21 Notes on other countries of origin and findings

21.1 Introduction

In this chapter, the committee will, in section 21.2, describe certain findings where the country of origin is not disclosed for data protection reasons.

Furthermore, section 21.3 provides a brief description of a country-specific collaboration that has not been investigated by the Committee, but where we have nevertheless received information about matters that might warrant further investigation.

21.2 From the country reviews

21.2.1 Three adoptions completed in the country of origin despite the fact that the Norwegian applicants had withdrawn well in advance

As a result of a country of origin taking several years in the 1980s to complete adoption procedures in which several Norwegian adoptive applicants had been matched with children, three of the Norwegian applicant couples notified Adoptionforum that they no longer wished to proceed with the adoptions. However, the authorities in the country in question were not informed of this, and the three adoption processes were therefore completed there with the applicants as adoptive parents. When the three adoptees arrived in Norway, they were to be placed in foster care and eventually adopted by other families. Adoption Forum had discussed this solution with RIA and the Ministry of Justice in advance.

The authorities in the country of origin were not notified when the Norwegian applicants withdrew, despite the fact that more than a year elapsed between their notification to Adopsjonsforum and the final court decision on adoption being made in the country of origin. In one of the cases, the Placement Committee is said to have asked the parents not to inform the authorities in the country of origin that they wished to withdraw their adoption application, as this could make it more difficult for others to adopt children from that country.[2324]

The situation of one of these children was discussed in particular by the Adoption Forum and the Norwegian authorities whilst the child was still in the country of origin, as they were unsure whether it was in the child's best interests to be adopted to Norway. Among other things, the child had relatives in the country of origin and was not himself aware that he was to be adopted, despite being an older child. Signals were sent on several occasions to the contact person in the country of origin indicating that the Adoption Forum wished to halt the adoption because the child had several older siblings in other children's homes and did not know that they were to be adopted; however, it was also indicated that they were concerned about the consequences this would have for other adoptions if they withdrew.

The case was also discussed at a meeting with RIA and the Ministry of Justice, where it was agreed that both the child's best interests and the repercussions of withdrawing the adoption were relevant considerations. Following discussions about the child within Adopsjonsforum's Executive Board, it was decided to send a letter to the international contacts in the country of origin, in which Adopsjonsforum expressed its view that it would not be right to proceed with this adoption. The letter was sent six months after Adopsjonsforum had first verbally indicated to the foreign contacts that they had doubts as to whether the adoption should go ahead. The letter stated, amongst other things, the following:

[2324] See the Norwegian district court judgement on the annulment of the adoption prior to re-adoption in Norway.

> We therefore believe that it would not be correct to proceed with the adoption. Our primary concern is always what is in the child's best interests in the long term. This case is complex and difficult, but it appears that it would be unreasonable and perhaps inhumane to take him away and bring him to Norway. For that reason, we have decided that we wish to withdraw the adoption of NN if this is technically and administratively possible and 'politically' acceptable.
>
> The adoption cases involving […] other children are nearing completion. We do *not* wish to halt the adoption of NN if this would jeopardise the successful completion of the […] other cases.

The Committee has found no response to this enquiry, but in minutes from telephone conversations with another contact in the country of origin just over a month later, it is stated that the case concerning the child in question had already been finalised, and that the children's home where he was living had declared that they would only hand over the two children assigned from there together. Both adoptions went ahead and the children arrived in Norway five months after the aforementioned letter was sent. No information has been found to suggest that Adopsjonsforum took any action other than having verbal contact with its foreign contacts regarding the case and sending the aforementioned letter to prevent the adoption.

The Committee considers it highly reprehensible that Adopsjonsforum and the Norwegian authorities failed to inform the authorities and courts in the country of origin that some of the Norwegian applicants had withdrawn from the adoptions, and asked these applicants not to report this to the country of origin themselves. A key part of processing an adoption case is assessing the suitability of the prospective parents, which is not possible if the children are not to be placed with the applicants who are parties to the case. Completing an adoption case before the courts in the country of origin without disclosing that the applicants have withdrawn must be regarded as a serious withholding of information.

The Committee finds it likely that the concerns of Adopsjonsforum and the Norwegian authorities that the deadlocked situation would become even more difficult if any of the applicants withdrew were justified. However, the Committee considers that this does not provide any basis for withholding essential information from the authorities in the country of origin.

The fact that one of the adoptions went ahead despite being considered contrary to the best interests of the child in question is particularly reprehensible. Adopsjonsforum did, admittedly, approach the country representative to halt the adoption, but the request was conditional on such a halt being politically acceptable and not jeopardising the other adoptions. The criticism is also directed at the Norwegian authorities, who were kept informed of the case at all times and, in their meeting with Adopsjonsforum, appear to have agreed that, in handling the case, the child's best interests had to be weighed against possible reactions from the children's home and other parties in the country of origin.[2325]

21.2.2 Illegal registration of children as biological children

The Committee also finds reason to describe a case from the early 1980s.[2326] A married couple who were temporarily resident in a South American country in an official capacity (holding service passports) had received information, including from a Norwegian seamen's chaplain, that a common way of arranging an adoption in that country was to enter into a private agreement with a maternity clinic, or possibly with an expectant mother, and then register the child as their own biological child. Upon closer investigation, it emerged that the spouse of a Norwegian diplomat had also been involved in an organisation that assisted with this type of 'adoption arrangement'.

2325 The fact that the Norwegian authorities were aware of this is evident from the documentation relating to this case, including minutes of the correspondence between AF and contacts in the country of origin, which have been found in the RIA's archives.

2326 Documents relating to the case have been found in JD's archives at the National Archives.

When the couple returned to Norway, it was discovered that the child had been incorrectly and unlawfully registered as their biological child. They then applied to the County Governor in their home county for adoption. The County Governor contacted the Ministry of Justice and requested an assessment of whether there were any obstacles to granting adoption authorisation. The Ministry of Justice contacted the Ministry of Foreign Affairs for assistance in obtaining the necessary regulations and documentation from the country of origin, and informed the Ministry of Social Affairs of the situation. After considering the request for further investigations into the child's background, the embassy reported back that it feared diplomatic relations with the country in question might be affected if the matter were raised with the authorities of the country of origin. Furthermore, another married couple residing in the country had given false testimony in connection with the registration of the birth, and there was a risk that they might face repercussions and possible deportation.

The Ministry of Justice then decided not to notify the authorities in the child's country of origin about the case, and to abandon all attempts to obtain further information about the child's background or valid consent from the biological mother. The Ministry replied to the County Governor that a Norwegian guardian could instead be appointed for the child to consent to the adoption. In the letter, they wrote that '[it] is assumed that it will not cause significant harm to the child if the adoption is not recognised in [the country of origin] and that the adoption can be carried out without hindrance under the provisions of the Adoption Act when consent as mentioned above is in place.

The Embassy also reported back to the Ministry of Foreign Affairs that the Ambassador had stated that the diplomat's spouse in question should immediately cease their involvement in this type of activity. 'Should the matter come to the attention of the authorities in [the country of origin], it could have unpleasant consequences for the Consul-General and the Consulate-General.'

In the Committee's view, the Norwegian authorities' handling of the aforementioned case was open to criticism. The authorities should have contacted the authorities of the country of origin to investigate the case and the child's background in greater detail. Any diplomatic consequences should not have been a deciding factor. In any event, potential consequences for those involved in this type of activity should not have been given decisive weight.

21.3 A brief overview of adoptions from Guatemala

21.3.1 Introduction

In the course of its investigation, the committee has come across or received information about adoptions from a number of countries of origin other than the twelve given particular priority in the mandate, and which it would have been natural to investigate more closely had the country in question been among the priority countries. This applies both to information on general aspects of various adoption arrangements and, in some cases, to individual adoptions.

The countries that have been specifically highlighted in key interviews, and which some have suggested should have been included in the review, are Russia, Romania and Guatemala.[2327] Other countries have also been mentioned. However, the Committee has not had the opportunity to investigate adoption arrangements with countries other than the twelve priority countries, but considers it appropriate to provide a brief description of certain aspects of adoptions from Guatemala.

Adopsjonsforum held a licence to arrange adoptions from Guatemala between 1979 and 2003. During this period, it arranged 197 adoptions from that country. The agency also assisted with 33 adoptions prior to this.

[2327] See interview with a department director at the adoption authorities during the period 1998–2014.

Adoptions from Guatemala have on several occasions come under critical scrutiny in media reports and in reports from international organisations. Adoptions arranged through lawyers who acted as adoption intermediaries have been a particular focus. Such adoptions were permitted right up until 2008.
Adoptions arranged through Adopsjonsforum appear to have been channelled through children's homes.

Guatemala had the highest number of international adoptions per capita of all countries of origin, but the peak in adoption figures occurred after adoptions to Norway had ceased. [2328]

The Committee has not carried out any assessment of the adoption cooperation with Guatemala, but finds reason to highlight two issues that stand out as potential risk factors in these adoptions. The first concerns several reports of concern from the embassy in Mexico, which was also responsible for and co-accredited for Guatemala. The second issue concerns the support provided to children's homes.

21.3.2 Reports of concern from the embassy

The Norwegian Embassy in Mexico, which was also accredited to Guatemala, raised issues relating to adoptions from Guatemala on several occasions. In the 1980s, it sent several reports to Norway, including reports concerning the institution Casa Guatemala, with which Adopsjonsforum collaborated.[2329] Among other things, it requested a political assessment of adoption practices in Guatemala. The State Adoption Office was presented with these enquiries and, in its assessment to the Ministry of Social Affairs on 3 January 1989, stated, amongst other things:

> There is every reason to assume that the adoptions processed through Adopsjonsforum have taken place in accordance with the law in Guatemala. This is based on knowledge of how Adopsjonsforum operates in Guatemala and also on the registration of each individual adoption here in Norway after the child has arrived.
>
> One cannot ignore the fact that irregularities do occur in Guatemala in connection with adoptions abroad. Given the system established by the Norwegian authorities, involving an authorised association under the supervision of the Norwegian authorities, we must be able to assume that such irregularities are minimal in the case of adoptions to Norway. The fact that irregularities may occur in the adoption of children to other countries should not result in Norway restricting or halting adoption activities in Guatemala.

In a 1998 report, the embassy refers to a 1994 UNICEF report, which was highly critical of adoption practices in the country.[2330] It is further noted that the authorities in Canada and the USA had begun to require DNA testing of the mother and child in adoptions from Guatemala.

Around the year 2000, international adoptions from Guatemala were discussed in reports by the ISS, UNICEF and the UN High Commissioner for Refugees, which formed the basis for the consideration of applications for the renewal of the intermediary licence in 2000 and 2003.

21.3.3 Partner children's homes

The Committee is not aware of all the partners with which Adopsjonsforum has collaborated in Guatemala. However, we are aware that they have collaborated with state-run children's homes, including Hogar Temporal

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[2328] Selman P. *The rise and fall of intercountry adoption in the 21st century*. Int Soc Work. 2009;52(5)

[2329] Faxes and letters from the Embassy to the Ministry of Foreign Affairs and the adoption authorities dated 26 September, 26 October and 1 December 1988,
30 May 1989 and 21 November 1990.

[2330] Letter from the Embassy in Guatemala to the Ministry of Foreign Affairs dated 19 November 1998, containing a report on the adoption situation drawn up at the request of the BFD and SUAK.

Elisa Martínez, and with the private institutions Casa Guatemala, Vida Nueva and El Jardín.[2331] The three private children's homes have, in various ways, been supported by Adopsjonsforum.

In 1988, Casa Guatemala received a loan of 15,000 USD, to be repaid by offsetting it against donations from future adoptions.[2332] The Committee is also aware that Vida Nueva was established with funding from AF.

From the early 1990s, Adoption Forum provided support for the running of the El Jardin children's home, which had been founded with financial support from Adoption Forum. A total of 66 children were placed from the institution, which received monthly operational support from Adopsjonsforum. The head of the institution was Adopsjonsforum's contact person in the country, and the institution initially only placed children with Adopsjonsforum's applicants.

The placement of children for adoption from Guatemala ceased in 2003, when the Guatemalan authorities decided to impose a temporary suspension on adoptions until the country had put in place a legal and administrative framework in line with the principles of the Hague Convention. At that time, the Norwegian Directorate for Children, Youth and Family Affairs (SUAK) had rejected Adopsjonsforum's application for renewal of its placement licence, and an appeal against the rejection was undergoing preliminary consideration by SUAK. Renewal of the licence was also refused by SUAK in 2000, but the refusal was overturned by the Ministry of Children and Families following an appeal by Adoption Forum. The background to SUAK's rejection was a number of reports of concern regarding adoptions from Guatemala, including a memorandum from UNICEF and a report from the UN High Commissioner for Human Rights.[2333] Adoption Forum's organisation of its work in Guatemala was also a factor in SUAK's rejection of the placement licence. SUAK was critical of the fact that Adoption Forum's partner organisation, El Jardín, was a children's home where their contact person was the director, who received regular operational funding from Adoption Forum, and which primarily placed children for adoption in Norway through Adoption Forum.

A press release from the UN Human Rights Commission on 16 February 2025 states that 80 children from a minority group in Guatemala are alleged to have been illegally adopted through the Hogar Temporal Elisa Martínez children's home between 1968 and 1996.[2334] The adoptions are said to have taken place after the children had been subjected to enforced disappearance. The Committee has not received any information regarding, nor has it investigated, whether this includes any of the children adopted to Norway through this children's home.

Part IV
The Committee's assessments of the adoption system

[2331] Letter from the Norwegian Embassy in Mexico (also accredited to Guatemala) to the Ministry of Foreign Affairs, 21 November 1990.

[2332] Letter from AF to Casa Guatemala, 10 April 1989.

[2333] SUAK's decision of 14 December 2000; cf. UNICEF (2000), 'Concerns about international adoptions from Guatemala', 14 November 2000, and the UN report of 27 January 2000.

[2334] See press release from the UN Human Rights Commission, 16 February 2026, and the website of the newspaper El Faro, 'UN experts alarmed by reports of historic illegal adoptions and alleged role of senior official in Guatemala', https://beta.el-faro.net/en/central-america-en/guatemala-adoptions-porras

22 Introduction and requirements for due diligence

22.1 Contents of Part IV

In Chapters 23–30, the Committee presents its assessments of the Norwegian adoption system. Chapter 23 deals with the significance of the Hague Convention on Intercountry Adoption and the Norwegian authorities' implementation of the Convention. The presentation in Chapters 24–30 is divided into sections that mainly distinguish between assessments of the responsibilities and work of adoption agencies and the authorities (24–25), and between the various stages of the adoption process, including follow-up and support after the adoption (26–30).

In Chapter 31, the Committee presents its overall assessments of the adoption system as a whole. Chapter 32 sets out the Committee's recommendations.

22.2 Further details on requirements for due diligence and case assessment

The assessments in Chapters 23–31 address, amongst other things, the following key questions in the terms of reference.

The mandate states that the overarching question for the committee is to 'determine whether the system for adoptions to Norway has been sound', and this 'includes questions regarding regulations and practice'. It is further stated that the committee 'shall examine whether due regard has been paid to legal certainty and human rights obligations, including the best interests of the child'.

The Ministry sets out the main issue for the inquiry as follows: 'The main issue for the committee is to determine whether the Norwegian authorities have exercised sufficient control over international adoptions and to establish whether any illegalities have occurred in connection with adoptions to Norway'.

The assessment of whether the Norwegian authorities have exercised sufficient control can be formulated as an assessment of prudence. In the Committee's view, whether the system for international adoptions to Norway has been prudent depends on an overall assessment of, amongst other things, regulation, practice and supervision. It also depends on whether the system has had sufficient resources and has been adapted to known and foreseeable risks. This issue is central to the Committee's assessments in Chapters 23–31.

As the Committee is conducting its review at the systemic level, the questions of whether legal certainty, the best interests of the child and other human rights have been safeguarded will largely concern whether the Norwegian authorities have carried out sound assessments when granting authorisations for adoption placement and when processing individual adoption cases, as well as whether there has been an adequate system in place to support adoptees and their families following the adoption. A further question is whether proper supervision of the adoption agency's activities has been carried out.

In the Committee's assessment of whether adoption mediation to Norway and other regulation of the Norwegian authorities' work on intercountry adoptions has been sound, a further key question is whether both cases concerning general approvals of adoption mediation and individual adoption cases have been *investigated* adequately, cf. Section 17 of the Public Administration Act.

The requirements for case investigation were enshrined in law in the Public Administration Act in 1970, and the Act was based on previously unwritten requirements. Although the provision concerning investigation requirements has not been amended since 1970, the assessment of what is required in practice in terms of investigation has become stricter over the years.

Under Section 17(1), the administrative body must ensure that a case is 'as well-informed as possible before a decision is made'. However, this does not mean that every aspect of a case must be investigated to the fullest extent possible. The requirements for a proper investigation of a case will be relative, and the thoroughness of the investigation must be commensurate with the significance of the case and the impact of the decision on the parties and other affected persons. In the preparatory work for the new Public Administration Act (Section 44), the Ministry of Justice sets out the requirements for a proper investigation of a case and states that these are a continuation of the legal position under the 1967 Public Administration Act (Section 17). The Ministry emphasises, firstly, that ‘the investigation … must be sufficient to decide the case on a sound basis’. Furthermore, the scope and thoroughness of the investigation must be ‘adapted to the nature of the case and the need for the proper use of resources within the administrative body’. In this assessment, ‘emphasis must be placed, amongst other things, on the significance of the decision for the parties and for any other public and private interests affected, and on whether there is a need for a swift decision’. Also, ‘the consequences that any errors might have, the degree of uncertainty in the case, and any costs and difficulties involved in investigating the case will be relevant’ to the requirements imposed.[2335]

Cases concerning the granting of authorisation to operate an adoption agency from a specific country are undoubtedly of great significance, and the consequences of granting an authorisation that should not have been granted can be serious. The Norwegian authorities have a responsibility to assess risk factors in international cooperation, including, in particular, the risk that the rights of children and birth parents in the adoption process are not safeguarded by the authorities of the country of origin and other parties involved.

Furthermore, the decisions and rulings made in individual adoption processes are matters of great importance to those concerned. Cases concerning pre-approval and adoption authorisation have a major impact on the legal status and living circumstances of both the children to be adopted and the parents wishing to adopt them. Furthermore, when the adoption authorities are to register adoptions carried out abroad, the documents should, for the same reasons, be checked with a view to assessing whether the adoption has been conducted correctly.[2336] If the documentation submitted raises questions as to whether there is sufficient evidence of a valid and sound adoption process, further information must be requested.

In addition to the assessments carried out by the Norwegian authorities in connection with the processing of applications for placement and operating licences and the approval of contact persons/contact networks, sound adoption administration will also depend on the supervision and monitoring of the work carried out by adoption agencies.

In his report to the inquiry committee, Tarjei Ellingsen Røsvoll emphasises that the Norwegian authorities have a responsibility to ensure that case processing is sound and to exercise control and oversight, even in caseswhere parts of the tasks have been delegated to private organisations, as has been the case with international adoptions, where adoption agencies have handled large parts of the process. A particular challenge is that such significant parts of the work may be delegated that it becomes difficult for the delegating body to exercise adequate control and make independent assessments when adoptions are to be registered or decisions on adoption authorisation are to be taken. Røsvoll highlights as a key question for the committee ‘whether it is considered that the Norwegian authorities have exercised sufficient oversight and control over the case preparations that adoption agencies may have carried out, to enable them to make a genuinely independent assessment of each individual adoption […]’.[2337] In other words, the central role of adoption agencies in the adoption processes, and the Norwegian authorities’ more limited involvement in each individual case, may entail a risk that the Norwegian adoption authorities have not had sufficient knowledge of how the adoption arrangements have been carried out, and have therefore not been able to exercise adequate supervision over the activities of adoption agencies.

[2335] See Prop. 79L (2024–2025) The Public Administration Act, pp. 442–443.

[2336] This applies even though the provision in the Public Administration Act concerning the duty to investigate does not apply directly, as such registrations do not constitute individual decisions. The Civil Ombudsman has stated on several occasions that the administration’s duty to uphold the fundamental requirement of sound case handling means that even decisions by the administration which are not individual decisions must be based on relevant and accurate information; see the Ombudsman’s statements of 20 March 2013 (SOM-2023-80), paragraph 27, and 12 February 2019 (SOM-2017-3066), point 1.

[2337] Tarjei Ellingsen Røsvoll, Report submitted to the Inquiry Committee on International Adoptions on 7 November 2025, point 4.2.8.

Furthermore, Norwegian adoption authorities must be able to conduct a thorough case review when cases concerning the registration of adoptions or adoption authorisations are to be processed. This presupposes that the adoption authorities are well informed about the country of origin in question and about the adoption placement process from that country.

The specific requirements regarding due diligence and case assessment in the work relating to supervision and authorisation of adoption agencies, and at the individual stages of the adoption process, will be described in more detail in the relevant chapters below.

23 The significance of the 1993 Hague Convention for adoptions to Norway

23.1 Introduction

The 1993 Hague Convention on Intercountry Adoption has been central to work in the field of intercountry adoption and will be a key focus in the following chapters. The Committee has been asked in its terms of reference to assess how the ratification of the Hague Convention 'will lead to changes in the regulations and practices governing adoptions to Norway', and this is addressed here.

The Committee will first provide a detailed description of the background to and content of the Hague Convention on Intercountry Adoption in section 23.2. The Committee will then, in section 23.3, examine the provision in Article 17(c) of the Convention, which stipulates that the central authorities in both States must consent to the adoption proceeding following the country of origin's offer to place a child with the prospective adoptive parents, and will set out its views on Norwegian interpretation and practice. In section 23.3, the Committee sets out its assessment of the changes the Convention has brought about in the regulations and practice governing intercountry adoptions to Norway.

23.2 Background and main features of the Convention

23.2.1 Background to the Convention, the Hague Conference, preparatory work and follow-up

The Hague Convention on Intercountry Adoption ('Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption') was adopted at the Hague Conference on Private International Law on 29 May 1993. Norway ratified the Convention on 18 July 1996, and it entered into force for Norway on 1 January 1998.

The background to the Convention includes, amongst other things, Article 21 of the UN Convention on the Rights of the Child. The Convention on the Rights of the Child obliges states that permit adoption to ensure that the best interests of the child are the paramount consideration. Subparagraph (e) of the article states that, for this purpose, States may enter into bilateral or multilateral agreements and endeavour to ensure that the placement of a child in another country is carried out by competent authorities or bodies

The background to the Convention is described as follows in the Hague Conference's Guide to Good Practice No. 1, paragraph 13:

> The need for a new convention on intercountry adoption became apparent in the 1980s when it was recognised that there had been a dramatic increase in international adoptions in many countries from the late 1960s. Intercountry adoption had increased to such an extent that it had become a worldwide phenomenon involving the migration of children over long geographical distances and from one society and culture to another very different environment. It was also recognised that this phenomenon was creating serious and complex human and legal problems

> and the lack of existing domestic and international legal instruments indicated the need for a multilateral approach.

The preparatory work for the Norwegian ratification, St. prp. 77 (1995–96), p. 3, states:

> In view of the scale that international adoptions have reached, and also because there has generally been criticism – some of it justified – of the way in which this has been carried out in certain countries, the Hague Conference decided to include international adoptions on its agenda. There was a lack of an internationally binding set of rules that could ensure the proper handling of cross-border adoption cases and counteract the irregularities that were from time to time uncovered in this context.

During the work on the Adoption Convention, a number of countries of origin that were not members of the Hague Conference were invited to take part in the negotiations, so that the Convention's provisions and obligations could be adapted to the circumstances in both countries of origin and receiving countries.

Norway participated in the Convention negotiations through representatives from the Ministry of Children and Families and the Norwegian Directorate for Children, Youth and Family Affairs.

There is no international enforcement body associated with the Hague Convention. There is no international court to interpret the Convention, and there is no monitoring or imposition of sanctions regarding the Contracting States' compliance with the Convention's obligations. However, the Conference organises Special Commissions at intervals of a few years, at which representatives from the Contracting States and international organisations meet to discuss issues relating to the Convention.

