoption is always examining whether all the material conditions required for the issuance of the decision have been fulfilled. These conditions are legal, social and medical. If any of the conditions stipulated in the Act on family was not fulfilled, the respective court will not issue the decision, so the adoption, or the entrustment into the pre-adoptive custody will not take place. This procedure is unified for both types of adoption.

3.23.2. Duration

If the application for the adoption fulfills all the statutory requirements, the average duration of the adoption procedure from the moment of filing an application until the absolute termination of the process is 2.3 months. The procedure on entrustment of the infant into the pre-adoptive custody of future parents-citizens of EU lasts for approximately one months.

The court will decide on adoption without an undue delay, but at latest until one year from filing an application for adoption. The procedure can be prolonged, only if it was not possible to develop the evidence from objective reasons.

The legal requirements set for the procedure of courts are same for national and international adoptions. Difference is in duration of the administrative preparation of child's and parent's documents. The Slovak republic has prepared specific execution and acceptance of documents for international adoption which are performed by the Centre in terms of the Convention on adoptions. From this reason it is very difficult to talk about the average duration of the adoption process.

3.23.3. Language problems

During the international adoption procedure a translator provided by the applicants is helping in the whole process. According to the statements of the future adoptive parents (citizens of EU), the adopted child will start to understand the foreign language quickly- during a very short period, although the child will start to speak the foreign language fairly later. Allegedly, the child is able to learn the foreign language in a one year period. Before arrival to Slovak Republic, the future parents usually learn some most frequently used words in Slovak language, they are not aware of language barrier.

Language problems in the adoption process can occur. In order to overcome the language barrier between the child and the applicant, the central bodies of the receiving state (i.e. state of the applicants) will provide the basic language preparation of the applicants and presence of the translator on the first meeting of the applicant with the child on the territory of Slovak republic. Considering the age of the child, the child is also accordingly educated in the language of the future adoptive parents.

Regarding the court procedure, the Code of Civil Procedure sets a rule, that the parties of procedure have the right to act in front of the court in their mother language, or in official language of the state, they understand. The respective court will provide a translator.

3.23.4. Problems of incomplete information
There were no major problems concerning the incompleteness of data and information during the adoption procedure. The applications are usually worked out well - in case of international adoptions the applicant need to have a legal representative/attorney, who will prepare the application and who is obliged to inform them about the course of the whole proceeding in adequate time advance. In case of national adoptions the potential incompleteness of data shall be eliminated by the applicants pursuant to the court's request. The applications are usually worked out by the applicants with the help of the Agency of work, social affairs and family, they are almost never represented by a lawyer. Most frequently is missing a report about the psychological examination of future parents – about 10%.

In case of incompleteness of data, or information in the court procedure, the court will interrupt the procedure and ask the parties to complete the missing data.

Regarding the national adoption, the bodies of social and legal protection will secure and complete the documentation of the child in order to carry all documents required by the court. Within the preparation of the applicants, the bodies of social and legal protection and social nurture and the accredited subjects are providing information needed for the summary of documentation in order to file an application for entrustment of the child into the pre-adoptive custody or for adoption.

Regarding the international adoption, the Centre for the international legal protection of children is responsible for completeness and regency of the documentation submitted to the court together with the application for entrustment of the child into the pre-adoptive custody or for adoption.

3.23.5. Judicial competence

As the only body entitled to decide about entrustment of the child into the pre-adoptive custody or on adoption is the court, only problems concerning the jurisdiction of the court can occur. Most often there are problems with the venue. These problems are handled in compliance with the Code of Civil Procedure.

3.23.6. Major obstacles if any, to the effectiveness, in practice, of the mechanisms instituted by the national legislator

The most frequent obstacle is the refusal of consent on the part of the child's biological parents even if they are not interested in the child or not taking care of the child.

Therefore the Slovak republic has adjusted its legislation and established an institute of so-called qualified disinterest, when by fulfilling the statutory conditions the consent of the parents for the adoption is no more required.

3.23.7. Fight against the trade in children

Ratification of the Convention on international adoptions and designation of the Centre for the international legal protection of children as the only competent body for solving the international adoptions in Slovak republic, also the legislation regulating the international adoption procedure, as well as the supervisory or observational competence of the Ministry of Labour, Social Affairs and Family and the Ministry of Justice in this field, brought a decrease of the undesirable trade with children.

3.23.8. Adequation of the adoption process

In case of European adoptions the legislation is more precisely worked out.
All the involved bodies are trying to solve the partial improvement of the process through the legislative initiative. The established system is adjusted so that the adoption should follow the interests of the infant child and should be convenient for him.

