



THE SPECIAL RISKS OF ADOPTIONS FROM NON-HAGUE COUNTRIES

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The path to family – stories of intercountry adoption

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Reminder: some implications of being a Hague receiving country

- Every significant receiving country is bound by HC93 (since 2010 - Ireland) in their dealings with other Contracting States
- Can cooperate with non-Hague countries of origin
- In that case, strongly encouraged but not obliged to apply Hague standards
- Among receiving countries, wide range of attitudes in practice towards allowable conditions of various kinds
- Being a Hague country is no firm guarantee of full compliance with letter and spirit of standards, but risks are enhanced for non-Hague countries
- HC93 is about **child protection** and **cooperation!**

Why are countries non-Hague?

- N.B. Non-Hague countries still include, e.g.: Ukraine, RDC, Ethiopia, Nigeria, Uganda + Nepal, Korea and Russia that have signed but not ratified...

Key explanations:

- ICA suddenly exploded: e.g. RDC (from 26 in 2003 to 583 ICAs in 2013) – overwhelmed
- Requires “unfeasible” level of resource commitment and/or lengthy, in-depth reforms: Nepal (signed 2009) + examples of Cambodia (2007) and Senegal (2011) since their accession
- Active resistance to changing status quo (from interest groups and/or political quarters): Ukraine + historically Guatemala/Haiti
- **In no case is assertion of enhanced “child protection” the reason** [Honourable exception: Argentina]

General risks

- Children being unjustifiably placed for adoption abroad
 - Invariably, a significant fall in numbers after accession to HC93
- Pressures on ever-fewer non-Hague countries because of steady decline in ICA numbers since 2004
- “Boom and bust”
 - Cambodia, Nepal, RDC, Ethiopia, Liberia...

Risks for child protection

- Lack of robust best interests determination procedure
- Subsidiarity principle ignored
- Independent/private adoptions
- Non-accredited or non-authorized intermediaries (+ links to “orphanages”)
- Matching process inadequate
- Unsupervised financial transactions
 - Profit from manipulation of birth parents
 - Falsified documents (incl. medical tests)

Risks for cooperation

- Countries of origin: interlocutors ill-prepared
- Bilateral agreements may be encouraged or required, but beware:
 - Supplant HC93, reducing motivation to accede
 - Tailored more to country's system rather than to HC93 standards
 - Incomplete and/or vague on certain points
 - Undesirable requirements (e.g. humanitarian aid, donations...)
 - Locked into a programme that may automatically continue regardless of real future needs
- But absence of agreement => anarchy...?

By way of conclusion...

- No valid child protection justifications for remaining non-Hague
- Clear dangers for ensuring best interests of the child are paramount when ICA decisions are made
- Bilateral agreements are no substitute for HC93 compliance
- As a general rule, Hague countries should therefore not allow ICAs from non-Hague States