The Convention is drafted in English and French, and both language versions are equally authentic, cf. Article 48 of the Convention.

Important sources for the interpretation of the Convention include an Explanatory Report, written by Professor G. Parra-Aranguren, who took part in the Convention negotiations. The Hague Conference Secretariat has produced two guides to the Convention ('Guide to Good Practice No 1: The Implementation and Operation of the 1993 Intercountry Adoption Convention' (2008) and 'Guide to Good Practice No 2: Accreditation and Adoption Accredited Bodies' (2012)). The Hague Conference has also published 'Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption' (2023), following a working group's drafting of a proposal for such a document. The Hague Conference has also established a working group focusing on 'The Financial Aspects of Intercountry Adoption'.

The guidelines and other documents that have been published are not legally binding on the States Parties to the Convention. Neither the Hague Conference Secretariat, the Special Commissions nor the working groups have the authority to amend the text of the Convention or to provide binding guidance on its interpretation. However, in practice, these documents are of great significance to the work of the Contracting States in the field of intercountry adoption.

The Hague Convention was ratified by Norway on 18 July 1997. The ratification was based on St.prp. No. 77 (1995–96). In the proposal, the Ministry of Foreign Affairs stated that no legislative amendments were necessary (p. 5). The Storting endorsed this in Innst. S. No. 267 (1995–96).

The Convention has been incorporated into Norwegian law, and no Norwegian Act has been enacted that corresponds to the text of the Convention. The parliamentary bill on ratification included, as an annex, a copy of the Convention in its original English text with a Norwegian translation. This Norwegian translation has been published on Lovdata.

23.2.2 Main features of the Convention

The three main objectives of the Convention are set out in Article 1: It shall (a) ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights, (b) establish a system of co-operation between the Contracting States to ensure that these gua-

guarantees are respected and thereby prevent the abduction of or trafficking in children, and (c) ensure that the Contracting States recognise adoptions carried out in accordance with the Convention.

The Convention contains rules on private international law and co-operation between the Contracting States, in particular through the central authorities to be established. These are rules that are well known from other Hague Conventions.[2338] However, the Convention also contains rules on procedures in adoption cases in both States of origin and receiving States. The Convention's rules are minimum standards, and it does not establish any uniform adoption legislation.[2339]

The scope of the Convention is defined in Articles 2 and 3: it applies where a child habitually resident in a Contracting State (the State of origin) 'has been moved, is being moved or is to be moved' to another Contracting State (the 'receiving State'), either after he or she has been adopted in the State of origin by spouses or a person resident in the receiving State, or where the intention is to effect such an adoption in the receiving State or the State of origin. The Convention applies only to adoptions that establish a permanent parent-child relationship.[2340] It does not apply if the consents referred to in Article 17(c) have not been given before the child reaches the age of 18.

Chapter II of the Convention, concerning the conditions for intercountry adoption, defines the roles of countries of origin in Article 4 and receiving States in Article 5. The Norwegian preparatory works describe this as follows:

> The Convention provides that responsibility for intercountry adoptions is to be shared between the country of origin and the receiving country. The country of origin is responsible for ensuring that the conditions for adoption are met in respect of the child. The country of origin is also responsible for ensuring that the necessary consents have been given by the persons and authorities concerned. The receiving country is responsible for ensuring that prospective adoptive parents can be approved as adoptive parents and that they have received adequate counselling. The receiving country is also responsible for ensuring that the child is granted entry and permanent residence in the country.[2341]

Chapter III of the Convention regulates central authorities and publicly authorised bodies.

Conventions drawn up at the Hague Conference traditionally include a system whereby each State Party is to designate a central authority which plays an important role both in the State's internal handling of Convention cases and in cooperation between States. The Adoption Convention regulates central authorities in Articles 6 to 9. It distinguishes between measures which the Central Authority must carry out itself (Article 7(1)), measures which the Central Authority shall carry out 'itself or through public authorities' (Article 8) and measures which the Central Authority shall carry out 'itself or through public authorities or other bodies officially authorised in their State' (Article 9).

A distinctive feature of the Adoption Convention, compared with other Hague Conventions, is that it contains provisions on 'publicly authorised bodies', which allow parts of the central authorities' tasks to be delegated to adoption agencies. The Convention sets out conditions for such 'publicly authorised bodies' in Articles 10 to 12. The bodies must demonstrate 'that they are properly equipped to carry out the tasks with which they may be entrusted'. They are required to:

- not be profit-making and must comply with the conditions and act within the limits laid down by the authorities of the State concerned,

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[2338] For example, Bufdir is the Norwegian central authority under both the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcementenforcement and co-operation concerning parental responsibility and measures for the protection of children.

[2339] See, for example, Guide to Good Practice 1, paragraph 20.

[2340] The Hague Conference has subsequently drawn up a convention regulating other measures for the protection of children; the Convention
19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation concerning Parental Responsibility and Measures for the Protection of Children.

[2341] Parliamentary Bill No. 77 (1995–96), p. 3.

- shall be managed and staffed by persons who, by virtue of their ethical standards and their education or experience, are qualified to work with international adoptions
- shall be subject to the authorities' supervision of its composition, operations and finances.

A body that is officially authorised in one State may operate in another Contracting State only if the authorities in both States have authorised it to do so.

Chapter IV of the Convention governs the procedures for international adoptions. Article 14 stipulates

that prospective adopters wishing to adopt a child resident in another State Party
Convention State must submit their application to the Central Authority in the State where the applicant resides. Under Article
15, the Central Authority must satisfy itself that the applicants meet the conditions and are suitable to adopt, and must then draw up a report on the applicants to be forwarded to the Central Authority in the State of origin. This obligation must be read in conjunction with Article 5, which states that an adoption under the Convention may only take place if the relevant authorities in the receiving State

a. have established that the prospective adoptive parents meet the requirements and are suitable to adopt,
b. have satisfied themselves that the prospective adoptive parents have received any necessary counselling, and
c. have established that the child has been granted, or will be granted, permission to move to and take up permanent residence in the receiving State. Article 16 stipulates that the central authority in the State of origin must satisfy itself that the child is eligible for adoption. This obligation must be viewed in conjunction with Article 4, which states that an adoption under the Convention may only take place if the competent authorities in the State of origin

a. have determined that the child is eligible for adoption,
b. after carefully examining the possibilities of placing the child in the State of origin, find that the child's best interests are best served by an intercountry adoption,
c. have satisfied themselves that:

   (1) the persons, institutions and authorities required to give their consent to an adoption have received the necessary advice and have been duly informed of the consequences of their consent, in particular whether an adoption will result in the termination of the legal relationship between the child and his or her family of origin,

   (2) they have given their consent voluntarily in the manner prescribed by law and that this has been expressed or attested in writing,

   (3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and

   (4) that the mother's consent, where required, has been given only after the child's birth, and
d. having regard to the child's age and maturity, have satisfied themselves that:

   (1) he or she has received advice and has been duly informed of the consequences of the adoption and of his or her consent to it in cases where such consent is required,

   (2) the child's wishes and views have been taken into account,

   (3) the child has voluntarily given his or her consent to the adoption where such consent is required, and that the consent has been given in the manner prescribed by law, and that it has been expressed or attested in writing,

   (4) such consent has not been induced by payment or compensation of any kind. The authorities in the child's country of origin shall then draw up a report containing 'information on the child's identity, whether the child is eligible for adoption, their background, social environment and family and health circumstances', take due account of the child's upbringing and background, and satisfy themselves that consent has been obtained in accordance with Article 4. Under Article 16(1)(d), the central authority

shall then, ‘in particular on the basis of the reports on the child and the prospective adoptive parents, determine whether the proposed placement is in the best interests of the child’—. It is this assessment that is referred to as the *matching* of the child and the prospective adoptive parents.

The next step in the adoption process is for the central authority in the country of origin to forward to the central authority in the receiving State its report on the child, evidence that the necessary consents have been obtained, and the grounds for its decision on placement: The identity of the parents shall not be disclosed if this is not permitted in the country of origin, cf. Article 16(2).

Before the authorities in the country of origin can decide that the child is to be placed with the prospective adoptive parents, Article 17 of the Convention requires that:

a. the Central Authority in the country of origin has satisfied itself that the prospective adoptive parents consent,
b. the central authority in the receiving State has approved such a decision if such approval is required either under the law of the receiving State or by the central authority in the State of origin,
c. the central authorities of both States agree that the adoption may proceed, and
d. it has been established, in accordance with Article 5, that the prospective adoptive parents meet the conditions and are suitable to adopt, and that the child has been or will be granted permission to move to and take up permanent residence in the receiving State.

The central authorities in both States shall then take all necessary steps to ensure that the child is granted permission to leave the State of origin and move to the receiving State, cf. Article 18.

Article 19 specifies that the transfer of the child to the receiving State may only take place if the requirements of Article 17 are met.

Under Article 20, the central authorities shall keep each other informed of developments in the adoption case. Article 21 regulates the situation where an adoption is to take place in the receiving State after the child has arrived there, and the adoption is not in the child’s best interests. The Central Authority in the country of origin must then be consulted before a new placement is arranged, or, as a last resort, the child must be returned. Article 22 provides that the Central Authority’s duties may be delegated to another public authority or an accredited body.

Chapter V of the Convention concerns the recognition of the adoption and its effects. The main rule is that where the authority in the country where the adoption took place certifies that an adoption has been carried out in accordance with the Convention, the adoption shall be recognised in all Contracting States, cf. Article 23.

At the end of the Convention, there are two chapters containing general and final provisions.

23.3 The Hague Convention, Article 17(c).

23.3.1 Introduction

Article 17(c) of the Hague Convention stipulates that a decision in the State of origin that a child should be entrusted to the prospective adoptive parents may only be made if ‘the Central Authorities of both States agree that the adoption may proceed’. In the original English version of the Convention, the wording is: ‘Any decision in the State of origin that a child should be entrusted to prospective adoptive parents may only be made if … c) the Central Authorities of both States have agreed that the adoption may proceed.’

There is a translation error in the Norwegian version where it states that the adoption may be ‘carried out’; a more accurate translation of the English ‘proceed’ would be ‘continue’.

Article 17(c) is a key provision of the Convention. Several other articles refer to these consents and the timing of them: it is the child's age at the time these consents are given that determines whether the Convention applies, cf. Article 3. Article 19 contains a specific provision stipulating that the child may not be transferred to the receiving State until the requirements of Article 17 have been met. Article 23, which governs the recognition of the adoption, states that the authority in the State of adoption shall certify that an adoption has been carried out in accordance with the Convention and that 'the certificate shall specify when and by whom the consents referred to in Article 17(c) were given'.

In Norway, there has been uncertainty both as to what the responsibility for granting consent entails – what information and documentation must be provided, and how thoroughly this is to be verified – and as to which authority is to grant the consent. There is a connection between these two issues; the nature of the checks to be carried out will determine which authority should have the competence.

In the following, the Committee will first, in section 23.3.2, review relevant sources from the Hague Conference on these issues. It will then, in section 23.3.3, outline developments in Norway, with reference to documents in which the issue has been assessed. In section 23.3.4, the Committee assesses Article 17(c) of the Hague Convention and Norwegian practice.

23.3.2 Documents from the Hague Conference

23.3.2.1 Text of the Convention and Explanatory Report

The Hague Conference's Explanatory Report discusses the individual articles of the Convention. Article 17(c) is described as follows:

> (335) Sub-paragraph (c) requires the agreement of the Central Authorities of both States 'so that the adoption may proceed', the word 'proceed' meaning that the adoption could advance to the next stage in the process towards its completion. Consequently, it is a notion broader than 'entrustment', 'placement' or 'transfer' of the child, but not so broad as to cover the final granting of the adoption.
>
> (336) The agreement provided for in sub-paragraph (c) does not guarantee that the adoption will take place, because its granting depends on compliance with all other conditions required by the applicable law, as determined by the conflict-of-laws rules of the State of origin or the receiving State, depending on where the adoption is to take place.
>
> (337) Article 7(a) of the draft required the competent authorities of both States to verify that there was 'no bar' to the adoption, but this wording was considered too strong by the special group, given the practical difficulties in making such a determination and because it would not be binding on the court when the final decision on the adoption is handed down. However, *the special group considered it necessary to include a provision enabling both States – the State of origin or the receiving State – to prevent an adoption from proceeding if it appears to either that it presents major legal obstacles. For this reason, sub-paragraph (c) was included, thereby also implicitly regulating the conditions for the adoption; for if either State believes that there is an impediment to the adoption, the Central Authority of the State of origin or of the receiving State has the right not to consent to the continuation of the adoption, and the procedure is halted.*
>
> (338) The special group illustrated the rationale behind sub-paragraph c as follows: 'if a prospective adoption were deemed acceptable in the State of origin, but the receiving State had legal concerns regarding the child's age or the age difference between the child and the prospective adoptive parents, this was the point at which the receiving State could intervene and raise its objection to the adoption proceeding' (Minutes No. 14). The same reasoning applies to the case where the receiving State were to require a post-adoption probationary period for the recognition

of the adoption granted in the State of origin; consequently, sub-paragraph (c) addresses the issue governed by Article 23 of the draft, which was deleted and is not directly resolved by the Convention.

(339) Sub-paragraph (c) should be read in conjunction with Article 23, paragraph 1, second sentence.

[The Committee's italics]

The power to delegate the functions arising from Article 17 is governed by Article 22. The functions of the Central Authority may be delegated to other public authorities or bodies officially recognised, provided that the law of the State concerned so permits and this is declared to the depositary of the Convention[2342] .

23.3.2.2 Special Commission 2000

At the Hague Conference's Special Commission in 2000, the interpretation of Article 17(c) of the Convention was discussed. The Special Commission's 'Report and Conclusions' states:

(66) There was general agreement that the decision to place the child with the prospective adopters constituted a particularly significant step in the adoption process. It is from that moment that the process of bonding between the child and the prospective adopters may begin. It is therefore very important that all the necessary preparatory steps have been taken and the appropriate agreements obtained. This is why the procedure laid down in Article 17, and in particular the requirement in Article 17(c) that the Central Authorities of both States must have agreed that the adoption may proceed, is so important. Responses to the Questionnaire had revealed certain difficulties in the operation of Article 17, including, in some cases, a lack of clarity regarding the bodies competent to give the agreement under Article 17(c), and the occasional breakdown in State-to-State communications regarding the matching process.

In the debate over who should give consent, it was argued that the Central Authorities themselves should do so. However, it is stated:

(68) On the other hand, it was pointed out that the practice in some States (including some Nordic countries) is for Article 17(c) consents to be given by accredited agencies responsible for the practical aspects of the adoption process, and it would not be practical in these countries for Article 17(c) consents to be given by the Central Authority. Any problems that arise tend to be resolved through bilateral dialogue. It was also pointed out that, in accordance with Article 22, the functions under Article 17 may be delegated to accredited bodies. It was generally agreed that in those States where agreements under Article 17(c) may be granted by bodies other than the Central Authority, the bodies authorised to perform this function should be specified.

There was also discussion regarding the circumstances that might justify a refusal to grant consent. A representative from France proposed that 'a manifest violation of the basic principles of the Convention would justify a refusal (for example, the making of an improper payment), and that grounds for refusal should always be stated'. It is not clear from the report how this proposal was assessed.

23.3.2.3 Guide to Good Practice No 1, 2008

The Hague Conference's first *Guide to Good Practice* was published in 2008. This guide refers to Article 17(c) in numerous sections, including 331, 334, 371, 373, 430, 506, 507 and 539–541. It is clear that this is an important provision of the Convention. Among other things, it states:

[2342] Under Article 48 of the Convention, the Depositary is obliged to keep all Contracting States informed of, amongst other things, such declarations; see Article 48.

(331.) A question may arise concerning the role of the court in a receiving country which has to make the final adoption order. In the situation in question, the court applies its national law to determine that the child is adoptable before making the order. In theory, the court could find that the child is not eligible for adoption under national law (including its rules of private international law) and the adoption order cannot be made, even though the child was declared eligible for adoption by the State of origin. It is to be hoped that, before any adoptions take place, a receiving State will have made known any limitations in its own law so that any defect in the procedures or obstacle to the adoption would have been identified in the receiving country before the adoption reached this late stage. The Convention makes clear in Article 4 that it is the State of origin which determines the adoptability of a child residing in that State. This decision is made in accordance with the national law of the State of origin. However, the receiving State may have different criteria for a child's eligibility for adoption, and a child who does not meet the legal criteria for eligibility in the receiving State should not be proposed or considered for adoption by that State. A solution may also be found in Article 17(c) of the Convention, according to which the adoption may not proceed if the requirements of the Convention and the laws of each country have not been met.

[…]

(334.) Central Authorities and accredited bodies must be satisfied that the necessary consents have been obtained. Article 16(2) requires that proof of consent be provided to the Central Authority of the receiving country. Article 17(c) requires that both Central Authorities be satisfied that the Convention's requirements have been met before giving their agreement that the adoption may proceed to finalisation. Chapter 2.2.3 of this Guide describes in detail the precautions that Contracting States should take to ensure that the necessary consents are obtained with due regard for the rights of all the parties concerned.

[…]

(373.) (Article 17(c)) provides one of the most important procedural safeguards in the Convention. If it becomes apparent that the proposed adoption is not in the best interests of the child, or that there has been a significant defect in the procedure, the Central Authorities must not give their agreement under Article 17(c) that the adoption may proceed.

[…]

(539.) As stated in paragraph 337 of the Explanatory Report on the Convention, the intention behind Article 17(c) is to enable either State – the State of origin or the receiving State – to prevent an adoption from proceeding if it appears to either that it presents major legal obstacles.

(540.) The Convention and the Explanatory Report do not specify what those major legal obstacles may be. That is a matter which the Convention leaves to be determined by individual States.

(541.) How precisely the Central Authority may exercise its discretion under Article 17(c) is, therefore, a matter for the law of the State concerned. It is quite possible that, under the law of that State, there are general requirements regarding the exercise of such discretion – for example, that it should be exercised reasonably. Where that is the case, it could well be argued that a reasonable exercise of discretion is one which takes account of the general principles underpinning the Convention, as set out in the Preamble, and which focus on the interests of the child (see also Chapters 8.2.5, 8.6.1, 8.6.2, 8.7.1 and 8.8.3).

The Guide thus shows that Article 17(c) allows the central authorities in both the country of origin and the receiving country to halt an adoption that contravenes the legal rules of either State. Even if the authorities in the child's country of origin find that the conditions regarding release and subsidiarity are met, the central authority in the receiving country has the legal right to review both these conditions and the match before granting consent for the adoption to proceed.

23.3.2.4 Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption, 2023

In 2023, the Hague Conference published a *Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption*. This document was published by the Secretariat in The Hague, but is based on proposals from a working group in which the Norwegian Central Authority was also represented.

The document outlines a number of practical measures that can be taken during the adoption process.

A separate section concerns *'Acceptance that the adoption may proceed by the Central Authorities of the State of origin and the receiving State*'. It states that this point is linked to the points concerning identity, subsidiarity, consent, unknown parents and matching. The aim is to ensure that the conditions for consenting to proceed with the adoption are met before an Article 17(c) consent is issued.

At this stage of the process, one should 'watch out' for the following matters:[2343]

> Any indications of apparent irregularities that may affect the child's identity, their adoptability or the intercountry adoption process in general. This could be done, for example, by carefully reviewing all documents to verify that:
>
> - there are no possible indications that the documentary evidence (e.g., a birth registration, birth certificate, death certificate(s)) may not be authentic;
> - there are no indications of possible inconsistencies amongst the various documents regarding identifying information on the child or their legal parents and/or regarding the child's life story (e.g., birth and/or death certificate(s); consents to adoption; report on the child; medical reports; judicial decision on adoptability);
> - there are no indications that the principle of subsidiarity may not have been given due consideration, including in the case of intra-family adoption;
> - in the case of a child of unknown parents, there are no indications that the applicable procedures of the State of origin for verifying the identity of children in such cases were not duly followed;
> - there are no indications of possible inconsistencies between the form and content of the consent(s) and the standard forms normally received from the State of origin;
> - where the child was declared adoptable as a result of a judicial or administrative decision, there are no grounds for concern regarding the authenticity of that decision, or of any document recording a previous decision on the removal of the parent(s)' parental responsibility; this presupposes that a certified copy of the decision(s) has been provided to the receiving State;
> - there are no indications that there may have been contact between the parent(s) and the prospective adoptive parents (PAPs)[2344] prior to consent being given, unless the adoption is an intra-family adoption or the contact was in accordance with the conditions established by the State of origin;
> - there are no indications of possible contact between the child and the prospective adoptive parents prior to the child being declared adoptable and the prospective adoptive parents being declared eligible and suitable to adopt, or,

[2343] Toolkit, section 47.

[2344] PAP is an abbreviation for 'prospective adoptive parents'.

after such declarations were made, that any such contact was not authorised and supervised by the competent authorities;
- there are no indications that the PAPs were not properly assessed;
- there are no indications that the matching process was circumvented; and
- there are no indications of inducement through pressure, coercion, payment or compensation of any kind, or of corruption.

In Bufdir's 'Assessment of the temporary suspension of international adoption', section 5.6, the document is summarised as follows:

> In June 2023, the Hague Conference on Private International Law published new guidance providing a practical and educational explanation of the assessments at the various stages of an international adoption process.
> In summary, it is stipulated that the competent authority in the receiving State, upon receiving a referral from abroad, must carefully examine all case documents in terms of both their content and the consistency between the information provided, the legal documentation and the authenticity of the documents. This applies in particular to the child's identity, the conditions under which a child may be adopted and the observance of the principle of subsidiarity. Supplementary documentation or information must be requested if necessary. If there are indications of uncertainty regarding, for example, the child's identity or consent to the adoption, the placement cannot be accepted and the receiving country cannot consent to the adoption proceeding.
>
> The Hague Conference's guidance clarifies the receiving State's responsibility for both document verification and ensuring that the preceding process complies with the Convention's requirements. The guidance clarifies the checks to be carried out in connection with the approval of placements and the issuance of the Article 17(c) consent.[2345]

23.3.3 Article 17(c) of the Hague Convention in Norway

23.3.3.1 Norway's ratification of the Convention

In the parliamentary bill proposing Norway's ratification of the Convention, St. prp. 77 (1995–96), Article 17(c) is discussed as follows on p. 16:

> The State of origin must furthermore ensure that the central authorities in both States consent to the adoption taking place, cf. Article 17(c). This will not normally pose any problem from the Norwegian perspective. Both the prior approval from the State Adoption Office and any approval pursuant to Article 17(b) will have been obtained at this stage of the proceedings.
>
> As regards the question of what should happen if the State of origin and the receiving State cannot agree on a specific 'matching', the Ministry of Children and Families interprets Article 17(c) to mean that the adoption cannot then be carried out. In other words, it is a prerequisite that the central authorities in both States give their consent for the adoption to take place.

The bill made no mention of Article 17(c) in connection with the explanation of the delegation provision in Article 22.

23.3.3.2 The Ministry of Children and Family Affairs' letter to the adoption agencies, 1997

A letter from the BFD to the three adoption agencies dated 19 December 1997 concerning ratification states that the administrative consequences of Norway's accession to the Convention are limited. 'The Ministry would nevertheless like to take this opportunity to provide some clarifications regarding current practice in connection with the Convention now coming into force at the turn of the year.'

[2345] Bufdir's recommendation on a temporary suspension of international adoptions, 10 January 2024.

A section entitled 'Consent to adoption – Article 17(c)' states, amongst other things:

> According to the second sentence of Section 22 of the Adoption Act, prior consent has the legal effect that, once granted, the intercountry adoption is directly recognised here in Norway. The same provision states that the Ministry may decide that the adoption shall have the same legal effect as a Norwegian adoption. In other words, the processing of an application for prior consent also involves an assessment of how the adoption is to be arranged in the individual case. It follows from this that prior consent not only grants permission to initiate an adoption case, but also to carry out and finalise the adoption case in the country concerned.

