



Intercountry Adoption From Hague Convention and Non-Hague Convention Countries



The process for adopting a child from another country (intercountry adoption) changed in some significant ways with the U.S. ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention). The Convention went into effect in the United States on April 1, 2008. The Convention is designed to protect the best interests of children and prevent the abduction, sale, and

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- Frequently asked questions
- Resources for further information



trafficking of children. In this country, the U.S. Department of State has overall responsibility for implementing the Hague Convention, although the U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security also plays a significant role.

Approximately 75 nations are parties to the Hague Convention. (See list of countries at www.adoption.state.gov/hague/overview/countries.html.) When a U.S. citizen wants to adopt a child from any of these nations, Hague Convention rules apply. When adopting a child from a country that is not a party to the Hague Convention (a non-Convention country), some different rules apply.

This factsheet is designed to provide basic comparative information about the two types of intercountry adoption, as well as resources for more detailed information. It is a companion piece to *Intercountry Adoption: Where Do I Start?* (www.childwelfare.gov/pubs/f_inter/index.cfm). Prospective parents are encouraged to read that publication for more complete information on the intercountry adoption process and decisions. Prospective parents should also check the websites of the U.S. Department of State (www.adoption.state.gov) and USCIS (go to www.uscis.gov and click on “Services & Benefits” and then click on “Adoption”).

Note: This factsheet is intended to provide a general overview of intercountry adoption. It is not intended to serve as a detailed directory of legislation, nor is it intended to provide legal advice. For more detailed information, check with an accredited adoption services agency or attorney.

Table: Comparison of Adoptions From Convention vs. Non-Convention Countries

Use the following table to view similarities and compare differences in the process for the two types of intercountry adoption—from Convention and non-Convention countries. (The U.S. Department of State has a similar table of comparisons at http://adoption.state.gov/pdf/Side_by_side_comparison.pdf)

Variable		
Participating Countries	<p style="text-align: center;">Hague Convention</p> <p>For an up-to-date list of all Convention countries, go to www.adoption.state.gov/hague/overview/countries.html. The Convention countries sending the most children in 2007 included:</p> <ul style="list-style-type: none"> • China • Guatemala • India 	<p style="text-align: center;">Non-Hague Convention</p> <p>The non-Convention countries sending the most children in 2007 included:</p> <ul style="list-style-type: none"> • Ethiopia • Kazakhstan • Liberia • Russia • South Korea • Ukraine • Vietnam
Accreditation of adoption providers (e.g., agencies)	<p style="text-align: center;">Hague Convention</p> <p>Primary providers must be accredited, temporarily accredited, or approved by either the Council on Accreditation (COA) or the Colorado Department of Human Services (DHS) to provide adoption services for Hague adoption cases.¹</p> <p>To be approved or accredited, providers must meet eligibility requirements in nine areas, including ethical practices, information disclosure, and service planning. For the complete Federal regulations (22 CFR Part 96), see http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title22/22cfr96_main_02.tpl</p> <p>For a current list of accredited and approved service providers, see www.adoption.state.gov/hague/accreditation/agencies.html</p> <p>For a list of agencies denied accreditation, see www.adoption.state.gov/hague/accreditation/deniedagencies.html</p> <p>Note: In the Federal regulations for the Hague Convention, nonprofit agencies are “accredited,” while individuals and for-profit agencies are “approved.”</p> <p>Each Convention country determines which accredited or approved service providers are permitted to perform adoption services in its country.</p>	<p style="text-align: center;">Non-Hague Convention</p> <p>No special accreditation is required, although the U.S. Department of State strongly recommends that parents select an agency that is licensed in the State where it is located. Many agencies specialize in placing children from specific countries, including non-Convention countries. To help select a provider, read Information Gateway’s <i>How to Assess the Reputation of Licensed, Private Adoption Agencies</i>: www.childwelfare.gov/pubs/twenty.cfm</p> <p>Some countries have their own accreditation requirements for agencies approved to provide adoption services. For example, American parents wishing to adopt a child from Russia must use an agency that has received a permit from the Russian government.</p>

¹ The Colorado Department of Human Services is the only State agency in the nation accredited by the Department of State to perform this function and may only accredit adoption service providers located in the State of Colorado.