3.23.9. Best interest of the child

During the entrustment of the child into the pre-adoptive custody as well as during the adoption procedure the court shall observe in the best interest of the child. The interest of the child is always on the first place.

In these procedures, the interest of the infant child is always on the first place.

3.23.10. Conditions and legal criteria applied to the adopting parents

The conditions and legal criteria required from the applicants are stipulated by the law so that the adoption procedure should take place continuously, without any interference and the adoption could meet its purpose. The future parents are duly and broadly checked and they also have to undertake a psychological preparation.

Especially at international adoptions, the future parents are duly examined in all fields required by the law (health condition, financial situation, etc…) The psychological preparation seems deeper and more consistent as in the national adoption procedure. The psychologist of the Centre for international legal protection of children participate on preparation of the future parents in abroad. If the psychologist of the Centre considers the preparation required by the particular country as not sufficient for the purpose of adoption of the children from the Slovak republic, he will inform the Director of the Centre. The Director will consequently consult this issue with the appropriate foreign body in order to improve the preparation of the future adoptive parents in this country.

3.23.11. Criteria applied to children to be adopted

The criteria required from the adopted child appear as suitable and adequate.

The conditions and legal criteria required from the adopted child are stipulated by the law so that the adoption procedure should take place continuously, without any interference and the adoption could meet its purpose.

3.23.12. Remarks

During the international adoption a very tight and consistent cooperation between the bodies of the state of origin and the receiving state is required. This cooperation is required in the interest of increased control of the child's situation through social reports about the post-adoption care. The Slovak republic by the Centre for international legal protection of children and in compliance with the recommendation of the Hague conference about international private law is very particular about adherence of the basic aims stipulated in Article 1 of the Convention on adoptions. In this extremely sensitive process it is needful to regulate the conditions by the contracting parties in way which correspond with the basic goal- i.e. to find a child a suitable substitute family care in abroad if it was not possible to find him such an environment in his home state. At the same time it is necessary to abide all the child's rights listed in the Convention about children's rights.
3.24. **SLOVENIA**

3.24.1. **Difficulties**

We did not receive the exact number of adoptions. However, a general observation is that there are many obstacles for parents in both national and international adoptions.

In terms of number of children, which need to be adopted, Slovenia is the country with very low number of such children. Therefore, international adoptions present an important option to parents from Slovenia. The lack of international legal basis for these parents however represents a big obstacle. Not only are these parents faced with foreign administrative and judicial procedures, different legal systems and language difficulties, but they also face financial and psychological difficulties.

As regards national adoptions, the current legislation does not allow for common law partners to adopt a child. However, a new proposal for a family law code, which is currently being discussed in Slovenia, recognizes the right to adopt a child also to common law partners.

According to the information received from certain non-governmental organizations in Slovenia, the biggest problem is the un-unified rules in the field of adoption process. Harmonization is crucial in the field of international adoption. Unified rules are not only needed within the European Union, but also, and even more, with the third countries. Namely the number of children for adoption is much higher in third countries than in Slovenia or, else, in the majority of EU Member States.

3.24.2. **Duration**

The average duration of the national adoption process in Slovenia is six years. This is not the case with the international adoptions, where the duration of the process largely depends upon the legislation and practice of the foreign country. Duration of the international adoptions therefore varies depending on which country Slovenia cooperates with. The unofficial results place Russia as the country with the shortest duration of the adoption process in relation to Slovenia. However the results are relative, since even though Russia boasts with the shortest duration of the adoption process, the process itself is still too long and too bureaucratic.

3.24.3. **Rejected or given up adoptions**

In Slovenia there are practically no rejected international adoptions. The adoption process in some cases takes extremely long, but at the end it is successfully accomplished. Concerning the national adoptions, they tend to be more risky, since in some cases the child is returned to his natural parents. However even this percentage is negligible.

3.24.4. **Difficulties in locating the child**

Difficulty in finding a child is linked mainly to national adoptions and to those international adoptions, which are based on international acts in force in Slovenia. As regards the first, the difficulty is based on the fact that the number of children for adoption is very low. As regards the second, the problem lays in the inefficiency of the system, mainly linked to long duration of administrative procedures.

3.24.5. **Language problems**
International adoption, where parents apply directly to another country, without national Slovenian authorities acting as an intermediary, surely also presents a language problem.