The Ministry thus interpreted the Adoption Act to mean that prior consent constituted consent to carry out and finalise the adoption case. The checks provided for in Article 17(c) of the Convention were neither mentioned nor assessed.

23.3.3.3 Circulars containing guidelines on the Adoption Act, 2002, 2009, 2016 and 2020

In domestic legislation, Article 17 is first mentioned in the BFD's circular containing guidelines on the Adoption Act from 2002, Q-2002-1045. It does not explicitly mention the declaration under Article 17(c). The following extract from the circular describes the responsibilities under Article 17, but appears to focus primarily on the responsibility to provide the parents with information about the child:

> In connection with the placement, it is very important that the organisation passes on to the applicants the information that has been prepared about the child and made available. The organisation has a particular responsibility here to ensure that the information meets the requirements and conditions set out in Article 16 of the Hague Convention, cf. Article 17. If necessary, the organisation must take proactive steps with the authorities in the country of origin to obtain the information that is available, including health information about the child.
>
> On the basis of the information obtained about the child, the applicants decide whether they wish the adoption process to continue. The organisation then obtains the applicants' consent to the adoption of the child who has been selected for them and forwards this consent to the authorities in the country of origin. The organisation informs the applicants of when the adoption itself can take place and, if applicable, when they may travel to the country to collect the child.

The wording in the first paragraph is repeated in later updated circulars from the Ministry, Q-2009-1045 and Q-2016-1046. The 2016 circular also states that, when allocating a child, adoption organisations must assess whether the applicants' prior consent is sufficient for the adoption to proceed, and a footnote specifies that:

> In cases where the child's country of origin has acceded to the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, the organisation must also issue a declaration in accordance with Article 17(c) of the Convention. The declaration must be provided on a form drawn up by Bufdir.

The most recent and currently applicable circular, Bufdir-2020-9002, contains broadly the same wording; see section 5.2. (Bufdir took over responsibility for the circular relating to the Adoption Act in 2019).

23.3.3.4 Process in 2003–2004

On 16 May 2003, BUFA (the Norwegian Directorate for Children, Youth and Family Affairs) wrote a letter to BFD entitled 'Delegation of authority to adoption associations to grant consent under Article 17(c)'. The letter explains that the authorising authority under Article 17(c), apart from the special allocations, has de facto been delegated to the associations, and that the question of formal delegation 'has been under discussion for a long time'. BUFA proposed that the authority should be delegated to the adoption associations, and BUFA considered that it was the Ministry, and not the central authority, that should take the decision on delegation.

The letter states, amongst other things:

> The checks prior to granting consent under Article 17c must include verification that the child has been released for adoption and lawfully placed with the applicants in the country of origin. This must, of course, also be verified by the central authority in the child's country of origin. Furthermore, it must be verified that the placement is in accordance with the applicants' prior consent; most practically, that the child's age falls within the age range specified in the prior consent. However, the verification may also concern the fact that the applicants have not been allocated a pair of siblings where they have been approved for one child, or, if the prior consent exceptionally relates to a specific child, that it is in fact this child that the applicants have been allocated.

A further concern is that the case may involve a child with special needs or of an age that raises legal issues. It is conceivable that placing the child with the applicants would not be in the child's best interests because the applicants do not have sufficient resources to care for a child who, for health or other reasons, has special needs. BUFA assesses this as follows:

> This will also serve as a legality check, because in Norway it is a legal requirement for adoption that it can be assumed the adoption will be in the child's best interests, cf. Section 2 of the Adoption Act. Norway must therefore be able to veto a proposed placement if we find that, according to our interpretation of Section 2 of the Adoption Act, the placement does not sufficiently safeguard the child's interests and needs.

The section on which body is to give consent states:

> Who, then, is to grant consent under Article 17c? […] We are thus left with the associations, which have in fact always performed this task. As already mentioned, granting this consent constitutes the exercise of public authority and must be established as an administrative decision. We therefore do not see which bodies other than the associations could be relevant. Nor will there be any significant expansion of the associations' remit, although a formal delegation will probably entail a marked intensification of the associations' involvement and case handling.
>
> In the event of formal delegation, the delegation decision must set out strict requirements regarding both the case handling and the associations' assessment of each individual allocation. [...] They must also be prepared to refuse to give their consent for the adoption process to continue if it proves impossible to obtain satisfactory and comprehensive information about the child's medical and social background in accordance with the requirements of the Convention and Norwegian legislation. [...]
>
> Any delegation of authority should be followed up with relatively close monitoring on our part, at least during a transitional phase (cf. the Danish annual report). On the other hand, the Directorate for Children, Youth and Family Affairs is obliged to rely on the associations' loyalty in these matters, as we are unable to follow up on every single case. A written and formalised decision-making process can help to raise the associations' awareness of the seriousness with which these matters must be handled. …

In summary – assuming delegation to the associations – BUFA states that the arrangement will be as follows:

> Special allocations
>
> Consent under Article 17(c) is granted by the
>
> Professional Committee […] Other allocations
>
> Consent under Article 17(c) is granted by the adoption associations, which either
>
> - Agree that the adoption process may continue – the applicants are notified
> - Refuse to consent to the adoption process continuing because
>   1. the proposed placement falls outside the applicants' pre-approval – the applicants and BUFA are notified

2. the information regarding the child's medical and social background is insufficient and it has not been possible to obtain further information from the country of origin – the applicants and BUFA are not notified during the assessment phase, but only once the decision to refuse consent has been made

- the case is classified as a special placement and referred to the Professional Committee for consideration, either immediately or after further information has been obtained from the country of origin. The case then follows the procedure described in point A.

During the BFD's consideration of the case, the case officer drew up an internal 'problem note' to which the committee has been granted access. The note states:

> This is an issue that BUFA has repeatedly raised with us, first at a meeting several years ago. During that meeting, we asked BUFA to summarise its arguments in writing so that we could assess them in more detail. It was not until May 2003 that the issues were submitted to us.
>
> This has been a difficult matter, partly because we have struggled to fully understand the content of BUFA's letter, and partly because the issue is of a highly technical nature. However, we must take seriously the fact that BUFA believes we are not fully in compliance with the Convention.

The issue is presented as follows:

> BUFA has long been concerned with issues relating to Article 17(c). The Office considers that the prior consent to the adoption of children from abroad under Section 16e of the Adoption Act is not sufficient to meet the requirement for consent under Article 17(c) of the Hague Convention […]
>
> BUFA considers that the verification required under Article 17(c) involves checking whether the child has been released for adoption and placed with the applicants lawfully in the country of origin.
>
> The assessment of BUFA's proposal states:
>
> BUFA's proposal may furthermore be interpreted to mean that one cannot fully rely on the country of origin complying with the Hague Convention and the provisions of Article 16 governing what information must be provided about the child. BUFA therefore appears to be proposing the establishment of a system based on the assumption that the Hague Convention is not fully complied with by the country of origin. If the country of origin does not provide satisfactory information about the child prior to adoption, this should be identified in connection with the adoption organisations' applications for a placement licence, and/or BUFA should, through the Hague Convention cooperation, seek to influence the country of origin to provide even better information about the child at the time of placement. […]
>
> […]
>
> This may suggest that it is appropriate for the adoption organisation to issue the consent itself in accordance with Article 17(c) of the Hague Convention in cases where the placement falls within the scope of, or is in accordance with, the applicants' prior consent. [...] The issue of consent will therefore merely entail a decision confirming that the circumstances of the specific case are such that the adoption process may continue. [...]
>
> Adoption agencies must not be able to refuse to give consent for the adoption process to continue, as proposed by BUFA. […]

The Ministry followed this up with a letter to the three adoption agencies entitled 'The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, Article 17', dated 3 March 2004. It states:

> The Ministry continues to take the view that prior consent to adoption under the Adoption Act Section 16e, read in conjunction with the procedure for handling cases concerning special placements, is, in principle, sufficient to fulfil the requirement for consent under Article 17(c) of the Hague Convention.

> The Ministry nevertheless recognises that it may be appropriate to clarify the organisations' tasks and role at this stage of the adoption process by issuing written consent for the adoption process to continue. […]
>
> The prior consent given pursuant to Section 16e of the Adoption Act will form the basis for the organisation's issuance of the consent. In the Ministry's view, the consent under Article 17(c) does not imply that the adoption organisations are making any individual decision in the case. What the organisation must assess is whether the proposed placement falls within, and is therefore in accordance with, the terms of the applicants' prior consent.

23.3.3.5 Bufdir's letter to the adoption agencies, 2007

On 10 January 2007, Bufdir sent a letter to the three adoption agencies entitled 'Submission of a form pursuant to Article 17(c) of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption'. The letter was not a formal delegation, but was accompanied by a form which was to be 'used from now on in international adoptions' when the organisations were to confirm to the authorities of the country of origin that the adoption process could proceed in accordance with Article 17(c). Neither the letter nor the attached consent form contained any information regarding which documents were to be obtained from the country of origin, or that documents and information from the country of origin were to be verified.

23.3.3.6 The Hove Committee's assessment and proposals, NOU 2009: 21

The Hove Committee considered that the wording in the Ministry's letter dated 3 March 2004 – 'the prior consent to adoption pursuant to Section 16e of the Adoption Act, in conjunction with the procedure for handling cases concerning special placements' – was not sufficient to meet the requirement of Article 17(c) of the Hague Convention. The Hove Committee proposed that it should be formalised in legislation that the central authority is responsible for issuing the Article 17(c) declaration. The Committee considered that the task of issuing the declaration could be delegated to adoption organisations, but did not advocate such a solution. The Hove Committee pointed out that the proposal had to be seen in the context of the Committee's recommendation that the authorities should have greater responsibility in the placement process (pages 155–156).

The Committee proposed that this should be organised in such a way that the declaration would be issued by a regional council within the Bureau of Adoption. This proposal regarding a regional council was not taken up by the Ministry.

Few consultation bodies commented on this issue.

Bufdir supported the Hove Committee's view that the adoption authorities should have greater responsibility in the placement process, but considered that further consideration should be given to how this could best be achieved (consultation response from Bufdir, 25 May 2010). Bufdir pointed out that care must be taken to ensure that this part of the adoption process should not be unnecessarily bureaucratic and time-consuming, and that applicants should be guaranteed equal treatment to the greatest possible extent (p. 17).

However, Bufdir did not support the Hove Committee's proposal that the five regional councils should approve placements from abroad and issue Article 17(c) declarations. Bufdir considered that it should itself hold both roles: as the central authority under the Hague Convention and as the supervisory authority for adoption organisations (p. 18):

> By carrying out these tasks, Bufdir will be able to gain useful insight into how adoption organisations operate, thereby increasing its ability to monitor their activities. The power to issue a declaration under Article 17c also constitutes one of the Hague Convention's most fundamental procedural safeguards, and it is assumed, as a matter of principle, that this power should be exercised by the Central Authority itself.

Adoption Forum, on the other hand, took the view that adoption organisations should continue to be responsible for issuing Article 17(c) declarations. Adoption Forum referred both to the responsibility for issuing Article 17(c) declarations, the Hove Committee's proposal that there should be a right of appeal against any rejections, and the Hove Committee's proposal that a new certificate of good conduct should be required in connection with the allocation of a child (Adoption Forum's consultation response dated 19 May 2010, pp. 7–8):

> The committee's proposal is often practically impossible given the response time required by certain partner countries. In some countries, the courts may require families to accept the placement within a few days and to attend a scheduled court hearing on a predetermined date shortly thereafter. If a 'standard' allocation under a given prior consent is always to be 'reviewed' by the Norwegian bureaucracy, in many cases the family will be unable to comply with such requirements from foreign authorities or courts and may lose the allocation.
>
> The Norwegian authorities must trust that foreign authorities follow the necessary procedures in accordance with the Hague Convention and the 'Guide to Good Practice'. The State should therefore continue to delegate authority to authorised adoption agencies to implement Article 17c of the Hague Convention in this area, as is currently the case. The Norwegian organisations are also accredited by foreign authorities and have thus earned their trust to handle these cases. The agencies have the best knowledge of judicial and administrative practices abroad and are well placed to assess whether a case can proceed. Withdrawing this authority from the Norwegian agencies would be a step backwards and could increase the waiting time for the child.
>
> Only where the request for child matching contains information that contravenes the prior consent (e.g. an older age) or where information emerges regarding the child's health or similar matters that warrants further consideration by the regional adoption council should the associations refer the cases to Bufetat/the regional councils for further assessment. This is in line with Danish practice as described in the committee's report (p. 229).

23.3.3.7 The Adoption Law Committee's assessment and proposals, NOU 2014: 9

The Adoption Law Committee, which in NOU 2014: 9 presented proposals for a new Adoption Act, also assessed Article 17(c) of the Hague Convention. The Adoption Committee considered that the issuance of an Article 17(c) declaration is linked to the assessment of the placement allocated to each individual adoption applicant. The authority responsible for assessing whether the placement of a child falls within or outside the applicants' prior consent, or constitutes a special placement, should therefore also issue the Article 17(c) declaration. It would be inefficient and inappropriate to assign these two tasks to two different bodies. The Adoption Law Committee proposed that Bufdir itself should assess the placements made by the countries of origin of children residing abroad.
The Committee considered at the time that Bufdir should also be responsible for issuing Article 17(c) declarations under the Hague Convention.

The Adoption Law Committee emphasised that this was a task that should not be delegated to adoption organisations.

Section 22 of the draft bill concerning the placement of children from abroad read as follows:

> The child's country of origin places children with an applicant who has been granted prior consent to adopt. The placement must be approved by the Directorate for Children, Youth and Family Affairs. When granting approval, an assessment shall be made as to whether the child requires special support; if so, the Directorate shall obtain a statement from the Advisory Committee on Adoption Cases. This statement shall be given considerable weight in the decision on approval.

The explanatory notes to this proposal state (page 402):

> As mentioned, the system under the Hague Convention is based on the parents in the receiving country being pre-approved by the authorities there, whilst the country of origin selects children for adoption, cf. the draft of Section 22, first sentence. The specific 'matching' of applicants and parents must be assessed by the authorities in both countries, and the Norwegian adoption authorities must determine that the adoption process may proceed, cf. the requirement for a declaration under Article 17(c) of the Hague Convention. The draft
> Section 22, second sentence, implements this obligation by stipulating that the Norwegian Directorate for Children, Youth and Family

shall approve the placement. This decision is not an individual decision under the Public Administration Act, but, like other decisions, is subject to the general provisions of Chapters II and III of the Public Administration Act and to the unwritten requirements for proper case handling. These cases are often urgent because the adoption process is ongoing in the country of origin, and the Directorate must organise the case handling so that cases can be decided with due speed.

Such an organisational structure would draw a clear distinction between the assessment of whether applicants should be granted prior consent to adoption – as a response to their application for adoption – and the assessment of whether the specific placement should be approved by the Norwegian authorities. The Committee considered that these must be regarded as two distinct and independent assessments. Whilst prior approval is a more abstract assessment, the actual placement concerns a specific child about whom the adoption authorities have information, and where the authorities can assess the 'match' between the applicants' characteristics and the child's needs.

During the consultation process, the proposal met with opposition. The consultation responses are reproduced in Prop. 88 L (2016–2017), section 17.8.3:

> Those who have submitted consultation responses are opposed to or sceptical of the proposal. *Adopsjonsforum, InorAdopt* and *Verdens Barn* point out that the deadlines set by partner countries are very short. The adoption organisations fear that Norwegian parents may lose placements due to delays in case processing.
>
> *Bufdir* does not support the proposal in the draft Section 22, which establishes an absolute rule that Bufdir must approve all placements. Bufdir states:
>
> '*Bufdir* supports the Adoption Law Committee's assessment that the body responsible for approving foreign authorities' placements of children for adoption should normally also issue a declaration in accordance with Article 17(c) of the HagueConvention on Intercountry Adoption of 29 May 1993, Article 17(c), as confirmation that the placement has been approved and that the adoption process may continue (Article 17(c) declaration).
>
> In Bufdir's view, it is important to distinguish between having formal responsibility for approving placements and for issuing Article 17(c) declarations, and being responsible for the practical implementation of these tasks. Even if the practical implementation is delegated to others, responsibility under Article 17(c) of the Hague Convention will still lie with Bufdir.
>
> In previous consultation responses, Bufdir has stated that the responsibility for issuing Article 17(c) declarations should lie with Bufdir. This is because the issuance of such declarations is an important procedural safeguard ensuring that international adoptions take place in accordance with the rules and principles of the Hague Convention. Bufdir maintains its previous view that the responsibility for approving placements made by foreign authorities and issuing Article 17(c) declarations should lie with Bufdir. This is in line with the provisions of the Hague Convention, which assigns responsibility to the Central Authority (in Norway, this is Bufdir).
>
> Under the Hague Convention, the Central Authority may delegate the practical task of issuing Article 17(c) declarations to others. Currently, the tasks of approving placements that are not to be referred to a professional committee and of issuing Article 17(c) declarations are delegated to adoption organisations. It is Bufdir's experience that the organisations generally carry out these tasks in a sound and efficient manner. Bufdir fulfils its responsibilities under the Hague Convention by supervising the organisations' activities. Supervision is carried out both generally and specifically in individual cases. As the supervisory authority, Bufdir has the power to order an organisation to change its practices or to withdraw its right to approve placements and to issue Article 17(c) declarations, should the organisation's practices be deemed unsound.
>
> Bufdir therefore proposes that a new second paragraph be added to the draft Section 22, granting Bufdir the authority to delegate the task of approving placements made abroad to other public bodies and approved adoption organisations.'
>
> *Bufdir* further states:

> 'If Bufdir's proposal to continue the current arrangement whereby adoption organisations can approve placements is supported, the task of approving placements to be submitted to the Advisory Committee should nevertheless remain with Bufdir. In practice, this would mean that if a placement concerns children over the age of five, groups of siblings or children who, for other reasons, require special support, the case must be submitted to Bufdir for assessment and approval. Bufdir will seek advice from the Advisory Committee and, on the basis of their assessment, decide whether the placement can be approved. In Bufdir's view, the task of issuing Article 17(c) declarations on the basis of Bufdir's approval may lie with the organisations. […]'

23.3.3.8 Bill 88 L (2016–2017)

The Adoption Act Committee's proposal was not taken up in the Ministry's draft bill. In section 17.8.4 of the draft bill, the Ministry stated that it agreed with the Committee's assessment that the assessment of placements by the country of origin is, in principle, a task for the authorities that requires approval by the Norwegian authorities.

The Ministry referred to the consultation process, during which both the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) and the adoption agencies raised objections to the proposal that agencies should no longer carry out the assessment of quotas from the country of origin, provided that these do not include children with special needs. The deadlines set by partner countries can be very short, and applicants may lose placements if the process is not completed quickly enough. The organisations have direct contact with foreign organisations. Even if the performance of these tasks is delegated to the approved adoption agencies, the authorities will still retain responsibility for them.

The Ministry stated:

> Under the Hague Convention on Adoption, it is permissible to delegate the task of issuing Article 17(c) declarations to adoption organisations. Bufdir proposes that these tasks may be delegated to the adoption organisations. In connection with this delegation, Bufdir may instruct the organisations on the practices they are expected to follow when assessing placements and when issuing Article 17(c) declarations. Furthermore, Bufdir is responsible for supervising the adoption organisations, which enables it to monitor the organisations' practices relating to various aspects of these tasks.
>
> The Ministry proposes that the Act should make it clear that the Ministry (the adoption authority) is responsible for approving the placement of children, cf. section 22, first paragraph, of the draft Act. However, it is envisaged that the task of placements may be delegated to adoption organisations provided that the placement falls within the scope of the applicants' prior consent, cf. section 22, second paragraph, of the draft Act. This responsibility also includes the task of issuing a declaration under Article 17(c) stating that the adoption may proceed. It is envisaged that this task will also be delegated to the adoption organisations. This should be viewed in the context of the remit of the Central Authority for the Hague Convention of 29 March 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption. The Central Authority may, however, delegate these tasks to organisations holding a placement licence and an operating licence. Reference is made to section 17, first paragraph, second sentence, of the draft Act.
>
> With regard to the approval of placements of children with special needs, the Ministry does not propose that this task should be delegated to adoption organisations. In such cases, the organisations will nevertheless be able to issue a subsequent Section 17c declaration stating that the adoption may proceed, as soon as the placement has been approved by Bufdir and has been considered by the new advisory committee for adoption cases.

23.3.3.9 Section 22 of the Adoption Act: Placement of children from abroad

In line with the proposal in the bill, the provision in Section 22 of the Adoption Act was worded as follows:

The country in which the child is habitually resident shall place the child with an applicant who has been granted prior consent to adopt. The placement must be approved by the adoption authority. Prior to approval, an assessment must be made as to whether the child requires special support. If the child requires special support, an opinion must be obtained from the Expert Advisory Committee on Adoption Cases. When deciding whether to approve the placement, great weight must be given to this opinion.

The adoption authority referred to in the first paragraph may delegate the power to approve placements of children from abroad to organisations authorised under Sections 31 and 32.

The Adoption Act contains no provision for checks to be carried out before consent is given to proceed with the adoption following a matching proposal from the country of origin.

The explanatory notes to the provision state that the second paragraph grants the central authority the power to delegate its tasks to approved organisations, and that it is ‘appropriate to continue the current arrangement whereby adoption organisations are delegated responsibility for the placement of children where this falls within the scope of the prior consent held by the applicants, and that they may issue an Article 17(c) declaration to the authorities in the child’s country of origin stating that the adoption may proceed’.

In a letter from Bufdir dated 14 August 2018, authority under Section 22 of the Adoption Act was delegated to Adopsjonsforum, Verdens Barn and InorAdopt. Neither the letter nor the attached consent form contained any information regarding which documents were to be obtained from the country of origin or that documents and information from the country of origin were to be verified. The delegation was time-limited until 1 October 2019. It is clear that the delegation was not extended before it expired, but that the adoption agencies continued to issue Article 17(c) declarations even after October 2019.

23.3.3.10 Rejection of an application for a renewed authorisation to act as an adoption intermediary for children from Vietnam, 2021

In 2017, the Ministry of Justice, Department of Adoption in Vietnam, sent an enquiry to Bufdir regarding which documents the Norwegian authorities required before issuing an Article 17(c) declaration.[2346] Bufdir replied in a letter dated 24 October 2017 that it required Adopsjonsforum to obtain the following documents before an Article 17(c) declaration could be issued:

Matching letter from the Department of Adoption in accordance with Article 17(c) of the 1993 Hague Convention, including the document ‘Brief Information on the Family and Social Situation of the Child who is released for Foreign Adoption’

Birth certificate

Declaration of abandonment or proof that the child is available for adoption Documentation of the

decision to place the child at the Social Protection Centre

Report and minutes concerning the discovery of the abandoned child (relevant only in cases where the child was found abandoned)

One or more recent health certificates or medical reports issued by the Provincial Department of Health, a hospital or a doctor

Referral letter from the Department of Adoption requesting that the Norwegian AAB contact the Social Protection Centre to arrange healthcare and support for the child and to find a suitable adoptive family (relevant only in cases where the child is registered on List 2)

Adopsjonsforum’s application for a renewed placement licence for Vietnam in 2021 was rejected by Bufdir 20 October 2021. Adopsjonsforum lodged an appeal with the Ministry of Children and Families.

[2346] Letter dated 21 August 2017.

Bufdir prepared the appeal case. The Directorate's letter to the Ministry of Children and Families dated 21 December 2022 states that the reason for the rejection was that there were several weaknesses in the adoption process in Vietnam, which meant that the Norwegian Central Authority was not certain whether the principles of the Hague Convention had been upheld. Emphasis was placed on findings from a review of individual cases from Vietnam. There were doubts as to whether the principle of subsidiarity had been followed in the case of children with health issues, and there was uncertainty regarding the financial aspects of international adoptions. Furthermore, it was specifically pointed out that Adopsjonsforum lacked procedures for ensuring that documentation proving compliance with the principle of subsidiarity was either submitted or requested. The Directorate noted in the letter on page 2:

- In several cases where the biological parents are said to have consented to the adoption, the Vietnamese central authority has not forwarded, and Adopsjonsforum has not requested, consent forms proving this.
- In several cases, there is a lack of documentation showing
  - what efforts have been made to locate the biological parents and to obtain their consent to the adoption, or what measures have been taken to help the family to care for the child themselves (level 1 of the principle of subsidiarity), and
  - what attempts have been made to find an adoptive family for the child in Vietnam (level 2 of the principle of subsidiarity).