Types of services provided by agencies	Hague Convention	Non-Hague Convention
	<p>Agencies accredited to place children from Convention countries provide six specific services necessary for successful adoption:</p> <ol style="list-style-type: none"> 1. Identifying a child and arranging an adoption. 2. Securing consent to termination of parental rights (if necessary). 3. Conducting a home study of the prospective family and a background study of the child. (This service may be contracted out, but an accredited agency must serve as supervisor and review and approve the final product.) 4. Making a nonjudicial judgment of the appropriateness of a placement. 5. Monitoring a case until final adoption. 6. Assuming custody of the child if the placement is disrupted before final adoption.² 	<p>Agencies and service providers vary widely in the services they offer for non-Hague adoptions. In some cases, parents may be required to do much of the research and footwork themselves. In other cases, agencies will work with a sister agency in the child’s native country to meet that country’s specific requirements.</p> <p>Prospective parents need to have a full understanding of agency responsibilities and services as well as the costs of those services before, during, and after the adoption. These should be in writing.</p>
Requirements regarding prospective parents	Both types of adoption	
	<p>Parents must be approved by the USCIS on the basis of information they provide about their background, health, financial stability, and other characteristics in a home study document. If married, prospective parents must go through the adoption and immigration process together. If single, the prospective parent must be a U.S. citizen; if married, at least one spouse must be a U.S. citizen. The USCIS will conduct background and criminal checks on all household members, including fingerprint checks of all household members aged 18 and older. Individual countries may have specific eligibility requirements for parents regarding age, marital status, health, income, and more.</p>	
	Hague Convention	Non-Hague Convention
	<p>Parents must be habitually resident in the United States. For a definition of habitually resident, see: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=8:1.0.1.2.8&idno=8#8:1.0.1.2.8.3.1.4</p>	<p>These vary according to the agency or service provider the parents use. Parents do not have to be habitually resident.</p>

² For information on adoption disruption, see Information Gateway's *Adoption Disruption and Dissolution*: www.childwelfare.gov/pubs/s_disrup.cfm.

Requirements regarding the child to be adopted	<p style="text-align: center;">Hague Convention</p> <p>The child must be habitually resident in a Hague country. Two birth parents may be living but may release the child for adoption if they are incapable of caring for the child. If one birth parent has died, disappeared, abandoned, or deserted the child, the remaining birth parent is not required to show that he or she is incapable of providing care.</p>	<p style="text-align: center;">Non-Hague Convention</p> <p>The child must meet the definition of an orphan: Both birth parents must have died, disappeared, abandoned, or deserted the child. Or, if one birth parent disappeared, then the remaining birth parent must be incapable of providing proper care.</p>
Home study	Both types of adoption	
	<p>The home study must be approved by the USCIS and must include specific information about the parents and their suitability.</p>	
	<p style="text-align: center;">Hague Convention</p> <p>A home study may be conducted by the accredited agency serving as the primary provider, or it may be conducted by a supervised provider and then approved by the accredited agency or by an exempted provider or domestic public authority.</p> <p>The home study must include:</p> <ul style="list-style-type: none"> • Statement about training and counseling received by parents • Statement about parents' eligibility to adopt from the specific country <p>When completed and approved by USCIS, a true copy of the home study (a copy of the home study that is signed, notarized, and apostilled³ that certifies that it is true and legal in the eyes of the U.S. Government) must be transmitted to the Central Authority for adoption in the country from which the parents plan to adopt.</p>	<p style="text-align: center;">Non-Hague Convention</p> <p>Parents may have a home study conducted by an adoption provider licensed in their State before they decide from which country they are likely to adopt. The home study must comply with USCIS home study requirements (see www.uscis.gov/files/nativedocuments/adopt_book.pdf).</p>
	<p>Note: This is a major difference between Convention and non-Convention adoptions. In Hague adoptions, parents must choose the country before the home study is conducted. In non-Convention adoptions, parents may have the home study completed before they finalize their selection of a country.</p>	