3.24.6. Problems of incomplete information

The main problem with the adoption processes in Slovenia is the incomplete information itself. Every adopting parent that decides to go through with the adoption procedure is faced with many problems and questions that are in most cases solved and answered by one of the very few different non-profitable, non-governemental private organisations. In many cases adopting parents find that the most helpful of all are the internet parent forums, where they not only meet equally uninformed parents, but also some «veteran» parents that have been through the adoption procedures before and can help from their experience.

3.24.7. Problems of judicial competence

In Slovenia the judicial branch is not involved in the adoption processes. Only in international adoption processes may there be a judicial branch involved, however that depends upon the legislation of the country Slovenia cooperates with (i.e. the foreign legislator).

3.24.8. Resistance from the holder of parental authority and major obstacles, if any, to the effectiveness, in practice, of the mechanisms instituted by the national legislator

The main legislative problem of the adoption process in Slovenia is the fact that the whole adoption procedure is left to a local centre for social work where there is a lack of expertise and connections with the government. Since all the adoptions go through the local centre for social work, there is almost nothing going on the governmental level. The Ministry of Labour, Family and Social affairs is the only competent body of the government that deals with the adoptions in Slovenia. This Ministry however, only has one person employed, which by the opinion of most of the parents and non-profitable organizations is a laugh in the face to the parents considering the adoption. In the opinion of many local centers for social work and other non-profitable organizations there should be more cooperation from the government.

3.24.9. Progress in the fight against the trade in children

There is no exact statistics about the number of children that become the victims of trade. Slovenia is mostly a transit country for women and girls coming from Ukraine, Moldova, Romania, Russia and Bulgaria. The result of an independent statistics made by the Slovenian Phylanthrophy «Project against the trade in children and sexual abuse» say that in year 2004 there were five cases of suspected trade in children. In all the cases the victims were girls from whom three of them were from Albania and two of them were from the Roma ethnic group.

3.24.10. Adequation of the adoption process

As already underlined in the answers-above, there are still many difficulties both, in the cases of national and international adoptions. As regards the international adoptions, they tend to be even more complicated than the national ones. The largest leap forward in the international adoption procedure has been the signature of the the bilateral agreement between FYROM and Slovenia, where the Slovenian government for the first time took an active form in the adoption procedure. However even in this case, the adoption procedure is still too complicated and bureaucratic. Many complaints are
coming from non-governmental organizations that the Slovenian government is not involved enough in the adoption processes. The adopting parents are still left with the majority of work.

What should be looked at are the possibilities for international agreements harmonizing the conditions to the biggest extent possible. Bilateral agreements indeed are a step forward. However, they do not represent an adequate solution.

A possible solution appears to be a concentrated effort of the European Union in the field of family law. Harmonized rules of EU Member States appear as the first step in this direction. The EU policy in this field should be focused on harmonization, keeping in mind the next step to follow – harmonizing these conditions also with third states to the highest extent possible.

Needless to say that the approach proposed above opens up the issues of internal, as well as that of external competences of the EU. Such issues, however, should not deter the EU from discussing and trying to find the right solutions.

3.24.11. Best interest of the child

In the Slovenian family law system, the interest of a child is the approach on which the family law legislation is based on. However, there could be many improvements, since it is never in the interest of the child to have a system where the adoption procedure is expensive and bureaucratic and to have a system where a perfect couple looses faith and gives up in the middle of the adoption procedure because of the reasons mentioned. It is not an unimportant fact that the cost of an adoption in Slovenia starts at 10.000,00 EUR and goes all the way to 20.000,00 EUR. For many adopting families this is a price that is not reachable. An adopting family should be supported by the state practically and financially, which is not the case in Slovenia.

3.24.12. Criteria applied to the adopting parents

In the view of most of the parents the conditions and the legal criteria are too harsh and are not in the best interest of the adopting parents nor the children to be adopted.
3.25. **Spain**

3.25.1. Duration

As we see in the legal study, the procedure of adoption is the competence of each Autonomous Community. Also neither the Law 54/2007 on International Adoption nor the Civil Code, for the national adoption, does fixed a term for the procedure.

Therefore the period of the procedure will depend on the following parameters:

1. the Autonomous Community,
2. the time of the obtaining of the certificate of capability,
3. the preparation of all the necessary documents and their official translation,
4. the country of the child: for example in the Autonomous Community of Catalonia the parents who did begin the procedure of adoption of a child in the Democratic Republic of Congo did travel there in 2006, but once they arrived the authority said to them that they could not go back to Spain with the children. It creates a very complicated situation that even today has yet no solution and some parents are still waiting.