Another key issue was whether the documentation requirements had been met. Bufdir pointed out that the Hague Convention sets out minimum requirements regarding which documents must be sent to the receiving State in each individual case. As the responsibility for issuing 17(c) declarations had been delegated to the adoption agencies, Bufdir considered that Adopsjonsforum should have ensured that this information was forwarded. The letter states on pages 7–8:

> The documentation to be sent to the authorities in the receiving State is set out in Article 16(2) of the Convention: The Central Authority of the State of origin shall send to the Central Authority of the receiving State its report on the child, proof that the necessary consents have been obtained and the grounds for its decision on placement.
>
> The Convention does not contain a list of the documentation that must be forwarded in order for the Convention's requirements to be deemed to have been met. However, it can be inferred from Article 16(2), read in conjunction with Article 16(1), that the following, at *a minimum*, must be forwarded from the State of origin to the receiving State:
>
> - A report on the child, which must include information on the child's identity, whether the child is eligible for adoption, the child's background, social environment, family history, medical history (including that of the child's family), and any special needs the child may have
> - Evidence that the necessary consents have been obtained
> - The grounds for the decision on placement. […]
>
> Bufdir maintains, therefore, that inadequate documentation in several of the cases it has reviewed in connection with decisions and the handling of appeals regarding placement authorisation for Vietnam makes it difficult to assess, as required by Article 16(2) of the Convention,
>
> - whether there are sufficient grounds to place the child for adoption,
> - whether the principle of subsidiarity has been observed,
> - whether the necessary consents have been obtained,
> - whether international adoption is in the best interests of the child.
>
> Given that responsibility for issuing Article 17(c) consent has been delegated to adoption agencies, the adoption agency has an important responsibility to liaise with foreign authorities

> to ensure that the necessary evidence and documentation are in place, as mentioned above, so as to guarantee that the international standards set out in the Convention are upheld in specific cases.

The Ministry upheld Bufdir's rejection in its decision of 15 September 2023. The Ministry essentially concurred with Bufdir's assessments, with a few additional comments.

23.3.3.11 Stricter Section 17c conditions in new placement licences in 2022

In the placement licences granted to the three adoption agencies in 2022, Bufdir tightened the conditions under which the agencies could grant Article 17c consent. This took place in connection with applications for the renewal of placement licences. All three agencies were subject to such conditions during 2022.

The decision of 29 December 2022 regarding the renewal of Verdens Barn's placement licence for South Africa states:

> Before an Article 17(c) declaration is issued, Verdens Barn must, in each individual case, ensure that:
>
> 1) The child's identity has been verified.
>
> 2) The necessary consents have been obtained and are attached.
>
> 3) No persons or organisations, etc., involved in the adoption derive undue financial gain.
>
> 4) The principle of subsidiarity has been upheld. Among other things, we request – as discussed at the meeting between ABBA Adoptions and Bufdir on 6 September 2022 – that each case should include information on the specific measures taken during the period in which the child is listed in the register for domestic adoption, with a view to finding a family for the child in South Africa.
>
> 5) Verdens Barn can verify the authenticity of documents, stamps and signatures.
>
> 6) Following a comprehensive assessment, Verdens Barn finds that the necessary documents are in place and that the case files contain sufficient information about each individual child, the specific child's situation, as well as regarding the child's biological family and their situation, to enable the adoption agency and the Norwegian adoption authority to assess whether international adoption is in the best interests of this particular child and whether the conditions of the Convention are met.
>
> Bufdir supervises all aspects of Verdens Barn's activities and may issue orders to rectify matters that contravene the law, regulations or the conditions of the licence. The licence may be revoked if the law, regulations or the conditions of the licence are not complied with, cf. Section 34 of the Adoption Act.

Similar wording is contained in the letter to Adopsjonsforum dated 18 November 2022 concerning the decision to renew the placement licence for Peru, and in the letter to InorAdopt dated 17 December 2022 concerning the decision to renew the placement licence for Bulgaria.

23.3.3.12 Bufdir's proposal for a temporary suspension

On 10 January 2024, Bufdir recommended a temporary suspension of international adoptions. The proposal included a section 5.6 'specifically concerning responsibility and authority to confirm that the adoption process may continue'. This section refers to the Hague Conference's Toolkit from June 2023. Bufdir's summary of the contents of the guide is quoted earlier in section 23.3.2.4.

Bufdir assesses the implications of the guide as follows:

> The Hague Conference's guidance clarifies the receiving State's responsibility for both document verification and ensuring that the preceding process complies with the Convention's requirements. The guidance entails a clarification of the checks carried out in connection with the approval of placements and the issuance of the Article 17(c) consent.

> Norwegian stakeholders, and in particular adoption organisations, have so far focused primarily on obtaining thorough documentation regarding the child's background and any potential health issues in order to provide comprehensive information to prospective adoptive parents. Expectations regarding how organisations should carry out document checks have recently been tightened, and, as mentioned above, Bufdir has implemented measures to strengthen the oversight of adoptions from abroad to Norway. We are working to implement a practice within the organisations that ensures the necessary legal documentation is in place at every stage of the process, demonstrating that the child has been lawfully released for adoption.
>
> Implementation of the Hague Conference's guidelines will likely mean that fewer adoptions can be approved. To ensure that the required assessments are carried out in an ethical and responsible manner, high standards are set regarding the expertise and resources of the body responsible for the assessments.

Bufdir's recommendation included an alternative proposal that adoptions should not be suspended, but that the sector should be significantly strengthened in order to implement risk-mitigating measures. This entailed, amongst other things, that Bufdir should assume responsibility for assessing and, where appropriate, approving all placements from abroad, and is described as follows in section 9.4.1:

> Assessing whether the adoption process for children placed from abroad has been conducted correctly in the child's country of origin and meets the conditions set out in the 1993 Hague Convention is a major responsibility. In order to ensure, as far as possible, that adoptions to Norway are lawful, those responsible for carrying out these assessments must have a thorough understanding of the Convention's requirements and recommendations.
>
> With the exception of cases to be referred to the Expert Advisory Committee on Adoption Cases (FRU), Bufdir is currently not involved in individual cases until the adoption process has been completed. We only receive the adoption documents for archiving and registration once the process has been finalised abroad.
>
> In cases that have been considered by the Expert Advisory Committee on Adoption Cases and in registration cases, we have, as mentioned above, recently become aware that the legal documentation in particular is consistently incomplete. In all cases, there is a need to request further documentation. The documents are often not translated in their entirety. We therefore question whether it is possible to carry out the checks in a responsible manner. It is time-consuming for Bufdir to complete the case file. It is not uncommon for cases to have to be postponed before they can be considered by the Professional Advisory Committee for Adoption Cases.
>
> We find that adoption agencies place great emphasis on the applicants' circumstances and on expediting the process. In this context, there is a risk that adoption agencies may feel pressure from prospective adoptive parents who may have been on the adoption waiting list for several years, awaiting a placement. Consideration of time constraints and a desire to meet adoptive applicants' expectations may lead to less rigorous checks than required, and to the organisations failing to request, on their own initiative, documents that should accompany the child's case.
>
> The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) is also concerned about the financial situation facing some of the adoption agencies in the wake of the pandemic and following many years of a drastic decline in adoption figures. There is a general risk that organisations in such a situation may find themselves in a position where, for financial reasons, they are unable to refuse the placement of children with Norwegian applicants, despite the fact that the documentation is incomplete.
>
> In particular, assessments relating to documentation of the child's identity, whether the child has been lawfully released for adoption, and whether the principle of subsidiarity under the Hague Convention has been upheld, can be challenging. The responsible authority must verify that all relevant documentation is available, that the case has been sufficiently investigated, and that all documents have been issued by a competent authority. The responsible authorities must have the necessary assurance that the adoption has been carried out lawfully in accordance with the Hague Convention before consent is granted for the adoption to proceed.

> The new guidelines from the Hague Conference tighten the requirements regarding the checks that the relevant authority in Norway must carry out on documentation from abroad before consent to proceed with the adoption can be granted.
> The requirements have been clarified and procedures tightened.
>
> One risk-mitigating measure could be for the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) to take responsibility for assessing all allocations and the issuing of Article 17(c) consents. *The issuing of Article 17(c) declarations should therefore be carried out by Bufdir.*
>
> As explained above, this requires thorough checks in all adoption cases and will entail a need for additional resources to enable the Directorate to fulfil this important responsibility in a responsible manner.
>
> [*Italicised here.*]

The Ministry responded to the proposal in a letter to Bufdir dated 16 January 2024, entitled 'Assessment of a temporary suspension of international adoptions – Need for further investigation'. The letter also comments on Article 17(c) consents:

> The Ministry asks Bufdir to investigate in more detail the proposal that Bufdir should take over responsibility for assessing, monitoring and, where appropriate, approving all placements from abroad, including the issuance of consents under Article 17(c) of the 1993 Hague Convention. The Ministry understands that this task is currently carried out by the central authorities in Denmark and Sweden. We ask Bufdir to prioritise a more detailed examination of this in its future work, in consultation with the adoption organisations that currently issue Article 17(c) consents.

In 'Bufdir's recommendation on a temporary suspension of international adoption – response to follow-up questions', submitted to the Ministry on 16 April 2024, the consultation responses to the proposal that Bufdir should assume responsibility for assessing and, where appropriate, approving all placements from abroad are set out. Adoption Forum and InorAdopt considered it unfortunate to exclude the adoption associations from the process, and emphasised that Bufdir would need to be provided with sufficient expertise and resources if it were to assume all roles in the adoption cooperation.

Several others, such as the Organisation for Adopted People, Utad, NKRG and Adoption in Transition, supported the proposal, provided that international adoption were to continue.

Bufdir's assessment was as follows (pp. 47–48):

> In light of the experience we have gained from the more thorough review of cases when an adoption is to be registered, cases to be assessed by the FRU, and the review of specific placements in connection with the processing of applications for placement licences, Bufdir believes there is good cause for concern regarding the handling of these cases. The findings show that there is a lack of documentation for essential stages in the adoption process.
>
> Bufdir could have checked individual cases and the organisations' follow-up at an earlier stage, but, as mentioned above, has relied on the organisations to have checked these thoroughly in light of the tasks assigned to them.
>
> If the Ministry does not follow the recommendation for a temporary suspension, it is important to put in place an adoption system that is as secure and verifiable as possible, to ensure that all placements and completed adoption cases contain all the documentation necessary to verify the entire process – from the moment a child is taken into public care, through to the placement and until the adoption is finalised. This is to provide a high degree of certainty that the adoption has been carried out in the child's best interests in accordance with the Convention and that there are no indications of any unlawful conduct.
>
> We share the view of the consultation bodies that the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) must be provided with additional resources if the task of issuing Section 17c declarations is to be assigned to Bufdir. This is central to the successful implementation of this measure.

It is correct, as pointed out during the consultation, that Bufdir does not have the same relationships with stakeholders in our partner countries as the adoption organisations currently have, and that new staff at Bufdir will need to acquire knowledge about individual countries, requirements for applicants, etc. It will take time to recruit and build up the necessary expertise among new staff at directorate level. However, we consider that it will be less demanding for staff at the central authority – the majority of whom have higher education qualifications and most of whom are lawyers – to acquire practical country-specific knowledge than it is for staff at adoption organisations to familiarise themselves with the terms and requirements of the Convention and to keep abreast of developments in international legal guidelines. In the Directorate's experience, it has proved difficult for adoption organisations to reflect on the requirements the Convention imposes on their practical work beyond acting on detailed guidance from Bufdir at the level of individual cases.

The system in Norway must be organised in such a way as to ensure that there is no doubt that adoption processes will be halted if documentation for all stages of the process cannot be verified or if there is uncertainty regarding the authenticity or content of a document. In this regard, we consider it a strength that Bufdir has government funding that is independent of the number of adoptions completed, a team with legal expertise, and the opportunity to collaborate with the National ID Centre.

In addition, Bufdir has good access to medical and psychological expertise, as we can draw on the expertise within FRU when assessing all placements as required, cf. Section 42 of the Adoption Act and Section 16(3) of the Adoption Regulations, which state that 'When requested by Bufdir, the committee or members of the committee shall give their opinion on other individual cases and matters of principle.'

One positive effect is considered to be that Bufdir, as the central authority, assumes both comprehensive and direct responsibility for safeguarding the legal rights of children in every international adoption case, as far as this is practicable in Norway. As the system currently stands, responsibility is shared; this is considered to be a contributing factor to the inadequate documentation in cases and the fact that assessments of placements are rarely documented in writing.

As part of its work on document checks and the assessment of placements in individual cases, Bufdir will need to engage in direct dialogue with authorities and stakeholders in partner countries, which we regard as a positive development.

We consider that the body responsible for carrying out the document checks and assessing placements should also issue the Article 17(c) declaration, so as to avoid any doubt that the declaration itself is based on the assessments that have been made.

In a letter to adoption agencies dated 18 June 2024, the Minister for Children and Families, Toppe, announced that the Government had decided not to introduce a temporary suspension of international adoptions. However, the Ministry intended to proceed with some of the proposed risk-mitigation measures recommended by Bufdir, including the transfer of responsibility for Article 17(c) to Bufdir from 2025.

23.3.3.13 Transfer of responsibility under Article 17(c) to Bufdir

In a letter to adoption agencies dated 13 June 2025, Bufdir announced that responsibility for assessing and approving placement proposals from abroad, as well as for issuing Article 17(c) consents, would be transferred to Bufdir from 1 August 2025. This would apply to all adoption cases to Norway. In the letter, the adoption agencies were invited to a consultation meeting to discuss the transfer.

Since 1 August 2025, Bufdir has been responsible for assessing Article 17(c) declarations. As a result of taking over this responsibility, Bufdir's budget, as described in Prop. 1 S (2024–2025), was increased by 4.4 million kroner.[2347]

[2347] Prop. 1 S (2024–2025), Ministry of Children and Families, p. 63.

> In January 2024, the Ministry received a recommendation from Bufdir to suspend all international adoptions temporarily whilst the review committee is carrying out its work. The Government has decided not to introduce a general temporary suspension, but will follow up on Bufdir's proposals to introduce risk-reducing measures in the field of adoption. Among other things, in 2025 Bufdir will take over the task of approving new placements to Norway and checking the documentation in these cases. Until now, this task has been delegated to the adoption organisations. To ensure that Bufdir can carry out this task in a responsible and effective manner, the Government proposes to provide the Directorate with an additional NOK 4.4 million.

In the period since 1 August 20025, there have only been placements from Colombia.

23.3.4 The Review Committee's assessments

23.3.4.1 What the consent under Article 17(c) entails

Article 17(c) is an important article in the Convention, as is evident from the text of the Convention, the Explanatory Report and subsequent documents from The Hague.

It follows from the wording and structure of the Convention that consent under Article 17(c) is distinct from, and comes after, the prior consent of the adoption applicants.

The Hague Convention stipulates that the Central Authority in the receiving State shall assess the applicants and submit a report on them to the Central Authority in the State of origin, cf. Article 15. The Central Authority in the State of origin shall satisfy itself that the child is eligible for adoption and shall forward a report on the child and evidence that the necessary consents have been obtained to the Central Authority in the receiving State, cf. Article 16. Only once the central authorities of both countries have received the reports and evidence from the other State shall they give their consent in accordance with Article 17(c).

At this stage, the Norwegian Central Authority (or a publicly authorised body to which powers have been delegated) will therefore have received the 'information package' specified in Article 16, comprising a report on the child's identity, background, family, health information and special needs, documentation of the necessary consents and the grounds for the placement.

Consent given by the Norwegian Central Authority or adoption agency at this stage, and on the basis of the documentation then available, would be distinct from prior consent.

The Review Committee's assessment is that this was overlooked or misinterpreted in connection with Norway's ratification. This stage of the adoption process is not mentioned in the parliamentary bill. The Ministry assumed that, in Norway, prior consent to adoption would also entail authorisation for the adoption to proceed.

This misinterpretation of the Convention's system forms the basis for both the BFD's letter to the three adoption agencies dated 19 December 1997 and the circulars from 2002, 2009, 2016 and 2020.

In the Committee's view, there were good grounds for BUFA to raise the issue of Norway's interpretation and practice regarding Article 17(c) with the Ministry in 2003. The Committee agrees with BUFA's understanding of the Convention.
BUFA was the Norwegian Central Authority and participated in international cooperation within the Hague Conference and amongst the Central Authorities. As mentioned above, the interpretation and application of Article 17(c), and the fact that some of the Nordic countries had delegated this authority to bodies other than the central authorities, had been discussed at a special commission meeting in 2000.

It is therefore surprising that the Ministry's internal memorandum states that this 'has been a difficult matter, partly because we have difficulty fully understanding the content of BUFA's letter, and partly because the issue is of a highly technical nature'. The memorandum states:

> BUFA has long been concerned with issues relating to Article 17(c). The Office considers that prior consent to the adoption of children from abroad under Section 16e of the Adoption Act is not sufficient to meet the requirement for consent under Article 17(c) of the Hague Convention. [...]
>
> BUFA considers that the verification required under Article 17(c) includes a check as to whether the child has been released for adoption and placed with the applicants lawfully in the country of origin.

The Ministry has here summarised BUFA's submission – and the correct interpretation of the Convention.

In the Committee's view, the Ministry's interpretation of the Convention was incorrect.

Both BUFA/Bufdir and the adoption agencies based their actions on the Ministry's interpretation. They are obliged to follow the legal interpretation laid down by the superior administrative body. The Committee therefore considers that neither the Central Authority nor the adoption agencies can be blamed for this interpretation or practice.

Had the Ministry interpreted the Convention correctly in 2004, so that the Norwegian authorities had carried out the checks required by the Convention from that point onwards, many errors and shortcomings in adoption cases to Norway could probably have been avoided. Instead, the Ministry's interpretation of the Hague Convention has led the Norwegian authorities and adoption agencies to assume that the process of release and other assessments relating to the child have been the exclusive responsibility of the country of origin, which Norwegian agencies and authorities were not to monitor or review.

In Bufdir's proposal for a temporary suspension of adoptions on 10 January 2024, the tightening of the Article 17(c) checks was explained by the fact that the Hague Conference in June 2023 issued 'new guidance providing a practical and educational explanation of the assessments at the various stages of an international adoption process'.

In the Review Committee's view, it already follows from the wording of the Convention that Article 17(c) consent is distinct from prior consent to adoption, in that it occurs later in the process and presupposes that the central authority in the receiving country has access to the report and evidence referred to in Article 16.

At the same time, however, the Committee considers that the guide provides a practical and educational explanation of the assessments – as the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) states – based on experience with international adoption and the risks involved. At that time, there was undoubtedly good reason to tighten controls on adoptions.

The Inquiry Committee would nevertheless like to point out that the adoption agencies' practices were based on the letter from the Ministry in 2004 and on established practice thereafter.

Bufdir's process appears to have taken the agencies by surprise. The Committee is under the impression that the process was poorly communicated to and explained to the agencies.

23.3.4.2 Who should give consent under Article 17(c)

The Convention stipulates that it is the central authorities of the State of origin and the receiving State that are to give Article 17(c) consents. Article 22(2) of the Convention provides the legal basis for delegating the central authority's tasks to other public authorities or publicly accredited adoption intermediaries. In such cases, this must be declared to the depositary of the Convention, and the Permanent Bureau of the Hague Conference must be informed of the names and addresses of these bodies and persons.

As shown above, it was raised at a meeting of the Special Commission in 2000 that some Contracting States had delegated the authority under Article 17(c), and that this had created ambiguities. 'Some Nordic countries' were specifically mentioned.

In Norway, there has been discussion on several occasions as to whether it is the Central Authority or the adoption agencies that should issue Article 17(c) consents. The issue was raised by BUFA in its letter in

2003, and it has been discussed by both the Hove Committee and the Adoption Law Committee, and commented on during the public consultation on these reports.

Section 22, second paragraph, of the Adoption Act introduced a legal basis for delegating the authority to approve the placement of children from abroad to adoption organisations holding operating and placement licences. The bill expressly stated that this responsibility also entails the task of issuing Article 17(c) consents.

This was amended by a decision of the Ministry of Children and Families on 18 June 2024, whereby the responsibility for assessing and approving all placement proposals from abroad and issuing Article 17(c) consents was transferred to Bufdir from 2025.

The Review Committee agrees that the authority to issue Article 17(c) declarations, in accordance with the Convention's underlying principles, should lie with the central authority and not be delegated to intermediaries.

The Committee would nevertheless note that the lack of Article 17(c) checks in Norwegian adoption practice is largely attributable to the Ministry of Children and Families' letter to the intermediaries stating that prior consent was to be taken as a basis and that the consent did not constitute an individual decision. As the instruction from the highest authority was incorrect, it was not decisive for the implementation of the Article 17(c) check which body was assigned the competence.

23.4 Changes resulting from the Hague Convention

23.4.1 Introduction

The Committee's mandate is to 'assess how the ratification of the 1993 Hague Convention led to changes in the regulations and practices governing adoptions to Norway'.

Here, the Committee will respond to this request by highlighting the changes the Hague Convention brought about in Norway's work on intercountry adoptions, the effects the Convention has had on intercountry adoptions from the countries of origin from which Norway has adopted children, and how the Convention has influenced cooperation between countries on international adoption.

The effects of the Convention are discussed in greater detail in other chapters of the report. General effects of the Convention are discussed in many places in Part IV, and its significance in the individual countries of origin is addressed in Part III. In this chapter, the Committee will describe some of the most significant consequences of the Convention and assess how it has affected intercountry adoptions to Norway.

Most of the changes discussed below as consequences of the Hague Convention have a complex background. The Convention is largely based on the provisions on adoption in the Convention on the Rights of the Child and further develops and clarifies these provisions. The Committee takes as its starting point the fact that changes in rules and practice in Norway and other countries have resulted from both the Hague Convention and the Convention on the Rights of the Child. These developments are also linked to general shifts in attitudes towards adoption and the best interests of the child, a growing level of criticism of international adoption from adoptees themselves, and changes in standards of good governance. In the countries of origin, a number of other factors may also have played a role. In order to fulfil its mandate, the Committee will here concentrate on the Hague Convention and, to a limited extent, address other motives and causes of change.

The Hague Convention's impact on intercountry adoptions has not merely resulted from the entry into force of the Convention's obligations in the contracting states. The Convention has obliged the parties to cooperate through their central authorities, which has had a significant impact on the practices of adoption authorities. The Convention's significance has in many ways grown as the various obligations under the Convention have been discussed within special commissions and working groups, and recommendations and guidance documents such as the Guide to Good Practice I and

II, and subsequently the Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption. In Norway, this work has influenced changes in practice right up to the present day.

23.4.2 Which periods and international cooperation arrangements have been governed by the Hague Convention?

The Hague Convention governs intercountry adoptions to Norway in cases where the Convention had been ratified and had entered into force in both Norway and the country of origin prior to the application for pre-approval.[2348] When the Convention entered into force in Norway on 1 January 1998, it had already entered into force in several of Norway's partner countries, such as Romania and Ecuador, and applied immediately to applications for adoption from those countries. Other countries joined in due course, and it did not take long before the Convention applied to the majority of partner countries.

Many of the adoption partner countries in South America ratified the Hague Convention at an early stage. From 2000, the Convention governed all active adoption arrangements between Norway and countries in South America, with the exception of Guatemala and Bolivia, where it entered into force in 2003 and 2002 respectively.