³ See U.S. Department of State Glossary at <http://adoption.state.gov/glossary.html>

Parent training	Hague Convention	Non-Hague Convention
	Parents are required to complete at least 10 hours of training, which is separate from any home study requirement. Sending countries may have additional training requirements for parents. Parents may be exempted from training by the primary provider if the parents already have completed sufficient training.	Training requirements vary or may not exist, depending on the country, the parents' State of residence, and the adoption services provider.
Costs and payments	Both types of adoption	
	Parents, agencies, and service providers are prohibited from giving money or other favors to a child's birth parents or other individuals or agencies as an inducement to release the child for adoption.	
	Hague Convention	Non-Hague Convention
	The services provider must disclose fees and estimated expenses in writing for such services as conducting the home study, child care, translations, travel, and contributions to child welfare service programs in the child's country.	While reputable agencies will disclose fees and estimated expenses, there is no requirement to do so, unless the State where the agency is located has such a requirement.
Involvement of USCIS	Hague Convention	Non-Hague Convention
	<p>USCIS must determine the eligibility and suitability of parents (Form I-800A) before a child is matched with the parents and before a Hague petition (I-800) may be filed for a specific child.</p> <p>See the USCIS webpage "Hague Adoption Convention": www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=85ed8c03ef929110VgnVCM1000004718190aRCRD&vgnnextchannel=85ed8c03ef929110VgnVCM1000004718190aRCRD</p>	<p>The child to be adopted must be classified as an orphan as defined by the Immigration and Nationality Act, section 101(b)(1)(F) in order for the USCIS to approve a petition (Form I-600) for the child's immigration to the United States. Adoption in another country does not guarantee that the child will be able to enter the United States.</p> <p>See the USCIS webpage "Adoption of Orphans (Non-Hague)": www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=173e8c03ef929110VgnVCM1000004718190aRCRD&vgnnextchannel=173e8c03ef929110VgnVCM1000004718190aRCRD</p> <p>"Advance Processing at a Glance: The Fastest Way" (go to link above and scroll down page)</p> <p>"The Immigration of Adopted and Prospective Adoptive Children" (M-249): www.uscis.gov/files/nativedocuments/adopt_book.pdf</p>

Applicable forms	Hague Convention	Non-Hague Convention
	<p>USCIS Form I-800A, <i>Application for Determination of Suitability to Adopt a Child From a Convention Country</i> (a required form that must be filed and approved by USCIS before a child is matched with a family)</p> <p>USCIS Form I-800, <i>Petition to Classify Convention Adoptee as an Immediate Relative</i> (filed only after all consents for release of the child have been made by the child's country and it has been determined by the Central Authority in the child's country that intercountry adoption is in the child's best interest)</p>	<p>USCIS Form I-600A, <i>Application for Advance Processing of Orphan Petition</i> (can be completed and filed before a specific child is identified)</p> <p>USCIS Form I-600, <i>Petition to Classify Orphan as an Immediate Relative</i> (an optional form that requires proof that the child is an orphan and other requirements necessary for the child to be permitted to immigrate to the United States)</p>
Complaints	Hague Convention	Non-Hague Convention
	<p>All accredited and approved providers are required to have a policy for handling complaints. If the person complaining is not satisfied with the agency response, there is a web-based Hague Complaint Registry: http://adoptionusca.state.gov/HCRWeb/WelcomeForm.aspx</p> <p>Complaints made through the registry are passed on to the accrediting entities for investigation.</p>	<p>Parents may complain to their State's adoption agency licensing authority. For a list of these authorities, go to the National Foster Care and Adoption Directory Search: www.childwelfare.gov/nfcad</p>

Frequently Asked Questions

What are the different types of services providers for Hague adoptions?