Following the interviews done and the data bases checked, the procedure can last between 6 months and 4 years.

3.25.2. Difficulties

In all Spanish territory, in 2006, 97% of the certificates of capability were positive meaning that of 9508 certificates the 97% were of capability in order for the parents to be able to adopt.

3.25.3. The kind and the reasons of the difficulties that did arise: localisation of the child, translation, opposition of the biological parents, ...

For the national adoption, the most important difficulty is without any doubt the possibility of opposition of the biological family during a period of 2 years since the judgment that do constitute de adoption.

This is the most important reason why lots of Spanish parents do not chose the national adoption because they are afraid of the opposition of the biological parents. As it is clearly said in the interviews, the judges are very protective of the rights of the biological parents and therefore they do always try to be sure that the biological parents do not want to have their child back with them.

For the international adoption, if the parents do chose to do the procedure through an ECAI (Collaborating Entity in International Adoption) this will supervise all the phases of the procedure, since the preparation of all the documents, their translation, the organisation of the travel, the contact with the local authorities, the contact with the orphanage, the localisation of the child. Also they all have a person working for them in the country of the child that will be with the parents during their travel and also in order for them to be prepare for the trial when the adoption is constituted by the judge of the country of the child.

If the parents do not chose and ECAI and the country of the child does allow this (in some countries the “by themselves adoption” (protocolo libre) is not allowed), in this case, the most important problem is to find a good lawyer to help them with the documents, translations and travels. In Spain, lots of parents do chose this way for the adoption in Russia as this country does allow both ways: ECAI and the “by themselves adoption” (protocolo libre”). The risks are maybe a little more important as for example last
week were arrested in Spain a Russian mafia group who did give false documents to Spanish parents (false certificates of capability) who were going to travel to Russia.

No problem of competence has been registered nor in national adoption neither in international.

3.25.4. **Role of the consultation services and the family mediation in the procedure of adoption.**

The family mediation does not intervene in the procedure of adoption. The mediation is ruled in Spain by the different Autonomous Community and has its area in the family cases as divorces, custody problems, etc.

The consultation services do sometimes intervene when the Autonomous Community does create them in order to help the parents to live the day by day with their child (the first time at school, the first questions about where they come from, etc). These kind of services do exist in Madrid, in Catalonia and in Murcia for example.

3.25.5. **Reasons why the adoption procedure was abandoned or rejected and the difficulties appeared during the procedure.**

For the **national adoption**: the opposition of the biological parents.

For the **international adoption**: by order of importance:

No obtaining of the certificate of capability.

Two main reasons here: - the incomes are not enough
- the reason why the parents want to adopt are not justified

The doubt of the parents about parenthood after the first travel to the country of the child.

The length of the procedure depending of the chosen country.

The political circumstances of the country of the child: for example the modifications of the conditions for the international adoptions (Nepal (they only accept adoptions through an ECAI since 2006), Rumania, Congo, Russia (since 2007 they do ask more conditions for the ECAI in order to give them authorisation), China (they do reinforce the conditions for the adoptive parents, Ukraine did fix a maximum of children who can be adopt following the country, for Spain: 380 children)

The cost of the procedure (around 20.000€ depending of the country and the ECAI).

The number of the travels that the country of the child does ask for.

The change of the child assigned.

In a very few cases: the fact that the parents do, during the procedure, have a biological child.

All these circumstances do explain the fact the international adoptions did decrease a 20% in 2007.
3.26. **SWEDEN**

3.26.1. **Criteria applied to the adopting parents**

According to a government decision in November 2007, a special investigator shall carry out a general review of the rules about adoption in Chapter 4 of the Code pertaining to Parenthood and Guardianship. With the aim of strengthening the perspective of the child, the investigator shall decide if there grounds for changing the rules regarding examination by the court.

The investigation shall examine which decision data the courts have at their disposal, which measures the municipal social welfare boards take for a request for a statement, how the boards' statement is drawn up and to what extent children are allowed to express themselves. The investigator shall also bring to attention questions about the possibility for common-law spouses to adopt.

When it comes to international adoptions, the investigator shall also decide if special measures will be needed when adoption is not carried out by an authorised adoption association. The investigator shall also take questions about the need for advocates for children arriving in Sweden (More modern adoption rules Committee Directive 2007:150).