The entry into force of the Convention varied more widely among partner countries in Asia. Among others, Sri Lanka (1995) and the Philippines (1996) were early adopters, whilst major adoption countries such as India (2003) and China (2006) joined somewhat later. In South Korea, the Convention did not enter into force until 2025. Taiwan is unable to accede to the Convention due to its status under international law.[2349]

Among the major partner countries in Africa, the Convention entered into force in South Africa in 2003 and in Madagascar in 2004, whilst Ethiopia has not acceded to the Convention. Among the major partner countries in Europe, the Convention entered into force in Romania in 1995, Bulgaria in 2002 and Hungary in 2005. Russia has not acceded to the Convention.

Although the Convention quickly gained widespread support, many adoptions to Norway were also carried out after its entry into force without being directly governed by it. This was because some of the partner countries from which the majority of adoptees came after 2000 were not party to the Convention, such as South Korea, Ethiopia and China until 2005.

23.4.3 The impact on adoption work in Norway

23.4.3.1 The Hague Convention's influence on Norwegian practice prior to its entry into force in Norway

The Norwegian authorities played an active role in the negotiations to draw up the Hague Convention right from the very first consultation meetings in 1990. Even before the Convention was adopted in 1993, they therefore knew a great deal about what it would contain. The work on the Convention and its ratification therefore influenced practice in Norway to some extent prior to its entry into force in 1998, including the decisions to commission external audits of adoption agencies' finances and accounting practices, as well as their record-keeping.[2350]

23.4.3.2 Changes upon entry into force in Norway

In connection with Norway's ratification of the Convention, the Norwegian authorities took the view that Norwegian rules and practice already met the Convention's requirements. It was therefore assumed that ratification

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[2348] The Hague Convention of 1993, Article 41.

[2349] Taiwan cannot ratify the Convention due to its lack of status under international law as an independent state.

[2350] The reports, *'Aspects of the Finances of Adoption Agencies and Intercountry Adoptions'* (1994) and *'The Archives of Adoption Agencies and Intercountry Adoptions'* (1995), written by Petter Reland on behalf of the Ministry of Children and Family Affairs and the State Adoption Office.

would entail minimal changes. In the parliamentary bill proposing ratification, the Ministry wrote:[2351]

> Norwegian adoption legislation, administrative practice and procedures in adoption cases, as well as the administrative apparatus itself, are well suited to the Convention's system and objectives. The thorough and rigorous practices of the Norwegian adoption authorities in cases concerning the pre-approval of prospective adopters help to fulfil the safeguards for the child required by Article 1(a) of the Convention.

It was deemed necessary to implement only the following three 'administrative measures' as a result of ratification:[2352]

- Tighten controls to ensure that Norwegian adoption agencies also have the necessary authorisation from the authorities in the country of origin to operate there (Article 12 of the Convention).
- In the long term, define and clarify the role of the adoption authorities in the 'matching process' (Article 17(b) of the Convention).
- Tighten up practice in accordance with Section 22, third sentence, of the Adoption Act to ensure that proper consent is given for the conversion of a 'weak' adoption to a 'strong' one.

23.4.3.3 Changes in the wake of the ratification and entry into force of the Convention

Although the Norwegian authorities considered Norwegian legislation and practice to be in accordance with the Hague Convention, and ratification therefore had no immediate legal consequences under Norwegian law, the Convention led to changes in legislation and practice in both the short and long term.

The Ministry's participation in the drafting of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption and the subsequent work on the ratification of the Convention were key factors in the review of intercountry adoptions that took place prior to the amendments to the Adoption Act in 1999[2353] , when adoption agency activities were brought under statutory regulation, and in the adoption of the Regulations on Adoption Agency Activities in 1999.

The appointment of a Norwegian Central Authority, the Norwegian Directorate for Children, Youth and Family Affairs (SUAK), also had an impact on how the Convention was implemented. SUAK participated in meetings and special commissions concerning the follow-up of the Convention.

Furthermore, several new guidelines on supervisory work and adoption agencies' reporting, issued by the Ministry of Children and Families around the time the Convention came into force in 1998, appear to have been prompted by a heightened awareness of the purpose and requirements of the Hague Convention. Among other things, guidance was provided on the content of applications for authorisation to act as an adoption agency and on the agencies' duty to ensure that the country of origin fulfils its obligation to provide documentation concerning the child in individual cases, in accordance with Article 16(2) of the Convention,[2354] as well as on intermediaries' duty to report on the financial aspects of adoption.[2355]

The Ministry of Children and Family Affairs also issued new guidelines for supervisory work, in which SUAK was asked to focus its supervision in particular on the associations' activities at home and abroad, the financial aspects

[2351] Parliamentary Bill No. 77 (1995–1996), p. 27.

[2352] St.prp. no. 77 (1995–1996), p. 27.

[2353] Parliamentary Bill No. 63 (1997–1998).

[2354] Letter from the Ministry of Children and Family Affairs to adoption agencies, 19 December 1997.

[2355] Letter from the Ministry of Children and Family Affairs to adoption agencies dated 20 November 1998.

the procedures for adoption and the information provided by the associations to prospective adopters. [2356] The guidelines were issued with reference to, amongst other things, Article 32 of the Hague Convention.

In practice, too, the adoption authorities placed emphasis on the Hague Convention in their work on supervision and authorisation of adoption agencies. For example, the prohibition in Article 32 of the Hague Convention against 'unlawful financial or other gain by organisations involved in an intercountry adoption' was central to the authorities' assessments of Adopsjonsforum's cooperation with the private children's homes in Colombia. The cooperation was terminated in 2005 because the children's homes' demands for donations were deemed to be inconsistent with both the requirements of the Hague Convention and Colombian law.[2357]

In several rejections of applications for authorisation to act as an adoption intermediary, reference was made to the requirements of the Hague Convention. This applies, amongst other things, to the rejections of Adopsjonsforum's applications to act as an intermediary for adoptions from Ukraine (2000), Haiti (2006) and Honduras (2015), as well as InorAdopt's application to arrange adoptions from the Democratic Republic of the Congo (2008) and Verdens Barn's application to arrange adoptions from Cambodia (2015).[2358]

23.4.3.4 Work on individual cases

As regards the work of the Norwegian authorities and adoption agencies on individual cases, the entry into force of the Hague Convention entailed, in practice, only minor changes to that part of the adoption process which took place in Norway.

However, several changes to the handling of individual cases that occurred several years later are also partly attributable to the obligations under the Convention. When the state took over responsibility for running preparatory courses for adoptive parents in 2006, and when these courses became compulsory in 2015, this was linked to the requirements in Article 5(a) and (b) of the Hague Convention, which stipulate that the receiving State has a duty to ensure that prospective adoptive parents are suitable and have received the necessary counselling.[2359]

The increased focus on post-adoption measures in recent years, as described in Chapter 30, has been justified by the needs of the adoptees, but also by the obligations under Article 9(c) of the Hague Convention to take all necessary measures to promote follow-up services after the adoptions have been finalised.[2360]

As described in section 23.3, it is also only in recent years that the Hague Convention has led to changes in the Norwegian authorities' oversight of that part of the adoption process which takes place in the country of origin. In the Committee's view, it is only from around 2021 that the Norwegian authorities have fully taken on board all aspects of their obligations under the Convention, including the obligation to monitor the process in the country of origin pursuant to Article 17(c).

23.4.3.5 Work with countries not party to the Convention

Upon ratification of the Hague Convention, the Ministry of Foreign Affairs' parliamentary bill stated that intermediaries authorised to facilitate adoptions from countries not party to the Hague Convention or any bilateral agreements are expected to adhere to the principles on which the Convention is based.[2361]

[2356] Letter from the Ministry of Children and Family Affairs to the State Youth and Adoption Office, 16 October 1998.

[2357] See Chapter 12.

[2358] Bufdir's overview for the review committee of concluded international cooperation arrangements (Bufdir case number 2023/78829).

[2359] See Prop. 171 L (2012–2013), section 7.6.1.3.

[2360] Cf. Bufdir's report, Post-adoption support for adoptees and their families: Assessment of needs and proposals for measures (2021), section 3.1.

[2361] Parliamentary Bill No. 77 (1995–1996), p. 6.

At the Special Commission in The Hague in 2000, a recommendation was unanimously adopted on how the Parties to the Convention should proceed in cases of adoptions to or from countries that are not Parties to the Convention:

> Recognising that the 1993 Convention is founded on universally accepted principles and that States Parties are 'convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or trafficking in children', the Special Commission recommends that States Parties, as far as practicable, apply the standards and safeguards of the Convention to the arrangements for intercountry adoption which they make in respect of non-Contracting States. States Parties should also encourage such States, without delay, to take all necessary steps – possibly including the enactment of legislation and the establishment of a Central Authority – to enable them to accede to or ratify the Convention.[2362]

This meant, amongst other things, that the Norwegian authorities were also to take the principles of the Convention into account when processing authorisations for placement in countries that were not parties to the Convention.

Reference was made to the requirements of the Hague Convention in several refusals of placement authorisations concerning the establishment of cooperation with countries not party to the Convention. One example is Adopsjonsforum's application for a placement authorisation for Haiti, which was finally rejected in 2006 by the Ministry of Children and Families, citing, amongst other things, that the unstable situation in the country made it uncertain whether the adoption placement 'could take place in a responsible and safe manner in accordance with the principles laid down in the Hague Convention'.[2363] It was also pointed out that the information regarding children adopted from Haiti to Denmark was highly unsatisfactory, and in this context reference was made to the requirements for the preparation of a report containing information about the child, as set out in Article 16 of the Convention. The Convention entered into force for Haiti in 2014.[2364]

The requirement to take the Convention's principles into account also applied when considering adoption authorisations for countries outside the Convention with which Norway had a long-standing adoption partnership. The Committee notes, however, that in the case of South Korea, a system was accepted in which private adoption agencies played a central role and where official oversight was inadequate; this contributed to South Korea not signing the Convention until 2013 and its entry into force not taking place until 2025.[2365]

23.4.3.6 The significance of the Hague Convention for the tightening of regulations over the past five years. The Hague Convention also appears to have gained greater significance for the practices of adoption authorities as the various provisions of the Convention have been discussed in special commissions and working groups, and guidelines such as the Guide to Good Practice I and II, and subsequently the Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption, have been developed.

Partly as a result of this work, the Norwegian authorities' understanding of the Convention's obligations has also evolved over time, particularly with regard to the receiving country's responsibility to verify the conditions relating to the child's identity, release and consent from the parents or guardian before authorising the adoption process to proceed in accordance with Article 17(c); see section 23.3.

[2362] Report and conclusions of the Special Commission on the practical operation of the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption, 28 November–1 December 2000, paragraph 56.

[2363] Decision of the Ministry of Children and Families of 2 August 2006.

[2364] See section 25.3.4.2.

[2365] See Chapter 19 for further details on these countries.

In several placement licences renewed in November and December 2021, the responsibility for checking individual cases prior to the issue of an Article 17(c) declaration was significantly tightened.[2366] The organisation was required to ensure in each individual case that:

> 1) The child's identity has been established 2) The necessary consents have been obtained 3) No persons or organisations, etc., involved in the adoption derive undue financial gain 4) The principle of subsidiarity is upheld 5) [Adoption organisation] can verify the authenticity of documents, stamps and signatures 6) [Adoption organisation], following a comprehensive assessment, finds that the necessary documents are available in each individual case and that the case documents contain sufficient information about each individual child, the specific child's circumstances, as well as regarding the child's biological family and their circumstances, to enable the adoption agency and the Norwegian adoption authority to assess whether international adoption is in the best interests of that particular child and whether the conditions of the Convention are met.

The requirements imposed on intermediaries in these authorisations represented a significant tightening of the responsibilities previously imposed on them by the authorities in connection with the issuance of the Article 17(c) declaration. These requirements arose largely as a result of the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) having changed its view on the obligations imposed on receiving States by the Hague Convention. As described in section 23.3, the Committee agrees with Bufdir's current position on this matter.

23.4.4 The significance of the Hague Convention in the countries of origin.

The Committee's impression is that the Hague Convention has influenced legislation and practice in the countries of origin, albeit in slightly different ways. We provide here examples of the impact the Convention has had in some countries of origin.

Several countries of origin implemented reforms in connection with their implementation of the Hague Convention. In Chile, a new Adoption Act came into force in the same year as the Convention's entry into force (2009). The changes constituted a major reform, which, amongst other things, meant that adoptions were carried out in Chile rather than in the receiving countries. Furthermore, new authorisation requirements were introduced for those working on the adoption programme. In Chile, the total number of intercountry adoptions also fell significantly following the Convention's entry into force, from 509 in the three years prior to entry into force to 101 in the three years following entry into force.[2367]

In South Korea, the Convention did not enter into force until October 2025, but as early as 2012 a new Adoption Act was introduced, one of the aims of which was to bring the regulatory framework into line with the requirements of the Hague Convention, which South Korea signed in 2013. The reform led to stricter oversight of Korean adoption agencies and meant that adoptions had to be carried out in Korea by Korean courts. Nevertheless, a further reform and a new law were required before the Hague Convention could enter into force in 2025.

In Brazil, accession to the Hague Convention and its entry into force in 1999 led to a certain degree of centralisation of adoption work and the oversight of this. Among other things, foreign adoption agencies had to be approved by the country's central adoption authority rather than by the state authorities. In Brazil, significantly greater reforms in this field took place in connection with the country's accession to the Convention on the Rights of the Child in 1990, when a new adoption law was introduced and private adoptions were made illegal.

Not all bilateral cooperation arrangements appear to have been affected by the Hague Convention. Among the bilateral arrangements which the Committee has had the most cause for criticism regarding since 1998, Ethiopia stands out as a country where adoption figures

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[2366] Intermediary licences for Peru (Adopsjonsforum), Bulgaria (InorAdopt) and South Africa (Verdens Barn), cf. Bufdir's reply to the Ministry of Children and Families (2004) regarding follow-up questions on Bufdir's recommendation for a temporary suspension of international adoption.

[2367] Permanent Bureau of the Hague Convention, 20 Years of the 1993 Hague Convention (2015), paragraph 62.

The number of adoptions increased as they declined in other countries of origin, and where financial incentives had an adverse effect on adoption work – including in relation to adoptions to Norway. Ethiopia was not a party to the Hague Convention, but, as mentioned, the Norwegian authorities had assumed that the Convention's principles would apply to Norwegian intermediaries' cooperation with countries outside the Convention.

In terms of the number of adoptions, the Hague Convention did not lead to any immediate reduction. On the contrary, the six years following the Convention's entry into force in Norway constituted the period with the highest number of international adoptions to Norway. However, the increase was driven by adoptions from countries outside the Convention, particularly China.

For some countries of origin, such as China, the number of adoptions to Norway fell significantly after the Convention came into force in that country. For other major countries of origin, such as Colombia, there was no such decline in the number of adoptions following the Convention's entry into force.

In China, the Hague Convention entered into force on 1 January 2006. From 2005 to 2009, the number of international adoptions fell from 14,484 to 5,004.[2368] The figures continued to fall in subsequent years, reaching 1,065 in 2019. Although the Chinese authorities had, as a result of acceding to the Hague Convention, placed greater emphasis on domestic adoptions, among other things, it is unclear to what extent the significant decline in adoptions was attributable to the Convention. Other factors, such as the relaxation of the one-child policy and tighter controls by the Chinese authorities following the 2005 uncovering of illegal adoptions in Hunan province, may also have contributed.

23.4.5 The Hague Conference's own evaluation

In 2015, the Permanent Bureau (Secretariat) of the Hague Conference prepared a report on the impact of the 1993 Convention on laws and practices concerning intercountry adoption and the protection of children, based on a questionnaire survey of all Contracting States.[2369] The review of the responses indicated that the Convention had had a significant and positive impact on legislation and practice, which was summarised as follows:

> Whether one is referring to the creation of a more orderly, rule-based international system, improvements at key stages of the intercountry adoption procedure, reports of better and closer international co-operation, efforts undertaken to prevent and address illicit practices, improvements for children and families in relation to the automatic recognition of intercountry adoptions, or increased efforts in many States to implement the principle of subsidiarity, it is clear that Contracting States have witnessed significant positive developments as a result of the Convention's implementation in an ever-increasing number of Contracting States. Of course, as the responses demonstrate, the Convention has not always been the sole factor in bringing about these positive changes, but it is clear that it has played a central role in many cases.[2370]

It was nevertheless emphasised that there were still many challenges that needed to be resolved before the Convention could be considered to have fully achieved the objectives set. Furthermore, questions were raised as to whether some people had too much faith in the Convention's ability to resolve all the problems associated with intercountry adoptions:

> Despite all this, when considering the impact the Convention has had on intercountry adoption over the past 20 years, one might ask whether some have demanded or expected too much of the Convention. As has been evident throughout this paper, whilst the Convention is a vitally important piece of international law, with internationally agreed normative principles and a crucial cooperative framework, it is not the only factor influencing intercountry adoption

[2368] Selman, P. (2003), Chapter 18, 'The rise and fall of intercountry adoption 1995–2019', in Fenton-Glynn, C., & Lowe, N. (2023), *Research Handbook on Adoption Law*.

[2369] 20 Years of the 1993 Hague Convention (2015)

[2370] 20 Years of the 1993 Hague Convention (2015), paragraph 94.

policy and practice in Contracting States and is certainly not a panacea for all the challenges associated with intercountry adoption. Whilst it may have brought about significant positive changes in attitudes in some States regarding intercountry adoption, it cannot, on its own, bring about the economic, political, social and cultural conditions that would be required in all States to ensure that intercountry adoptions – and indeed any actions concerning children – always take place 'in their best interests' and 'with respect for their rights'. As has long been recognised, the Convention must be complemented by the political will, the economic conditions, the support and the capacity-building needed to strengthen the child protection systems of States.[2371]

In the more than 10 years that have passed since this evaluation, work on following up the Convention has continued. Among other things, this has led to the development of the Toolkit for Preventing and Addressing Illicit Practices in Intercountry Adoption (2023), which we know has had a significant impact on practice in Norway.

23.4.6 Overall assessment

Overall, the Committee considers that the Hague Convention has contributed to stricter oversight of intercountry adoptions, both in Norway and in the relevant countries of origin.

Together with the Convention on the Rights of the Child, these rules have helped to increase public oversight of various aspects of adoptions. The establishment of cooperation between member states, regular special commissions on the Convention, working groups on key issues and the development of guidelines have been of great significance for both Norway's and other states' compliance with and implementation of the Convention. As a result, the Convention's influence on the oversight of intercountry adoptions appears, in practice, to have gradually strengthened over the years, even though the Convention itself has not been amended.

The Norwegian view at the time of ratification – that existing Norwegian regulations and practices complied with virtually all the Convention's obligations – contributed to the reforms in Norwegian adoption practice resulting from the Convention being delayed and implemented in several stages. Requirements for adoption agencies and for the work relating to supervision and authorisation were tightened around the time the Convention came into force. Further reforms followed in due course, and the amendments to the Adoption Act in 2010 and the new Adoption Act in 2017 were partly justified by the Convention's obligations.

Until around 2021, however, the Convention had limited significance for Norway's oversight of the conditions relating to the child in individual cases, which were left almost entirely to the country of origin. The oversight exercised by the Norwegian authorities consisted of verifying that the correct authority in the country of origin had released the child for adoption and/or had taken a decision on the adoption. This was a significant weakness in Norway's implementation of the Convention, and is described in more detail in section 23.3.

The report from the Storting's Committee on Family, Culture and Administration on the ratification of the Hague Convention sets out the following expectations regarding the Convention's effects:

> Although the Convention will not be able to resolve all the problems arising in connection with cross-border adoptions, and although in certain respects it appears to be a compromise on difficult issues, it must be regarded as an important step towards achieving better control in this field, so that, amongst other things, the buying and selling of children is prevented.[2372]

Although it took a long time for Norway to comply with the Convention's requirements regarding scrutiny of individual cases, the Committee's expectations regarding the Convention have, in the Committee's view, proved to be quite realistic.

[2371] 20 Years of the 1993 Hague Convention (2015), paragraph 96.

[2372] Innst. S. No. 267 (1995–1996), summary of the Ministry's proposal.

24 Assessment of the system of adoption agencies and the activities of such agencies

24.1 Introduction

Chapter 7 describes the emergence and development of organisations that operated private adoption agencies in Norway. In this chapter, the committee will discuss and assess how the system of adoption agencies has functioned.

These assessments are based on several aspects of the Committee's mandate. The mandate calls for an investigation into whether 'the system for adoptions to Norway has been sound', which encompasses 'regulations and practice'. The Committee is also to 'examine whether due regard has been paid to legal certainty and human rights obligations, including the best interests of the child'. A key issue for the inquiry is 'whether the Norwegian authorities have exercised sufficient control over international adoptions'. The Committee's assessment of the system of adoption agencies, and how it has been regulated and practised in Norway, has been a significant part of the Committee's work in addressing these points in its mandate.

The Committee's assessments in this chapter are based on a review of the adoption agencies' archives and those of the adoption authorities, both at ministerial level and at lower levels, as well as documents obtained from the Ministry of Foreign Affairs and the National Archives. Media searches and relevant secondary literature have also contributed information.

The role and practices of adoption agencies, as well as the flow of information within the agencies and between the agencies and the authorities, have also been the subject of a number of interviews. As explained in section 3.6.6, the Committee has interviewed chairpersons, board members, managing directors, staff and volunteers associated with the adoption agencies Adopsjonsforum, Verdens Barn, the Parents' Association for Children from Other Countries and InorAdopt. Among other things, the interviews focused on mapping out how the adoption agencies have operated, and how their organisation, roles, flow of information and responsibilities have been perceived. During its visits to Colombia, Chile, Ethiopia and South Korea, the committee also addressed the issue of cooperation with the Norwegian agencies in interviews with local staff at Adopsjonsforum,[2373] foreign adoption authorities, and various partners in these countries. Adoption agencies have also been a key topic in interviews with staff from Norwegian adoption authorities.
Adoptees, adoptive parents and organisations that the Committee has interviewed or met with have also shared their experiences and views on the agencies' work and role.

One challenge with the Committee's source material in its assessment of the adoption agency system is that there is considerable variation in the types of general documents retained by the three adoption agencies. Adopsjonsforum's archives contain significantly more material on its activities beyond individual cases than the archives of InorAdopt and, to some extent, Verdens Barn. Among other things, reports from many of InorAdopt's trips to partner countries are missing.[2374] See the methodology chapter, section 3.6.4.2, for further details on the archives. The Committee considers it necessary to point out that Adopsjonsforum's extensive archive

[2373] Adoptions from Colombia, Chile and Ethiopia were arranged by AF, and it was therefore AF's local staff who were active in these countries. Adoptions from South Korea were arranged by VB, but this agency did not have local staff in the country.

[2374] To some extent, this may be linked to the fact that the Committee has been informed by IA's former managing director that written reports were not always produced following trips to countries of origin, and that the board was instead briefed verbally.

This material has been crucial to many of the findings relating to this agency. The Committee has not had a comparable basis for its investigation of the other agencies.[2375]

As pointed out in the methodology chapter of the report, the Committee believes that there is a need for more thorough and systematic documentation of the organisation's general work than that found at InorAdopt. There may be several different situations – not just a public inquiry – where it will be necessary to be able to evaluate and review specific aspects of the work. In this context, it would be problematic not to have access to written and contemporary sources documenting, amongst other things, the sequence of events and the assessments made. Relying on the recollections of individuals appears to be highly vulnerable.

A comprehensive assessment of the system of adoption agencies, both past and present, cannot be carried out without simultaneously assessing the control and supervision exercised by the Norwegian authorities over these agencies, and the measures the Norwegian authorities themselves have taken to ensure the soundness of international adoptions to Norway. The Committee carries out this assessment in Chapter 25, and Chapter 31 provides a more comprehensive assessment of the soundness of the adoption system during different periods.

Further on in this chapter, the Committee will first outline the legal requirements that have been imposed on adoption agencies and their activities through legislation, regulations and other forms of regulation (24.2). This is followed by the Committee's findings (24.3) and then its assessments of the system of adoption agencies (24.4). In section (24.5), the Committee makes some more general assessments of the system.