There are three different types:

- **Primary providers** must be accredited by the COA or Colorado DHS. They ensure the delivery of all six adoption services (see page 4 above)—either by providing the services themselves or supervising other agencies that provide some of the services.
- **Supervised providers** may be agencies, organizations, or individuals (including facilitators or attorneys) in the United States or foreign countries. They must meet some but not all Hague requirements. Supervised providers may provide some of the six services under the supervision of the primary provider. They may not supervise other providers.
- **Exempt providers** are not accredited or approved. They include social work professionals or organizations that provide a home study of parents or a background study on a child. The study must be approved by a Hague accredited primary provider.

For more information, see the U.S. Department of State website at www.adoption.state.gov/hague/accreditation/supervised.html

How can I adopt a relative from overseas?

The prospective adoptee must meet all the same requirements of U.S. immigration law, regardless of whether the child is a relative. This is true for Convention and non-Convention adoptions. For more information, visit the U.S. Department of State website at <http://adoption.state.gov/about/who/relatives.html>.

Under the Hague Convention, can children from the United States still be adopted by citizens of other countries?

The primary focus of the Hague Convention is on serving the best interests of children who either have no parents or whose parents are unable to care for them. There is general agreement that such children are best served through placement with family members or, if that is not possible, placement with another family in their home country. Therefore, it is only after all of these possibilities are explored that a child might be eligible for placement in another country. In addition, the prospective adoptive parents must petition a U.S. State adoption court with jurisdiction over the case to adopt the child and must present all supporting evidence required by State law. The State court must find that the adoption is in the child's best interests. The court is responsible for issuing the final adoption decree or grant of custody for purposes of emigration and adoption in another country.

The U.S. State Department has information about these adoptions *from* the United States (outgoing cases) on its website:

<http://adoption.state.gov/hague/outgoing.html>

How can I contact the USCIS?

See the website information below under "Resources." Also, you can access the field office locator at https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO.

How can I contact the U.S. Department of State?

See the website information below under "Resources." Also, you can call their Office of Children's Issues at 1.877.407.4747 or go to AskCI@state.gov.

Resources for Further Information

U.S. Department of State offers information for prospective parents and adoption professionals, booklets on specific countries, news and alerts on intercountry adoption, Hague Convention information, and more.

www.adoption.state.gov

- Chart comparing Convention and non-Convention adoptions:
www.adoption.state.gov/pdf/Side_by_side_comparison.pdf
- *Intercountry Adoption From A to Z*
www.adoption.state.gov/pdf/Intercountry%20Adoption%20From%20A-Z.pdf
- *The Hague Convention on Intercountry Adoption: A Guide for Prospective Adoptive Parents*
www.adoption.state.gov/pdf/PAP_Guide-1.pdf
- The visa process
www.adoption.state.gov/visas.html

U.S. Citizenship and Immigration Services provides information on Convention and non-Convention adoptions and the immigration of adopted children into the United States.

www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=063807b03d92b010VgnVCM10000045f3d6a1RCRD&vgnnextchannel=063807b03d92b010VgnVCM10000045f3d6a1RCRD

- For Frequently Asked Questions About Intercountry Adoptions (especially those in process in April 2008), click on the link in the right navigation bar under Related Links.
- For Hague Adoption Convention information, scroll down the page to “Hague Adoption Convention” and click on the link.
- For non-Hague Convention adoptions, scroll down the page to “Adoption of Orphans (Non-Hague)” and click on the link.

Child Welfare Information Gateway offers general adoption information and resources specific to intercountry adoptions.

www.childwelfare.gov/adoption/types/intercountry

- *Intercountry Adoption: Where Do I Start?* at www.childwelfare.gov/pubs/f_inter/index.cfm
- *Getting Started: Adoption General Information Packet 1* in English at www.childwelfare.gov/pubs/adoption_gip_one.cfm and in Spanish at www.childwelfare.gov/pubs/spanish_gip_one.cfm
- National Foster Care and Adoption Directory at www.childwelfare.gov/nfcad

Joint Council on International Children's Services is a child welfare organization that also provides information about intercountry adoptions.

www.jcics.org