3.26.2. **Criteria applied to children to be adopted**

The interviewed people considered that the criteria applied to the children are justifies and adequate.
3.27. **UNITED KINGDOM**

3.27.1. **Difficulties**

The review by the office for national statistics shows that in 2005, out of 2,692 adoption orders granted, 582 were contested. This does not include cases in Family Proceedings Courts (Magistrates). However, the reasons for which any proceedings were contested are not given.

A study of adoption cases between 1979 and 1983 (a copy of which is attached) found that in 1983 11% of applications involved dispensing with agreement. This would have been on the grounds specified under the 1976 Act, for example:

- The parent could not be found or was incapable of giving agreement,
- The parent was withholding agreement unreasonably,
- The parent persistently failed without reasonable cause to discharge the parental duties in relation to the child,
- Has abandoned or neglected the child,
- Has persistently ill-treated the child,
- Has seriously ill-treated the child.

3.27.2. **Duration**

Between 1986 and 1988, 19% of cases involved dispensing with agreement.

**National**

In case of public law adoptions of children in the care of local authorities a number of different schemes have been developed. For example, ‘concurrent planning’, defined as the process of working towards family reunification, while at the same time establishing an alternative permanent plan. The social worker works both with the child’s foster carers as potential adopters should rehabilitation fail, and with the birth parents to secure rehabilitation.

**International**

In countries that are party to the 1993 Convention it is thought that compliance with the Convention requirements in another jurisdiction will extend the procedure. This does include most European countries.

3.27.3. **Rejected or given up adoptions**

The Judicial Statistics for the year 2005 shows that out of 4,571 applications for adoption (including applications in the Family Proceedings Court), 3,067 orders were made. This indicates a very high proportion (about a third) of cases in which no order is made. The figures provided by the Office for National Statistics (excluding cases in Domestic Proceedings Courts) indicate a slightly smaller proportion where no order is made. However, there is no analysis of the reasons for which no order is made in individual cases.

The study concluded in 1993 found that out of applications by non-relatives in the late 1980s, 96% were granted, the remaining being either withdrawn or adjourned. In the same period, 81% of applications by step-parents were granted.
3.27.4. Difficulty in locating the child

Since the 1960s there has been a reduction in the number of adoptions. One reason is a reduction in the number of children under the age of 12 months available for adoption. In 2003 there were only 183 adoptions of children under the age of 12 entered in the Adopted Children Register out of a total of 4,818. This is thought to be because of a reduction in the numbers of children being born and also because more children are born to unmarried couples living in a stable union. The law also discouraged joint applications by birth parents and step-parents.

Local Authorities make continued efforts to secure adoption placements for so-called hard to place children by publicity schemes, for example the ‘Be My Parent’ scheme organized by the British Agencies for Adoption and Fostering (BAAF). Adoptions of children who have been in the care of Local Authorities now form the majority of all adoptions. The Government’s declared intention when introducing the 2002 Act was to achieve an increase in the number of ‘looked after’ children who are adopted. In 2001, there were 3,061 adoptions of ‘looked after’ children being 69% of all adoptions. In that year 5,981 orders were entered in the Adopted Children Register. This was stimulated by the development of a policy in the 1970s that children from neglectful and disrupted families might do better if placed with more stable families.

3.27.5. Problems of judicial competence

In a very small number of cases a question of jurisdiction may arise at a very early stage, for example if the child has already been adopted, and this may be resolved at the first hearing.

3.27.6. Resistance by a party with parental responsibility

There is a procedural requirement for such a person to be made a party to the proceedings and this will apply in a large proportion of cases.

3.27.7. Trading in children.

In the early 1990s children from Romania were brought to the UK for adoption but this was halted by the Romanian Government. As mentioned, there are believed to be a small number of cases each year where people avoid official adoption procedures.

3.27.8. The adequacy of the adoption procedure.

It is our view that the adoption procedure under national legislation is justified and adequate and the existence of the statutory machinery is necessary because, under the national law, parental rights and duties could not otherwise be transferred. It originally met the requirements of a couple who wish to bring up another’s child as their own or who had already effected a de facto adoption. Following the development of the policy of permanency planning in the 1970s, public law adoptions now form the majority of all adoptions.

3.27.9. Best interest of the child.

Both the national legislation and the 1993 Hague Convention on Intercountry adoption provide adequate safeguards to protect the interests of the child.
An issue that might be raised in court proceedings is whether the adopted child and possibly other members of his biological family, particularly siblings and grandparents, can claim a breach of their rights under Article 8 of the European Convention on Human Rights as a result of the severance of the legal ties with the whole family resulting from the adoption.