24.2 Requirements imposed on agencies through legislation, regulations and other regulatory measures

24.2.1 Overview

The following section will outline the requirements imposed on adoption agencies through legislation, regulations and other forms of regulation. This account will not cover the regulation of all aspects of adoption agency work, but will focus on certain key requirements relating to the agencies' organisation and general operations, such as the conditions for operating and placement licences, requirements to submit documents such as accounts and articles of association to the adoption authorities, and the duty to provide information on changes that may affect adoption services. The regulation of agencies' involvement in individual cases is not dealt with here, but in Chapter 27.

Legal developments have taken place throughout the period of international adoption mediation. Adoption mediation was initially regulated by the Child Welfare Act of 1953 and 1992, respectively, and subsequently by the Adoption Act of 1986 (following amendments in 1999) and 2017, respectively. The following account will be divided into the following periods:

- 1953–1999 (24.2.2)
- 1999–2017 (24.2.3)
- The Adoption Act 2017 (24.2.4)

[2375] As mentioned in section 3.6.4.2, FBAL has also made its archives available to the Committee. However, the Committee was unable to prioritise a review of these, as adoptions through the association from priority countries were limited to 50 adoptions from Vietnam during the period 1973–1975. See, however, Chapter 20 on Vietnam, section 20.5.4.

24.2.2 1953–1999

24.2.2.1 Legislation

Until 1999, adoption mediation was regulated by the Child Welfare Act, specifically the Act of 1953 in Section 26b and subsequently in an identical provision in the Act of 1992, Section 4–23. The provisions established a criminal prohibition on private individuals carrying out adoption mediation. As regards organisations, it was stipulated that these 'may not carry out such activities without a licence from the Ministry, which in such cases supervises the activities'.

When the Child Welfare Act was enacted in 1953, intercountry adoption was a relatively unknown phenomenon. The regulation of adoption mediation was therefore initially designed with a view to the mediation of domestic adoptions.[2376] The preparatory work for the 1953 Act describes the background to the ban on mediation: Firstly, there was 'absolutely no control over the placement of children for adoption', and secondly, there had been 'numerous cases of irresponsible placements by private individuals carrying out the aforementioned activities'.[2377] Beyond this, there was no regulation of placement activities in Norwegian law, nor was the scope of adoption placement specified in any detail. Nor did the provision contain any authority to issue regulations. Although there were initially few guidelines for placement activities in the regulations, the requirement for a placement licence provided an opportunity to set conditions for the placement in the licences.

24.2.2.2 Guidance and circulars

The Ministry of Social Affairs issued a circular in 1978 concerning the work of the Council for International Adoptions (RIA), including supervision and guidelines for the conduct of adoption cases.[2378] In 1979, the RIA issued guidelines for the approval of adoption agencies' foreign contacts.[2379] In 1981, the RIA also issued guidelines for adoption placement by approved associations, setting out requirements for agencies to ensure a lawful and sound adoption process. In connection with the establishment of the State Adoption Office (SAK), a circular was issued in 1987 setting out some guidelines for its supervisory responsibilities. Reference is made to the description of these circulars and guidelines in section 25.3.3.1 concerning the regulation of adoption agencies prior to the ratification of the Hague Convention in Norway.

24.2.2.3 Guidance on financial matters in the Ministry of Children and Family Affairs' letter to adoption agencies in 1998

A letter was sent from the Ministry of Children and Family Affairs to adoption agencies in November 1998, i.e. 11 months after the Hague Convention entered into force in Norway. According to its heading, the letter dealt with 'the financial aspects of intercountry adoption' and specifically concerned the requirements for reporting such matters to the adoption authorities. The letter sets out the obligations under the Hague Convention for authorities and adoption agencies with regard to preventing improper financial gain from adoptions and ensuring that 'consent to adoption is not induced by payment or remuneration'.

The Ministry describes several requirements relating to financial matters set out in the adoption agency licences, including that adoption mediation must be the primary purpose and that the agency 'must be run without the aim of financial gain', with 'the best interests of the child as the starting point', but that the agencies 'must at the same time ensure that the interests of the prospective adoptive parents are safeguarded in a proper and equitable manner'. The Ministry also mentions that conditions have been imposed requiring the organisations to keep annual accounts that are audited

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[2376] Among other things, to exercise control over adoptions from private maternity homes and the like.

[2377] Parliamentary Bill No. 53 (1952) *Child Welfare Act*, p. 21.

[2378] Circular No. 1 9/78 from the Ministry of Social Affairs, 'Adoption of foreign children'.

[2379] RIA, 'Guidelines for the approval of the association's international contacts', 16 October 1979.

audited by a chartered accountant and sent to SAK and the Ministry. To the Committee's knowledge, this has been complied with by both adoption agencies and the adoption authorities.

The letter then provides an overview of the information and reporting required from agencies regarding financial matters. Among other things, it specifies that agencies must, in terms of organisation, staffing and finances, separate adoption services from 'the aid/humanitarian work carried out by the association', and that the accounts must therefore distinguish between adoption services and other activities. The Ministry also requests separate financial statements for 'aid/humanitarian work' and any other areas of activity, such as 'information and service provision'. The agencies are also asked to report annually on the average costs of adoption from different countries of origin. An annex sets out in more detail how the items are to be presented and specified in the accounts. Another annex specifies how the average costs of adoption from different countries of origin are to be itemised in the reports.

In a further annex, the Ministry provides an overview of the information that adoption agencies are required to report regarding, amongst other things, the composition of the board, the agencies' activities over the past year, key figures on the number of members, the number of adoption applicants, the number of adoptions facilitated, the number of full-time equivalents, the number of staff, the distribution of tasks amongst staff, contact with countries of origin – including both travel to and visits from countries of origin – international contacts and networks, as well as the agencies' activities within the country.[2380]

24.2.3 1999–2017

Following an amendment to the law in 1999 [2381], provisions on adoption mediation were incorporated into the Adoption Act, with more specific statutory regulation than the previous provisions in the Child Welfare Acts. Section 16d of the Adoption Act of 1986 read as follows after the amendment:

> Organisations may obtain authorisation from the Ministry[1] to arrange for the placement of children from a foreign state with a view to adoption. Authorisation shall only be granted to organisations whose principal purpose is such placement. The organisation shall be run in the best interests of the child[2] and shall not seek financial gain.
>
> The authorisation shall be time-limited and specify the foreign state or states to which it applies.
>
> The Ministry may, by regulation, lay down further requirements relating to the organisation, its activities and its operation.
>
> The Ministry supervises the organisation's activities and may order the organisation to rectify any circumstances that contravene the Act, regulations or the conditions of the authorisation. The authorisation may be withdrawn if the Act, regulations or the conditions of the authorisation are not complied with.

In the preparatory work, the Ministry of Children and Families notes that the provision largely entails 'a codification of existing law' and that 'the conditions set out in the provision for adoption licences do not differ from the requirements imposed on the three organisations that currently arrange adoptions of children from abroad'. Codification "will, however, help to clarify existing law and thereby create clearer and more orderly conditions".[2382]

2380 Letter from the Ministry of Children and Families to AF, VB and IA, Information from the Adoption Association on the financial aspects of international adoption, 20 November 1998.

2381 Act No. 38 of 11 June 1999 (in force from 1 December 1999).

2382 Parliamentary Bill No. 63 (1997–1998) on amendments to the Act of 28 February 1986 on adoption, etc., p. 28.

This statement can be understood in the light of the Ministry of Foreign Affairs' assessment that there was no need to make legislative amendments, and only minor other changes in connection with the ratification of the Hague Convention; see section 23.4.3.2.

With regard to the regulation of supervision, orders and the withdrawal of licences, the Committee refers to the discussion of this in Chapter 25, section 25.7.1.

Section 4 of the regulations issued in 1999 pursuant to the provision states: [2383]

> A licence to place children from a foreign state for the purpose of adoption may only be granted to and maintained for an organisation if:
>
> The organisation is run in the best interests of the child.
>
> The organisation has adoption placement as its primary purpose and is run on a non-profit basis.
>
> The organisation is managed and staffed by persons who, by virtue of their ethical standards and their education or experience, are qualified to work with international adoption.
>
> The organisation has authorisation from the relevant foreign state to operate in that state.

The regulations also contained a provision stipulating that the adoption agency's articles of association, as well as any amendments thereto, were to be 'approved' by the State Youth and Adoption Office (SUAK), cf. Section 7. Adoption agencies were also obliged to submit any cooperation agreements 'which the organisation is considering entering into with the authorities of other countries' to SUAK for approval, cf. Section 9.

Section 8 of the Regulations contained provisions on annual accounts and annual reports:

> An organisation authorised to place children from a foreign state shall prepare annual accounts audited by a chartered accountant and an annual report in accordance with the requirements set by the Ministry. If the organisation carries out aid work or other activities related to its placement activities, separate accounts shall be prepared for each area of activity.
>
> The annual accounts and annual report must be submitted to the State Youth and Adoption Office.

The Regulations also contained a provision on the duty to provide information in Section 10, under which adoption agencies were required to 'immediately report any changes in the organisation's activities in Norway or abroad that may be of significance to the organisation's activities in Norway or abroad'. Furthermore, they were required to
'immediately report any changes in political, legal or other circumstances abroad that may be expected to affect their placement activities'. Such reports were to be sent to SUAK. SUAK was also to be notified if the agency 'is considering commencing placement activities in a new country'.

24.2.4 The Adoption Act of 2017

The current Adoption Act was passed on 16 June 2017 and came into force on 1 July 2018. Among other things, it codified and made minor adjustments to several rules that had previously been based on the Hague Convention, regulations and established practice.

The new Act introduced a distinction between two types of authorisation for adoption agencies: general operating licences (Section 31) and country-specific authorisations (Section 32). In short, the main difference between the two types of licence is that the operating licence is 'a time-limited licence to carry out adoption mediation', cf. Section 31. The granting of such a licence depends on an assessment of whether the organisation meets specified conditions regarding its purpose and organisation. An agency licence, on the other hand, is, according to the wording of Section 32, 'a separate licence to arrange the placement of children from individual countries'.

[2383] Regulations on Adoption Mediation of 30 November 1999 No. 1195.

As shown in section 24.2.3 above, the statutory and regulatory framework governing placement licences under the Adoption Act 1986 included several elements relating to the association's purpose and organisation, and which would therefore have been classified as part of the assessment of an operating licence under current law.

The Committee will set out in more detail below the regulations governing operating licences and placement licences respectively.

General operating licences are regulated in Section 31:

> The Adoption Authority may grant organisations a time-limited licence to carry out adoption mediation. A licence may only be granted to organisations which
>
> a. have adoption mediation as their primary purpose
> b. work in the best interests of the child
> c. are managed by and staffed with persons who are qualified to work with international adoptions
> d. do not operate for financial gain.
>
> The Ministry may issue regulations setting out the requirements an organisation must meet in order to obtain an operating licence, as well as the requirements relating to the organisation's activities and their conduct.

The preparatory work for the provision states that the adoption authority 'must, on the basis of a discretionary assessment, decide whether a specific organisation should be granted a licence'. It is further noted that there are three adoption agencies in Norway, and that 'in practice, the question is therefore whether these should continue to be granted authorisation, but the conditions must also be tailored to any organisations in the start-up phase'. The discussion in the preparatory work of the conditions in Section 31 is relatively brief. It is specified, however, that the requirement in subparagraph (a) that adoption mediation must be the main purpose "does not preclude the organisation from also carrying out aid work, but this aspect must therefore be subordinate to the adoption activities". Furthermore, it is emphasised that the condition in subparagraph (d) that the organisation must not have financial gain as its purpose 'is intended to ensure that the best interests of the child, and not financial gain, are the guiding principle for its operations'.[2384]

The Ministry also makes some comments on the decision to elevate certain conditions from the level of regulations to the Act itself:

> The requirement for qualified staff in adoption organisations and the requirement that adoption organisations must be authorised in the country of origin are set out in Articles 11 and 12 of the Hague Convention. These requirements are so fundamental that the Ministry considers it appropriate for them to be included in the Adoption Act as well. Enacting this in law also makes it easier to see what requirements may be imposed on the organisations.[2385]

The Regulations to the current Adoption Act (2017) [2386]regulate operating licences in Sections 19 and 20. Section 19(2) stipulates that operating licences may be granted for up to 7 years.

The conditions for operating licences are set out in Section 20. In substance, the requirements are broadly similar to those in Section 4 of the previous regulations. Section 20 includes a condition that the intermediary 'may carry out adoption mediation in a professional, ethical and professionally sound manner' and that the organisation 'shall have articles of association'. It further states that '[t]he articles of association and any amendments thereto shall be approved by Bufdir'.

Adoption agency licences for individual countries are regulated in Section 32 of the Adoption Act:

[2384] Prop. 88 L (2016–2017) *Act on Adoption (the Adoption Act)*, p. 220.

[2385] Prop. 88 L (2016–2017), p. 133.

[2386] Regulations on Adoption of 22 June 2017 No. 959.

> The Adoption Authority may grant organisations authorised under Section 31 a separate, time-limited authorisation to arrange adoptions from specific countries. Such authorisation is granted on condition that the organisation also obtains authorisation from each individual country to arrange adoptions from that country.
>
> The Ministry may lay down further rules on placement authorisations by regulation.

The preparatory work for the provision states that a placement licence presupposes that the organisation in question has been granted an operating licence under Section 31, that the Adoption Authority 'must carry out a detailed assessment when deciding whether an adoption organisation should be granted a placement licence' and that: 'A key factor will be whether the authorities in the country in question will act in accordance with the Hague Convention.' [2387]

In the Regulations, placement licences are governed by Sections 19 and 21. Section 19(2) stipulates that a placement licence 'may be granted for up to three years'. Section 21 sets out the conditions for a placement licence:

> The Directorate for Children, Young People and Families may only grant a placement licence when
>
> a. the country in question has a need for adoptive families abroad
> b. the organisation has an understanding of and knowledge regarding the laws, other regulations and procedures applicable to international adoptions in that country.

The condition that 'the country in question has a need for adoptive families abroad' is new in these regulations and has no equivalent in the 1999 regulations or the Adoption Act of 1986.

Section 19 of the 2018 Regulations sets out some common rules for operating and placement licences. Firstly, applications for operating and placement licences 'must be submitted on the prescribed form to the Directorate for Children, Youth and Family Affairs'. Secondly, it is stipulated that an application for renewal of the licences
'must be submitted no later than three months before the current licence expires, if a new licence is to be in place before the current licence expires'. Furthermore, it is stated that the Directorate 'may request further documentation where necessary to clarify the matter'.

In accordance with Section 19 of the Regulations, application forms were drawn up for general operating licences (the form for placement licences was introduced in 2000 and has been amended several times since then); see section 25.3.3.

The application form for operating licences contains extensive requirements regarding information and documentation. Among other things, it requires information on

- the number of members, full-time equivalents and employees
- the names, education, qualifications and experience of staff and managers
- the expertise of 'regular partners who are to meet the expertise requirements'
- whether 'the organisation [has] established guidelines and procedures for managing potential conflicts of interest for employees, board members and others', and how such conflicts are managed
- who sits on the board, and what expertise and professional background each individual board member has
- the number of board meetings and matters discussed at board meetings over the last two financial years; minutes of board meetings must be attached
- the managing director's salary, as well as the board's total fees and remuneration
- key financial figures for the intermediaries

[2387] Prop. 88 L (2016–2017), p. 232.

- ethics, and whether the intermediary has implemented its own ethical guidelines, and whether the staff have

  ‘completed training programmes, courses, seminars or similar where ethics, relevant regulations in the field and established principles have been a topic’
- what sort of training programmes, courses or seminars individual staff members have attended, and what the content was
- whether the organisation has ‘an explicit ban on payments or other benefits from staff and agents to the child’s parents’
- whether the organisation permits ‘adoptive parents or prospective adoptive parents to make donations, give gifts and/or make contributions directly to biological parents or children’s homes’
- what ‘guidelines and procedures have been established to ensure that donations and contributions made by the organisation are handled in accordance with the applicable principles of the 1993 Hague Convention and Chapter 9 of Guide to Good Practice No. 2’
- whether ‘the organisation, or the organisation’s partners, [has] received reports or information regarding reprehensible circumstances relating to the organisation’s activities, partners or employees’ [2388]

Section 22 of the Adoption Regulations governs the adoption agency’s duty to provide information:

> An adoption organisation shall immediately notify the Directorate for Children, Youth and Family Affairs
>
> a. of any changes to its operations in Norway or abroad that may affect its operating or placement licence
> b. of changes in political, legal or other circumstances abroad that may affect its placement activities.

The Regulations also contain provisions on requirements for annual accounts and annual reports in Section 24. It states that the placement agency ‘shall prepare annual accounts audited by a chartered accountant and an annual report in accordance with the requirements of the operating licence’ and that ‘[i]f the organisation carries out relief work or other activities in addition to its placement activities, it shall prepare separate accounts for each area of activity’. The intermediary “shall submit the annual accounts and annual report to the Directorate for Children, Youth and Family Affairs by 1 June each year”. In substance, this rule is the same as Section 8 of the Regulations to the 1986 Act.[2389]

24.3 The Committee’s findings

In the following, the Committee will set out its findings from the review of the adoption agency scheme. The aim is to demonstrate whether the framework for adoption agency activities was suitable for safeguarding fundamental principles, rules and considerations relating to intercountry adoption. This is documented below, amongst other things, through examples of significant failings and errors uncovered by the Committee during its investigation. The findings are categorised thematically as follows:

- the significance of how the placement work began, in terms of how it developed (24.3.1)
- the staffing and competence of adoption agencies (24.3.2)
- the adoption agencies’ perception of their own role and responsibilities with regard to the adoption processes in the countries of origin (24.3.3)

[2388] The form ‘Application for an operating licence’, drawn up by Bufdir (the form is undated).

[2389] Regulations on Adoption Services, 30 November 1999, No. 1195.

- weaknesses in adoption agencies' oversight of work carried out by their own staff and partners in the countries of origin (24.3.4)
- deliberate illegal and unethical acts and practices carried out by staff and other persons associated with adoption agencies (24.3.5)
- the relationship between humanitarian work, aid and adoptions (24.3.6)
- the flow of information from the agencies to the Norwegian authorities (24.3.7)

24.3.1 The significance of how the agency's work began in terms of how it developed

As explained in section 24.2.2 above, since 1953 adoption mediation has been prohibited for anyone who has not been granted authorisation for such activities by the authorities. As explained in Chapter 7, in the early days there was no adoption mediation in the formal sense, with approval from the authorities. In the early years, the work involved organisations – in particular the Korea Association (in the 1950s and 1960s) and Adoption Forum (in the 1970s) – assisting prospective adoptive parents by, amongst other things, providing information on procedures and contacts in the country of origin. Gradually, adoption work was formalised through the granting of placement licences: in 1969 for the Korea Association, in 1973 for the Parents' Association for Children from Vietnam, and in 1978 for Adoption Forum.

The Norwegian authorities were aware of how the Korea Association and the Adoption Forum assisted with adoptions before they were granted placement licences, but did not intervene to halt their activities.[2390] This must be regarded as a tolerated practice, and the authorities presumably also viewed it as positive to some extent, as it provided a degree of control compared with situations where people wishing to become parents through adoption acted entirely on their own initiative. The Committee provides a more detailed account of the Norwegian authorities' approach to the organisations' assistance with adoption before they were granted placement licences in section 25.3.2.

Adoptions arranged through these organisations in the early years were therefore, formally speaking, independent adoptions. However, contact with the countries of origin took place largely through the associations and their contacts, and the prospective adoptive parents did not travel to the countries of origin themselves to 'find' children for adoption. These adoptions therefore bore, in reality, a strong resemblance to adoptions arranged through an intermediary. Due to the activities of these organisations, Norway probably also had fewer 'entirely' independent and private adoptions during this period than some other receiving countries.[2391] Findings from investigations in other countries suggest that there have been a particularly high number of illegal and unethical practices in connection with independent and private adoptions.[2392] In this respect, adoption agencies – even before they were granted authorisation to act as intermediaries – may have contributed to adoptions to Norway having a lower incidence of illegal practices and serious errors than they would otherwise have had.

The start of adoption placements from other countries to Norway – which in several cases took place gradually and without formal licences – occurred during a period when the authorities had not yet fully developed requirements regarding the agencies' competence, organisation, etc., nor had they established procedures for supervision and control.
As shown in the country reviews and as we shall explain in Chapter 25, the investigation has revealed that varying requirements have been imposed on applications for placement authorisation and on the renewal of such authorisations, and

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2390 See section 25.3.2, with references.

2391 See, however, further details on the extent of independent adoptions to Norway in Chapter 28 on adoptions outside intermediary organisations, section 28.3.1, where it is stated that it is generally difficult to find reliable information on the number of independent adoptions, particularly prior to 1980.

2392 See, for example, SOU 2025:61 *Sweden's international adoption activities – lessons learnt and the way forward;* Report of the Commission on Intercountry Adoption, 2021 (Netherlands); and 'Evidence of Illegal Adoptions of Children from Ten Countries of Origin in Switzerland, 1970s to 1990s', 2023 (Switzerland).

regarding applications for approval of contacts abroad. It is the Committee's general impression that the investigations carried out and the requirements imposed by the Norwegian authorities were fairly modest in the early years.

The Committee's assessments of the adoption agencies' activities set out below must be viewed in the light of how the Norwegian authorities have dealt with the agencies; the Committee's critical remarks are therefore directed not only at the agencies themselves, but also at the Norwegian authorities.

24.3.2 Staffing and expertise of adoption agencies

An important context for assessing the appropriateness of the central role that adoption agencies have played and continue to play is the nature of their staffing and expertise.

As shown in sections 7.3.2, 7.4.2 and 7.5.2, the agencies' work began as voluntary initiatives run by a handful of dedicated individuals, and in some cases without sufficient relevant professional expertise or a robust organisational structure. The Committee has not carried out any systematic or comprehensive assessment of the expertise of managers, staff and board members across different periods, but finds in its investigations that there are variations in formal qualifications and experience amongst staff. Several country managers had neither relevant experience nor relevant education when they started, apart from the fact that they themselves had often adopted from the country in question. The boards of the adoption agencies have mainly consisted of members who have themselves adopted, with varying levels of expertise beyond this, although there have also been board representatives with significant relevant expertise.

As explained in section 7.7, Norwegian adoption agencies have been active in international forums where legal and ethical issues relating to adoption mediation have been discussed. They have also participated in meetings of the Hague Conference. This type of work was important for building knowledge, competence and ethical awareness.

Work involving intercountry adoption raises a number of complex ethical and legal issues which adoption agencies must be equipped to identify and assess in order to operate responsibly. This requires, amongst other things, an understanding of social conditions, including politics, culture, religion, the legal system and economic conditions in the countries with which they cooperate. Such an understanding is necessary to identify and assess the risk of illegal or unethical practices in adoption work, and thus to determine whether it is justifiable to facilitate adoptions from that country, both in general and in individual cases. In their day-to-day work, intermediaries must also remain vigilant, carry out ongoing risk assessments and be able to provide accurate and relevant information to the Norwegian authorities in connection with applications, etc. All of this requires expertise. However, the expertise that intermediaries have deemed necessary to possess must be viewed in the context of how they themselves have perceived their role in the adoption processes. This will be described in section 24.3.3.

The Committee notes that the application form for operating licences, which was introduced after the current Adoption Act of 2017 came into force, asks good and relevant questions and requests key documentation to enable the authorities to assess the adoption agencies' expertise in a responsible manner. The agencies applied for and were granted operating licences in 2019, and these licences expire in 2026. The form facilitates a far more systematic and regular assessment by the authorities of the agencies' competence than has been the case in previous periods.

On behalf of Bufdir, the audit firm PwC carried out a study of various issues relating to adoption agencies in connection with the new Adoption Act (2017). One of the issues was staffing requirements. PwC interprets the Adoption Act's conditions for an operating licence to mean that the agency 'is managed and staffed by persons who are qualified to work with international adoptions'.

PwC takes the view that, from a purely linguistic perspective, the term 'led by' encompasses both the board and senior management. Nevertheless, they believe that the term must be interpreted as relating to 'the management of adoption work', rather than to 'the work of managing adoption organisations'. In other

words, according to PwC, the term refers to day-to-day operations, not to the work of the board. PwC emphasises that
‘the board is essentially a more overarching body that sets the direction and strategy, which at a high level is responsible for safeguarding the interests of the members/organisation and the organisation’s need for competence, capacity and diversity, but which does not normally possess details of or actively participate in specific processes’. The audit firm believes that this “is the responsibility of the executive management, and it is therefore they who must be qualified”. They point out that, nevertheless, “boards may have varying degrees of involvement in an organisation’s day-to-day operations, and it will, of course, always be beneficial if the board also possesses adoption-related expertise. However, PwC believes that it is ‘up to the organisations themselves to determine what expertise the board should have, provided they are not considered to fall within the scope of the term “led by” in Section 31’.” [2393]

The Committee shares the view that when the board’s responsibilities within an organisation are at a more overarching level, this must have an impact on the expertise required, and this perspective is also relevant in assessments under previous legislation. Nevertheless, regardless of the provisions of the Act, the board must have sufficient competence to properly consider and decide on the board matters actually brought before it. This is a prerequisite for ensuring sound and ethical adoption services.

According to PwC, the term ‘staffed with’ encompasses employees, contractors, volunteers and others who carry out work. PwC points out that the challenge in this assessment is not primarily linked to the type of position,
‘but rather to the extent to which they actually perform a type of work that requires them to be “qualified”’. As an illustrative example, it is mentioned that the agency employs a lawyer, but that this person’s role is linked to support work, and that the agency has no other staff with legal expertise. PwC also raises the question of whether board members should be able to compensate for a lack of expertise amongst the organisation’s staff, and thereby fulfil the Act’s requirements regarding expertise.

According to PwC, the requirement to be ‘qualified’ can be divided into three areas: (1) social and health, (2) finance and administration, and (3) legal. PwC states that an adoption agency must be able to demonstrate expertise in all these areas in order to meet the requirements of the Act. PwC emphasises that it is ‘the “team” as a whole that must possess the necessary competence, and not necessarily the individuals’, so that ‘it is the overall picture and breadth of expertise that are important’. This encompasses the part of the organisation ‘that can be said to actually work on the adoption process’.

PwC finds that, although formal education is important ‘to ensure a minimum level of professionalism’, the law does not stipulate any specific fields of study that are automatically recognised as sufficient formal qualifications. They believe that practical competence in relevant subject areas is important and, in several areas, can replace formal qualifications. Furthermore, contractual and permanent partners can compensate for certain areas of expertise if the organisation lacks them, such as an accountant, psychologist, paediatrician, etc. Language skills and cultural understanding are also highlighted as key in many cases. PwC also emphasises the importance of ongoing training and development for staff. Regarding the question of what expertise board members can contribute to address gaps in certain types of expertise within the ‘team’, PwC states that adoption agencies and the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) share the view that requirements for expertise in social work and adoption cannot be met by board members. PwC notes that the adoption agencies believe that board members can, however, contribute expertise in other areas, ‘including law and economics’, and that board members can therefore be regarded as part of the overall expertise within these areas. PwC states that they ‘agree with this assessment as long as it is reflected in the actual performance of duties’.

[2393] PwC, Bufdir. Adoption Organisations, 13 June 2018, pp. 26–27.

PwC recommends that the requirements must be documented with detailed CVs for all staff, and that the application should also include a detailed explanation of how the organisation assesses its expertise as 'qualified' and the principles underlying the organisation's composition.[2394]

The Committee largely concurs with PwC's assessments of the expertise required. However, the Committee is critical of whether it is justifiable not to have legal expertise represented amongst the staff working on adoption processes. International adoptions require that adoption agencies' staff actively engage with legislation and other sources of law in various countries of origin. This requires a basic knowledge of law. In the Committee's view, certain forms of higher education in social sciences, for example, could provide sufficient legal expertise.

24.3.3 Adoption agencies' perception of their own role and tasks in the adoption processes in the countries of origin

Interviews and meetings the Committee has held with chairpersons, managing directors and staff at the various adoptionagencies from different periods leave the impression that, in some cases, both managing directors and chairpersons express the view that the systems were generally sound, both in the countries of origin and at the Norwegian agencies, and that there was close internal dialogue on difficult cases and matters of principle. At the same time, it is the Committee's general impression that several managing directors and chairpersons distance themselves somewhat from the handling of individual adoptions by stating that they do not have in-depth knowledge of these matters. In some cases, this also applies to key features of the adoption processes in the individual countries.

The Committee has also presented board chairpersons with information it has uncovered regarding various significant matters worthy of criticism relating to individual cases from their term of office, but of which the board chairpersons of the relevant intermediary organisation claim to have no knowledge. This applies, for example, to a case from Ethiopia where adoption documents were forged; see, inter alia, section 24.3.7 below.

The fact that some managing directors and chairpersons give the impression of having somewhat limited knowledge of the handling of individual cases in the countries of origin may have several explanations. One explanation that stands out, however, is that the agencies have not regarded it as their task to monitor the release processes in the country of origin, as they perceive this to be the responsibility of the country of origin. 'We have to trust that the authorities in the countries of origin are doing what they are supposed to' is a typical statement made by several managing directors, staff members and chairpersons of adoption agencies in response to questions from the committee regarding the risk of errors and illegalities in adoptions.

The responses the committee has received in interviews with individuals who have held various roles and positions within the adoption agencies give the impression that the agencies have perceived their role in individual cases as being to check that the necessary documents, signatures and stamps are in place, and then to forward the documents. The agencies have, to a limited extent, regarded it as their responsibility to verify that the information in the documents is correct and has been obtained in accordance with applicable regulations and in line with fundamental legal safeguards. Examples of cases where the agencies state that they have carried out further checks, and where necessary ensured corrections were made, primarily concern formal errors in the documents, such as dates of birth, spelling mistakes in names and the like. Furthermore, in some cases, more up-to-date or supplementary health information has been requested. The adoption agencies have made it clear to the committee that they have had neither the expertise nor the practical means to carry out independent investigations into the accuracy or soundness of decisions regarding release for adoption made by the authorities in the countries of origin. The agencies have assumed that the assessment of such matters was the responsibility of the authorities in the country of origin and, to some extent, that it was the responsibility of the Norwegian authorities – by granting authorisation for adoption mediation – to have sufficient knowledge of and confidence in the soundness of the systems in the countries with which they cooperated.

[2394] PwC, Bufdir. Adoption Organisations, 13 June 2018, pp. 27–28.

It must be emphasised that the Committee's investigations indicate that not all documents from the countries of origin in every individual case have been channelled through the intermediaries. For some countries, and during certain periods, some documents may have been provided directly to the parents. This means that there may be information in individual cases that could have given the intermediaries cause to act – for example, conflicting information about the child's origins – but of which the intermediaries were unaware.

As the Committee has been able to establish through its investigation, in most years during which international adoptions took place to Norway, the Norwegian authorities have done little to help refine the intermediaries' understanding of how they should approach individual cases. As the Committee explains in Chapter 27, the investigation has revealed that it was not until the 2020srequired agencies to carry out more thorough checks on the process in the country of origin in individual cases than simply verifying that a competent court or body had made a final decision on adoption or consent to adoption. As explained in Chapter 23, a letter was sent to adoption agencies in 2004 regarding the delegation of the so-called Article 17(c) consent under the Hague Convention, in which the role of the adoption agencies is described as follows: 'The organisation must assess whether the proposed placement falls within, and is therefore in accordance with, the terms of the applicants' prior consent'.[2395] This letter followed an exchange of correspondence between BUFA and the Ministry, in which the former took the view that the checks under Article 17(c) must cover the process on the child's side (the release process), but with which the Ministry did not agree.[2396] The Norwegian authorities' own scrutiny in individual cases concerning the registration of adoptions and in cases concerning adoption authorisation has, in practice, been similarly limited.[2397]

Intermediaries have expressed frustration – to the Norwegian authorities, in the media and to the Committee – that, over the last decade, the Norwegian adoption authorities have continually imposed new documentation requirements on intermediaries and countries of origin. This applies primarily to the new requirements from the Norwegian adoption authorities regarding the scope and implications of the verification under Article 17(c) of the Hague Convention. The authorities' understanding and practice from around 2022 onwards has been that the verification also involved assessing the process in the country of origin. See the Committee's account in section 23.3.

24.3.4 Weaknesses in adoption agencies' oversight of work carried out by their own staff and by partners in the countries of origin

In some country partnerships, country managers/case officers and overseas contacts have made assessments of great significance without consulting the managing director or without the board having been informed by the managing director. The Committee has found several examples and indications of this in its document reviews of adoption cooperation with various countries, and this has also emerged in interviews.

The Committee's interviews and document reviews also indicate that the intermediaries have placed too much trust in their own staff in the countries of origin and other partners in those countries. This applies to the work they have carried out and the information they have provided. In several cases, the information appears to have been accepted uncritically in situations where there were grounds for further verification.

In some cases, the arrangements for remuneration of contact persons and legal representatives also appear to have provided the wrong incentives, in that the fees have been high and have been linked, either entirely or to a significant extent, to the number of adoption cases processed. This issue is discussed in section 25.9.3.

The Committee has found examples of agency staff in the countries of origin or cooperation partners in the countries of origin acting in a criminal, unlawful or otherwise reprehensible manner

[2395] Letter from the BFD to the three adoption agencies AF, VB and IA dated 3 March 2004.

[2396] See section 23.3.4 for further details on this case.

[2397] See section 27.3.3 for further details.

of which the country representative, management, staff or board of the agency were unaware until afterwards.

In the following, the Committee will provide examples of how a lack of oversight or an excessive degree of trust in their own staff and partners in the country of origin has been documented in connection with other matters giving rise to criticism. The examples span from the 1980s to the 2010s and thus demonstrate that the Hague Convention did not lead to a sufficient tightening of controls, nor did the increased awareness of fundamental rules and principles regarding adoption prove sufficiently effective in preventing errors and illegalities.

A well-known example, in which trust and a lack of oversight had serious consequences, is the Moncayo case from the late 1980s, in which one of Adopsjonsforum's foreign contacts in Ecuador was a lawyer who himself identified children available for adoption and arranged for the adoptions to be finalised in an Ecuadorian court. In 1989, he was arrested, and it transpired that he had committed several serious offences and that one of the children adopted to Norway had been abducted.[2398]

Another example comes from Adopsjonsforum's work in Chile, where, in 1997, Adopsjonsforum's foreign liaison officer attempted to persuade the judge in a specific adoption case to grant permission for the child to leave the country before the birth mother had been notified in accordance with the regulations; and when this proved unsuccessful, the liaison officer even attempted to locate the mother in order to bring her before the court. When this too proved unsuccessful, the liaison officer arranged for the Chilean military police to bring the mother to court.[2399]

A more recent example is how the 'Siblings Project' aid initiative developed in Ethiopia, evolving from a project intended to support the remaining orphaned siblings of adopted children into one in which the children's birth parents or other relatives who had made the decision regarding adoption were the ones receiving financial support. There is a risk that birth parents were aware of the support scheme before they made the decision to place their child for adoption. The Committee has identified at least one case where it has been confirmed that the birth mother was made aware of the financial support scheme before she made the decision to place her child for adoption, and the Committee has found indications that this has occurred in several other cases. Developments in the Siblings Project are an example of a serious lack of understanding or respect for the very basic principles and rules governing adoption work amongst some of Adopsjonsforum's local staff and partners in Ethiopia. At the same time, the project manager and Adopsjonsforum's staff in Norway do not appear to have had sufficient insight into the work to detect the risk that project funds could be used in this way. However, when staff in Norway were made aware in 2010 of the unfortunate developments in the Siblings Project by an adoptive mother returning from a trip, they reacted immediately, including by suspending and subsequently restructuring the project.[2400]

A former managing director of Adopsjonsforum provided the committee with another example of a reprehensible act committed by a foreign liaison officer, to illustrate how the intermediary handles such matters. On one occasion after 2011, Adopsjonsforum Norge became aware that the international liaison in Sri Lanka had paid a sum to a high-ranking official within the country's adoption authorities, which was allegedly intended to cover travel expenses, but without any receipts or a satisfactory explanation as to why Adopsjonsforum should cover this. Adopsjonsforum Norge then informed the foreign contact that it was wrong in principle to make payments to officials.[2401]

The latter two examples concern reprehensible circumstances of varying scope and severity. However, both examples illustrate the risk inherent in foreign contacts acting in ways that contravene fundamental rules and principles governing adoption. The soundness of the adoption

[2398] See Chapter 14 on Ecuador, section 14.9.2.

[2399] See Chapter 11 on Chile, paragraph 11.7.4.3.

[2400] See Chapter 15 on Ethiopia, paragraphs 15.7.6 and 15.7.7.

[2401] Interview with the former managing director of AF, 5 November 2025.

Adoption services are therefore dependent on the secretariat and management of adoption agencies in Norway exercising regular and effective oversight, so that reprehensible circumstances can be prevented and swift action taken when such circumstances are discovered, before any unlawful or unethical practices have had a chance to develop. In the case of the Sibling Project, this oversight was too weak.

In its investigation, the committee has also identified striking features in individual cases and aspects of country-specific cooperation which the country representatives would naturally have been expected to pick up on and question. For example, the developments in the Sibling Project in Ethiopia could have been uncovered earlier if Adoption Forum in Norway had cross-referenced the lists of aid recipients with the information on who had consented to adoption. Adoption Forum should generally have maintained closer dialogue with its local staff regarding the conditions for implementing the Sibling Project in an ethically sound manner, without the risk of financial support becoming an incentive to consent to adoption. In light of the findings – some of which are serious – that the Committee has made in several of the country reviews, and which largely concern matters of which the country managers were either aware or should have been aware, the Committee considers that the chief executives and the board should have been provided with significantly more information than they claim to have received. Such information is necessary to assess whether it is justifiable to enter into or continue adoption cooperation with the country in question.

In the Committee's view, by virtue of their roles, the chief executive and the board also have a responsibility to seek out and request information themselves in order to meet the requirements for responsible and ethical adoption mediation. In any event, following the ratification of the Hague Convention, there has been a requirement that intermediaries 'be managed and staffed by persons who, by virtue of their ethical standards and their education or experience, are qualified to work with international adoption', cf. the Adoption Regulations 1999, Section 4. This implies that the managing director is expected to be capable of, and aware of the importance of, keeping abreast of matters that may be relevant to assessing the legality and soundness of the adoption placement. As regards the board, the question is what information is necessary to enable it to fulfil and exercise its responsibilities as a board and to deal with matters in a prudent manner. We also refer to the more detailed description of the requirements for adoption agencies and their activities during different periods in section 24.2. The Committee would also like to note that, according to information provided to the Committee in interviews with managing directors, staff and chairpersons, it has been common practice for oral and/or written travel reports from the adoption agencies' trips to the countries of origin to be presented to the board. The travel reports the Committee has read often contain information that should have prompted follow-up questions. The Committee has cited a number of examples of this in the chapters on country reviews.

Furthermore, it must be regarded as a requirement for sound adoption mediation that the adoption agency has familiarised itself with key aspects of the countries of origin, such as the political situation, the risk of corruption and key features of the adoption work in the country. This is a prerequisite for being able to make sound decisions on whether to arrange adoptions from a particular country. It must also be expected that adoption agencies maintain close dialogue with their local staff and ensure that they work in accordance with the requirements set out in Norwegian and the country of origin's legislation, and otherwise act in an ethically sound manner.

According to information provided to the Committee in interviews, in some cases material information has not been passed on from the country manager to the managing director or the board. At the same time, according to its own statements, the management has not gained a detailed understanding of all material aspects of the processing of individual cases, cf. section 24.3.3 above. The Committee considers it an absolute requirement for the placement of adoptions that the intermediaries have an understanding of the soundness of the processes. Where there is significant information in an individual case, or relating to a partner organisation, that gives cause for concern, it would not be justifiable to proceed with the adoption without first conducting investigations and/or consulting the Norwegian authorities.

It should be noted in this context that, in most cases, the Norwegian adoption authorities appear to have adopted a rather detached role with regard to monitoring the soundness of adoption arrangements in individual cases once an agency licence has been granted. Nor do the requirements that have in practice been imposed when processing agency licences, renewing them and approving contact persons appear, in many cases, to have been particularly high. This applies in particular to new placement licences prior to the ratification of the Hague Convention and to several renewals of existing placement licences right up to 2019. The Committee will discuss this in more detail in Chapter 25.

24.3.5 Illegal and unethical deliberate acts and practices carried out by employees and other persons associated with adoption agencies

In the following, the Committee will present specific findings from the various country reviews which clearly show that individuals or actors associated with adoption agencies in Norway or in countries of origin have acted in ways that are unlawful or unethical. Some such examples are also set out in section 24.3.4. As in the previous section, some of the examples date back a long time, whilst others are of a much more recent date. In doing so, the Committee wishes to highlight certain weaknesses and risk factors associated with the central role that adoption agencies have played and continue to play, which are important for an assessment of that role. This assessment will be provided in section 24.4.

A well-known and extremely serious example concerns an adoption from South Korea in 1978. In this case, a Norwegian couple received assistance from the Korea Association and Holt to bring a 13-year-old child to Norway, despite the fact that the couple's application for pre-approval had been definitively rejected. The head of the Korea Association's secretariat issued a confirmation to the South Korean authorities stating that the child would be adopted in Norway and that the parents had been granted approval to adopt. In this instance, both the Korea Association and Holt acted against their better judgement. The consequences for the adoptee were extremely serious. She lived with the couple in foster care until her parents were finally allowed to adopt her several years later. The individual in question describes a childhood marked by severe neglect, and she has received compensation for victims of violence from the state and compensation from her home municipality as a result of the municipality's failure to monitor the foster home.[2402]

Another significant, more recent and extremely serious case occurred in Ethiopia sometime between 2004 and 2010.[2403] In this instance, the international adoption agency falsified the background story of a child for whom they had failed to obtain release documents, so that the child was presented to the Ethiopian authorities as having been found abandoned. This example is discussed in more detail in section 24.3.7 below.

Another example is that when, in 1979, the country contact in Sri Lanka was told by the Sri Lankan lawyer representing Adopsjonsforum that it was necessary to pay money under the table to 'various officials at the offices they had to visit in connection with a case', the country representative advised the lawyer to include this in his fee and to record these expenses as 'administrative expenses'. A further example from later that same year is that the country representative stated in a travel report to Adopsjonsforum that 'even small routine services, even in court, must be paid for with a little under the table to ensure the job is done quickly and on time'.[2404] It must, however, be borne in mind that attitudes towards this form of corruption were significantly different in Norway at that time than they are today. Such practices were, to some extent, accepted and even regarded as tax-deductible until 1996, provided that the payment was not a criminal offence in the country in question.[2405] Where corruption has been capable of influencing the assessments in adoption cases themselves, it will nevertheless be clearly unethical and contrary to the fundamental principles of adoption mediation. It should therefore—

[2402] See Chapter 19 on South Korea, section 19.8.1, and *Stavanger Aftenblad*, 26 April 2022: 'Hå Municipality and Inger-Tone agree on NOK 2.4 million in compensation and redress'.

[2403] Year not specified to protect the privacy of the adoptee.

[2404] See Chapter 18 on Sri Lanka, section 18.5.3.2.

[2405] Parliamentary Bill No. 76 (1995–1996), Chapter 1, and Dagens Perspektiv, 13 October 2003: 'Tax Commentary: Corruption and Tax Liability'.

Adoption agencies carry out risk assessments regarding adoptions from countries where even the courts had to be bribed.

A somewhat more recent example of corruption comes from the adoption agency Verdens Barn's adoption arrangements from China in the early 1990s, where parts of the adoption process were only carried out after the adoptive parents had paid what they perceived to be a bribe, including to the notary. The foreign liaison officer expressed opposition to paying this, but eventually accepted it. This is according to an adoptee interviewed by the committee, who here recounted what their adoptive parents had told them.[2406]

In its investigation into Ethiopia, the Committee found descriptions in a number of Adopsjonsforum's internal travel reports stating that, during the period 1991 to 2004, the foreign contact demanded disproportionately high remuneration and reimbursement of expenses, sometimes clearly without any basis in actual expenses, withheld important information and had a relationship with a judge which, amongst other things, involved attempting to ensure that the judge's travel to Norway was covered.[2407]

The Committee has also found statements in documents discussed by the board of adoption agencies which demonstrate a lack of understanding of, or respect for, the requirements for correct and ethical conduct. Firstly, the Committee has read a letter from Holt in South Korea to Children of the World in which Holt expresses itself in such a way that it clearly showed that the Korean agency linked the extent of its support for Holt to the number of adoptions allocated. The Committee has found evidence of this link dating back to at least 2013; see section 24.3.6 below.

Another example, from some time ago, is that Adopsjonsforum, in one of its partner countries, chose not to halt the adoption process for a child who had been matched, despite the fact that the applicants had withdrawn and Adopsjonsforum itself considered that it was not in the child's best interests to be adopted.[2408] This concerned an older child who had older siblings, an uncle and an aunt in the country of origin. In a letter to the foreign contact, which had been discussed by the board of Adopsjonsforum, it was noted that going ahead with the adoption might appear 'unreasonable and perhaps inhumane', and it was stated that the Adoption Forum therefore did not wish to proceed with the adoption, provided that it was 'politically acceptable' and would not jeopardise the completion of other adoptions. The adoption went ahead, probably because the children's home would also have halted another adoption to Norway had the adoption of the child in question been withdrawn.[2409] The Norwegian authorities were informed of the matter and appear to have accepted the course of action.[2410]

There have also been instances where shortcomings in the understanding of requirements for correct and ethical conduct have come to light in placement applications and other communications with the Norwegian authorities. We see this, for example, in an application from 1987 for the approval of a Chilean lawyer as a legal representative in Chile. Here, Adopsjonsforum states that the lawyer 'has a direct connection with [the judge] at the Children and Youth Court in the city of Temuco, through whom we have already secured several children' and that the lawyer in question 'also has direct contact with judges in Punta Arenas and Concepción'. [2411] It is not

[2406] See Chapter 17 on China, section 17.5.1.1.

[2407] See Chapter 15 on Ethiopia, section 15.7.2.

[2408] Due to the risk that the adoptee might be identified, the committee does not mention either the country or the year.

[2409] The letter to the foreign contact stated: '– We therefore believe that it would not be correct to proceed with the adoption. Our primary concern is always what is in the child's best interests in the long term. This case is complex and difficult, but it appears that it would be unreasonable and perhaps inhumane to take NN away and bring NN to Norway. For that reason, we have decided that we wish to withdraw the adoption of NN if that is technically/administratively possible and 'politically' acceptable. – The adoption cases of [x number] other children are about to be finalised. We do not wish to halt the adoption of NN if that would be detrimental to the successful conclusion of the [...] other cases."

[2410] The case is described in more detail in section 21.2.1.

[2411] See Chapter 11 on Chile, section 11.7.2.

There is no reason why a relationship with a particular judge should be an advantage, and the relationship described here constitutes a risk. Assessed in the light of Norwegian legal principles, the information about the relationship gives cause to ask follow-up questions to clarify whether the relationship was so close that it could render the judge disqualified from hearing the cases. The Committee has found no evidence that the Norwegian adoption authorities have raised any questions regarding this.

As mentioned, the examples highlighted in this section date back, in some cases, a long time, to before the Hague Convention came into force. Some of the examples, however, are of a significantly more recent date. This applies to the case of Adopsjonsforum's international contacts in Ethiopia, which held this role until 2004, and the financial support provided to Holt, where the Committee has seen letters from Holt to Verdens barn linking the number of children placed with the amount of financial support right up until 2013.

The examples show that there have been unlawful and unethical practices in connection with international adoptions to Norway, although the severity of the cases varies. The examples further show that the regulatory framework for adoption agency activities has not always been sufficient to safeguard fundamental principles, rules and considerations relating to international adoption. The Committee provides an overall assessment of this in section 24.4. First, further findings from the Committee's investigations will be discussed. The following relate to the agencies' relief work and development aid work.

24.3.6 The relationship between aid work, development assistance and adoptions

As mentioned, aid work has been an important part of the adoption agencies' activities. The organisation of this aid work has varied slightly between the different adoption agencies, but a central aspect has been that adoptive parents or the agency's secretariat have raised funds and become involved in projects, often in the country from which they themselves have adopted. This aid work has involved purchasing equipment, clothing and other items for institutions, organising sponsorship schemes where membersor others have committed to providing regular support to a child or an institution in a country of origin, contributing to construction and renovation projects, or making financial donations. The adoption agencies have mainly carried out aid work in countries from which they are currently or have previously facilitated adoptions. The risks associated with aid provided in connection with adoption work are outlined in general terms in section 4.2. Section 25.9.5 provides a more detailed account of the regulation of aid linked to adoption mediation, as well as the Norwegian authorities' supervision and monitoring of adoption agencies' aid work.

As explained in section 5.4.6, both domestic Norwegian legislation, the UN Convention on the Rights of the Child and the Hague Convention prohibit financial gain from adoptions. This is to help ensure that it is the best interests of the child, and not financial motives, that are decisive in adoption decisions. For this reason, aid and other assistance work initiated solely out of a genuine desire to help, and without any intention of influencing adoption processes, can become problematic if there are, in fact, links between the aid work and adoption cooperation that are likely to influence adoption decisions.

Various forms of financial aid have been provided through Norwegian adoption agencies to countries and institutions in countries of origin. In some countries of origin, it has also, at times, been a condition for adoption cooperation that the agency carries out aid work in the country. Among the 12 countries prioritised in the Committee's investigation, this applies to Ethiopia (from 2008)[2412] , Ecuador (from around 2000)[2413] and Colombia (2008–2013).[2414]

[2412] See Chapter 15 on Ethiopia, section 15.4.

[2413] See AF's application for a placement licence for Ecuador dated 26 September 2001.

[2414] In its application of 1 October 2007 for a renewal of the placement licence for Colombia, AF stated that the central authority in Colombia would in future require 'a binding aid project in the country as one of the conditions for continued adoption-

Although, from an accounting perspective, there have been more or less clear distinctions made by adoption agencies in Norway between development aid work and adoption work, in accordance with the requirements imposed on the agencies by the Norwegian adoption authorities,[2415] the investigation has found that these distinctions have not always been apparent to aid recipients in the countries of origin. This also applies in cases where the aid work was organised and run by adoptive parents, outside the agency. In such cases too, the agencies' country contacts often assisted with the organisation and delivery of aid as part of their duties for the adoption agency, making it difficult for the recipients to understand that the aid work was not being carried out by the adoption agency.[2416]

Furthermore, in several cases, aid was also provided in the form of support to children's homes or organisations that placed children in Norway through the respective adoption agency. This occurred in Sri Lanka from 2008/2009,[2417] in Colombia,[2418] in China in the early 1990s,[2419] in Ethiopia from 2006,[2420] and in Vietnam.[2421] And in South Korea, for the majority of the placement period, Children of the World's aid work was primarily directed towards various projects run by Holt, which was the South Korean adoption agency that arranged all adoptions to Norway.[2422] In some cases, the adoption agencies have undertaken to provide fixed sums to children's homes or other institutions, whilst in other cases the financial support has been linked to individual adoptions.

Furthermore, for some countries of origin, the Committee has found internal documents at the adoption agencies and correspondence with partners in which it is stated, more or less explicitly, that aid influences the number of adoptions. This applies, for example, to South Korea, where Holt has on several occasions stated that, despite the fact that the number of children available for adoption has fallen, the relative decline in the number of children allocated to Norway is not as great, due to the substantial contributions made by Norway to various Holt projects. One clear example among many is Holt's 'Allotment notice' from 2011, in which Norway is allocated 40 children, compared with 45 for the current year, and which states that the decline is: 'less than supposedly thanks to the amount of your remarkable donations. We will try to allocate more to you depending on our intake results and the policy change'. [2423] The last time the committee has seen a similar formulation in Holt's correspondence with Children of the World was in 2013. [2424]

The agreements on financial support for various children's homes in Ethiopia between 2006 and 2015 were based on a clear assumption that the size of the financial contributions influenced the number of

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from Colombia'. In its application for renewal of authorisation dated 27 September 2013, AF stated that the adoption authority in Colombia had ceased to require such aid projects, and that projects financed by families in the adoption process had now been prohibited.

2415 For the period prior to the Hague Convention, see RIA's 1981 guidelines for adoption mediation by approved associations, as set out in section 25.3.3.1. Following the entry into force of the Hague Convention on 1 January 1998, guidelines were issued to adoption agencies in a letter from the BFD to adoption agencies dated 20 November 1998. See also Ot.prp. No. 63 (1997–98), p. 27.

2416 This was the case, for example, with the Sibling Project in Ethiopia during parts of the placement period; see section 15.7.6.2.

2417 See Chapter 18 on Sri Lanka, sections 18.5.6.5 and 18.6.4.

2418 In addition to donations to the private institutions in Colombia linked to individual adoptions, AF has also provided financial support for specific projects, various celebrations, etc. at the children's homes. See Chapter 12 on Colombia.

2419 See Chapter 17 on China, section 17.6.

2420 See Chapter 15 on Ethiopia, section 15.7.4.4.

2421 Support was provided in slightly different ways both during the placement period in the 1990s and after 2016. See Chapter 20 on Vietnam, sections 20.6.1 and 20.7.1.

2422 See Chapter 19 on South Korea, section 19.8.2.

2423 Holt's allotment notice of 21 December 2011. A similar statement is made in the 2013 Allotment Notice. Similar statements can be found in letters from Holt to Children of the World in December 2005 and November 2006. See Chapter 19 on South Korea, section 19.8.2, for further details.

2424 Holt's allotment notice for 2013. See Chapter 19 on South Korea, section 19.8.2, for further details.

[2425] In Sri Lanka too, aid to certain children's homes was initiated with the intention of increasing or maintaining the number of placements from there, which appears to have had the intended effect.[2426]

In cases where assistance is provided to children's homes or organisations that place children in Norway, there is a risk that the prospect of receiving assistance may have influenced the assessment of the child's best interests when matching children with adoptive parents, as it becomes desirable to prioritise parents affiliated with a particular adoption agency linked to a specific recipient country. However, the Committee is unable to verify the matching process and the assessment of the child's best interests in individual cases, nor can it determine whether the flow of funds influenced the outcome. As explained in the respective country chapters, the Committee nevertheless considers it a risk associated with such a practice that considerations other than the child's best interests are given significant weight during the matching process. A desire to place children in countries that have provided aid may also entail a risk that the aid influences the assessment of *whether* children should be adopted abroad, or whether permanent care arrangements in the country of origin should be preferred where such arrangements are feasible. For countries that have acceded to the Hague Convention, this would constitute a breach of the principle of subsidiarity; in all cases, however, it could conflict with the best interests of the child, depending on the child's needs and wishes. And from Norway's perspective, as a receiving country, it is, as explained in Chapter 23, the established policy that adoptions should only take place from countries that adhere to the principles of the Hague Convention.

In Ethiopia, the Committee also identified another type of link between aid and adoption. In the so-called Søs-ken project, the aim was to provide for the remaining orphaned siblings of adopted children. As mentioned in section 24.3.4 above, the Committee has the committee has found that, in several cases, aid was provided to the child's birth parents or other individuals who played a key role in the child's placement for adoption, and that there is a risk that some birth parents were aware of the possibility of receiving aid from the Søs-ken Project before they made the decision to give up one or more of their children for adoption. During its field visit to Ethiopia, the Committee interviewed a local employee at Adopsjonsforum who confirmed that she had informed a birth mother about the Sibling Project before the adoption took place. The Committee has found indications that the same has occurred in several cases.[2427]

The Committee has also uncovered that, although aid and adoption were supposed to be kept separate for accounting purposes in Norway in the context of the country partnership with Ethiopia, the support for the partner children's homes was covered by the adoption fees paid by Norwegian applicants and transferred as a single lump sum to the operating account of Adoption Forum's transit children's home, Debab, in Ethiopia.[2428] And in South Korea, the wording used by Holt in its communications with Children of the World, as referred to above, shows that Holt operated with a clear link between aid and adoption.

Linking aid and adoption can create highly problematic situations when adoption cooperation comes to an end. In Ethiopia, over the course of the last decade of adoption placements to Norway, large fixed sums were provided to certain private children's homes, for example 40 and 50 per cent respectively of the operating costs of two children's homes. When adoption figures from Ethiopia fell, Adoption Forum decided in 2013, at short notice, to terminate financial aid to two private institutions. And when Adoption Forum was due to cease its adoption work in Ethiopia entirely in 2015, agreements with two children's homes were terminated at short notice in one case and with immediate effect in the other.[2429] The consequences of financial grants being withdrawn at short notice can, in the worst-case scenario, be fatal. A tragic example of this is the situation described in the chapter on Ethiopia, where 50 children died at Kebebe Tse-

[2425] See Chapter 15 on Ethiopia, section 15.7.4.4.

[2426] See Chapter 18 on Sri Lanka, sections 18.5.6.5 and 18.6.4.

[2427] See Chapter 15 on Ethiopia, sections 15.7.6 and 15.7.7. [2428]

See Chapter 15 on Ethiopia, section 15.7.4.4.

[2429] However, AF has stated to the committee that there was dialogue and that informal warnings were given in advance that AF's support was uncertain in the long term. See Chapter 15 on Ethiopia, section 15.7.4.4.

after the recipient country withdrew its support for private children's homes in the wake of the adoption freeze in the country in 2018. [2430]

In the Committee's view, Adopsjonsforum and Verdens Barn have not in all cases ensured compliance with legal and ethical requirements regarding a clear distinction between aid and adoption.

More detailed assessments of specific aid and assistance projects are set out in the chapters covering each individual country review (Chapters 9–21).

24.3.7 Flow of information from intermediaries to the Norwegian authorities

In its investigations, the Committee has uncovered several instances where essential information held by adoption intermediaries was either not provided to the Norwegian authorities or where problematic issues were downplayed.

As explained in section 24.2 on the legal requirements for agencies, the Adoption Regulations have stipulated since 1999 that agencies are required to 'immediately [to] report any changes in the organisation's activities in Norway or abroad that may be of significance to the organisation's activities in Norway or abroad' and, furthermore, to 'immediately report any changes in political, legal or other circumstances abroad that may be expected to have an impact on the agency's activities' (cf. the 1999 Regulations
§ 10). Previously, there had been no statutory regulation of the issue of the duty to provide information. However, it has been a condition of adoption agency licences that changes must be reported, at least since the mid-1990s. Furthermore, there has been regular dialogue between adoption agencies and the Norwegian authorities since as early as 1978 within the Council for International Adoptions, where all agencies were represented. Since the State Adoption Office (SAK) took over responsibility for the adoption sector in 1987, there have been regular meetings with adoption agencies, at times on a quarterly basis. In interviews with the Committee, the adoption agencies themselves describe these meetings as forums for open discussions of conditions in the individual countries of origin. See section 25.6.3 for further details on the dialogue with the agencies. The Committee has reviewed numerous minutes from such meetings. On several occasions, the Committee has identified issues in the country assessments which one would reasonably expect the agencies to have raised with the authorities, yet the minutes do not indicate that these issues were raised.

Examples of material information not being provided to the Norwegian authorities include, firstly, the cooperation with private institutions in Colombia. Here, Adopsjonsforum informed the Norwegian authorities about the donations linked to each individual adoption, but not that the monetary donations were to be transferred to accounts in third countries, that agreements had been entered into with two institutions regarding advance payment of donations based on the estimated number of children in the coming period, nor that regular donations continued after the Norwegian authorities had indicated that this was not permitted.[2431] In Sri Lanka, one of the children's homes with which Adopsjonsforum collaborated, The Haven, was closed to adoptions from May to September 1990 following a 'scandal report'. This scandal was not mentioned by Adopsjonsforum when, in 1991, it applied for re-approval of its network of contacts in Sri Lanka. In 1994, The Haven was the subject of a police investigation, but Adopsjonsforum did not mention this either in its application for renewed placement rights in December 1994 or in subsequent liaison meetings.[2432]

In South Korea, as explained in sections 19.8.2 and 24.3.6, there was a link between the amount of aid provided by Verdens Barn to Holt and the number of children allocated to Verdens Barn and Norwegian parents. The Committee has found no evidence that the Norwegian authorities were informed of this. And when Adoption Forum Norway discovered the problematic circumstances surrounding the Sibling Project in Ethiopia in 2010, cf. sections 24.3.4 and 24.3.6, neither the Norwegian nor the Ethiopian authorities, according to the Committee

2430 See Chapter 15 on Ethiopia, paragraph 15.3.1.

2431 See Chapter 12 on Colombia, paragraph 12.7.3.

2432 See Chapter 18 on Sri Lanka, sections 18.5.4 and 18.5.5.1.

has been able to establish, information regarding the risk that the decision to place children for adoption might have been influenced by knowledge of the Sibling Project.

A serious case in which material information was withheld from the Norwegian authorities – and those of the country of origin – is described in Chapter 15 on Ethiopia. The case concerns a child who was admitted to Adopsjonsforum's transit home for adoption, Debab, from another region in Ethiopia at some point during the period 2004–2010.[2433] Documentation for the child's release was missing, and the staff at Debab made repeated attempts to obtain the necessary papers from the relevant authorities; however, as nearly a year had passed since the boy's arrival, they realised that this would not succeed. To resolve the problem, they entered into an agreement with a woman and a kebele (local administration) in Addis Ababa. The agreement was that the woman would look after the child temporarily and inform the local authorities that she had found the child abandoned. This meant that, with the assistance of the Kebele, the necessary documents could be issued to have the child released for adoption, and the child could be returned to Adopsjonsforum's transit home. The child was subsequently matched with a Norwegian applicant couple. About a month before the adoption, Adopsjonsforum's country representative appears to have become aware of what had happened and requested further information. In his account of the matter to the country representative, the locally employed staff member confirmed that documents had been forged. The managing director of Adopsjonsforum confirms having been made aware of the case, but states that the board was not informed. Neither the Norwegian nor the Ethiopian authorities were informed of the case.[2434] The Committee considers this withholding of information to be reprehensible.[2435]

Another example is the Hunan case in China, where it was revealed that a large number of children had been handed over to various children's homes in Hunan in return for payment. Adopsjonsforum was made aware of this case via one of its members in December 2005 but did not inform the Norwegian adoption authorities. Bufdir became aware of the case following reports of the court case in the Norwegian and international media. The Committee refers to the more detailed discussion of this complex of cases and the uncertainty as to whether children placed in Norway might be affected by it in section 17.5.8 of the country chapter on China.

The Committee considers it necessary to emphasise that, although the Norwegian adoption authorities, in cooperation with the embassies, have a responsibility to monitor developments in the country of origin from which adoptions take place, this cannot exempt or limit the legal and ethical obligations of adoption agencies to inform the authorities of significant matters of which they become aware and which may be of relevance to adoption arrangements – both completed and future processes. This duty stems both from current regulations and from the very system of accredited adoption agencies. When agencies are granted broad access to operate in the countries of origin and have themselves emphasised their knowledge of and experience with those countries, this must also entail a responsibility to pass on relevant information to the authorities. The Norwegian authorities must be able to expect that such information is shared.

24.4 Assessments

24.4.1 General considerations

In the following, the committee will present its assessments of the system of adoption agencies, as it has been practised in Norway. The findings described above highlight both individual cases where agencies have made mistakes and circumstances indicating more systematic shortcomings in the agencies' work and the authorities' supervision of them. These circumstances reveal certain weaknesses and risk factors in

[2433] The year cannot be disclosed due to the risk that the adoptee might be identified.

[2434] Chapter 15 on Ethiopia, section 15.7.4.5.

[2435] Chapter 15 on Ethiopia, section 15.7.5.

the central role that adoption agencies have played and continue to play, which is important for an assessment of the scheme.

The activities of adoption agencies must be assessed in the light of the supervisory requirements imposed by the authorities. In Chapter 25, the Committee sets out and assesses the authorities' supervision of agencies. As will be evident there, this supervision has generally been superficial. An important exception is the significant tightening of the criteria for granting agency licences for new countries following the entry into force of the Hague Convention in Norway. The introduction of the operating licence scheme when the current Adoption Act came into force in 2018, and the application form developed for this purpose, also constituted a positive change (see section 24.2.4).

In addition, it is essential to take into account the organisational and financial framework conditions of the intermediaries. It is difficult for the Committee to determine with certainty the causes of all the criticisable circumstances we have identified in the country reviews and described here in this chapter. However, there are certain aspects of the system of adoption agencies which, in the Committee's view, are likely to create a risk of serious errors in the adoption processes, particularly in light of the extensive responsibility and discretion granted to the agencies. In the following, the Committee will discuss two such issues: firstly, the fact that the agencies are member organisations (24.4.2); and secondly, that payments associated with individual adoptions have accounted for such a large proportion of the agencies' finances (24.4.3).

24.4.2 The significance of adoption agencies being member organisations of one of the parties involved in the adoption process

24.4.2.1 The issue

Adoption agencies are member-led organisations, with the annual general meeting as the highest governing body, and most of their members are people who have adopted or are in the process of adopting. [2436] Membership is a requirement for those wishing to adopt through these organisations.

Whilst Adopsjonsforum and the Parents' Association for Children from Other Countries were established with adoption as their purpose, Verdens Barn began as an aid organisation in South Korea following the Korean War (then known as the Norwegian Korea Association), and adoption was not an objective at the outset. InorAdopt, on the other hand, was established by people who wished to work on adoptions to Norway from Indonesia. What these organisations have in common, however, is that they have had no commercial purpose, but rather a desire to help – first and foremost children living in difficult circumstances in their countries of origin, but also parents wishing to adopt. In the early decades of international adoptions to Norway, the work was characterised in part by voluntary efforts carried out by a small number of people with a strong personal commitment; however, over time the agencies became more professional, with a larger number of permanent staff.[2437]

Among the staff, there was a clear predominance of people who had themselves adopted a child. The boards of the agencies have also almost exclusively been composed of people with a personal connection to the field of adoption, primarily as prospective adoptive parents or adoptive parents, and in some cases as adoptees. For the most part, therefore, the adoption agencies have consisted of adoptive parents or prospective adoptive parents. With very few exceptions, this applies to members, the board and staff in Norway. [2438]

[2436] See Chapter 7.

[2437] According to the committee's findings, VB stands out somewhat. This agency had a secretariat as early as 1961. From at least the early 1970s, those working for NKF were employees. See Chapter 7 for further details on the transition from a volunteer-run to a staff-run organisation.

[2438] VB, formerly NKF, stands out somewhat from the other organisations in this respect. To a greater extent than the other agencies, this agency has had board members, staff, managing directors and members who have not adopted, particularly in its early years. This is probably explained by the fact that, from the outset, this organisation did not have adoption placement as its purpose.

The adoption agencies’ links to adoptive parents may raise questions regarding both their impartiality and the appropriateness of the role they have been assigned, and the committee will discuss this in the next section.

24.4.2.2 Questions regarding impartiality

The Committee will first assess whether the agencies’ management, organisation and staffing mean that their role in the preparation and processing of individual adoptions may conflict with the impartiality requirements set out in Chapter II of the Public Administration Act. The provisions on impartiality in the Public Administration Act apply not only to public officials, but also to ‘any other person who performs duties or work for an administrative body’, cf. Section 10 of the Public Administration Act. The rules on impartiality therefore also apply where private individuals assist with case preparation, regardless of whether they have been delegated public authority.

According to Section 6, the impartiality provisions in the Public Administration Act cover the preparation of the basis for a decision or the making of a decision in an administrative matter. In the Committee’s view, the intermediaries’ decisions to consent to the adoption process proceeding in accordance with Article 17(c) of the Hague Convention must be regarded as a decision in an administrative matter. Furthermore, parts of the other work carried out by intermediaries in individual cases will likely also have to be regarded as laying the groundwork for decisions later in the adoption process, although it is unclear which part of the work on individual cases should be regarded as laying the groundwork for a decision and which part should be regarded exclusively as assistance and support for members.

Under Section 6(1)(a)–(e), disqualification arises primarily when a case is prepared or decided by a person who is themselves a party to the case or where a person closely related to them is a party. Neither employees nor managers at adoption agencies can be considered disqualified under this provision on the grounds that they work for an agency or have themselves adopted from the same country.

Under Section 6, second paragraph, disqualification also arises where there are ‘other special circumstances likely to undermine confidence in the person’s impartiality’. When assessing eligibility under the second paragraph,
‘consideration must be given to whether the decision in the case may entail a particular advantage, loss or disadvantage for the person concerned or for anyone with whom they have a close personal connection’. The rules on impartiality allow for a discretionary assessment in which various circumstances may be relevant, but it is the personal connection to the parties and the outcome of the case that are central to the assessment. In the Committee’s view, employees or managers at adoption agencies will not be disqualified under the provision in the second paragraph, unless there are other circumstances indicating this apart from the fact that the person in question holds a role at an adoption agency and may themselves have adopted from the country in question. Disqualification is primarily relevant in adoption cases involving the person themselves or their close relatives.

In assessing eligibility, it is significant that the tasks of adoption agencies in processing individual adoption cases were considered by the legislature during the deliberations on the 2017 Adoption Act, when the authority to delegate the task of issuing Section 17c declarations to adoption agencies was enshrined in law in
Section 22(2).

Although the agencies’ role and organisation do not, generally speaking, constitute a breach of the impartiality rules, the considerations on which these rules are based suggest that caution should be exercised when assigning responsibility for case preparation and decisions in administrative matters to bodies that generally have clear ties to one of the parties in such cases. This will therefore be a factor in the overall assessment of reasonableness.

Until the 1970s, aid work was the main objective, and aid work has continued to be an important part of the organisation’s activities. See section 7.3.3 for further details on this.

24.4.2.3 *Assessment of the soundness of the system of adoption agencies in light of their organisation, tasks and supervision*

The further assessment of whether the system of private adoption agencies has been sound depends partly on the tasks they have undertaken, and partly on the supervision to which they have been subject by the authorities, both generally and in individual cases. It is also significant how they themselves have organised their work, in terms of procedures and supervision.

It was largely the agencies, acting on their own initiative, that drove the development of international adoptions to Norway, whilst the state initially maintained a neutral stance towards international adoptions and had only the stated aim of ensuring that the adoptions carried out took place in an orderly manner. Although the state authorities eventually abandoned this neutral stance and must have regarded international adoptions as a positive development that should be supported, the work of facilitating adoptions has always been driven by active adoption agencies. Today's system for facilitating international adoptions is also, in many ways, a result of this initiative, in addition to the framework established by the Norwegian authorities and international regulations. If one were to organise an adoption system from scratch today, the Committee considers it doubtful whether such a central role would be given to organisations governed and run by adoptive parents.

The significance of the intermediaries' strong links to adoptive parents for the soundness of the system will vary depending on the different tasks the intermediaries perform. Among other things, tasks relating to case preparation in individual cases and to consent under Article 17(c) of the Hague Convention may give cause for concern. From the entry into force of the Hague Convention until the summer of 2025, the intermediaries were responsible for giving consent under Article 17(c) of the Hague Convention to allow the adoption process to proceed in the country of origin. This consent is given following receipt of a proposal for placement with Norwegian adoptive applicants from the country of origin, and on the basis of the country of origin's report on the child in question. As described in section 23.1, the Committee considers that the scope of this responsibility was significantly broader than that assumed by the Norwegian authorities and adoption agencies. Bufdir's change in practice in recent years is, as described there, also based on a reassessment of this responsibility. The importance of monitoring individual cases at this stage is reinforced by the fact that the Norwegian authorities exercised very limited oversight of individual cases concerning the registration of adoptions or the granting of adoption authorisations in Norway; see Chapter 27.

Another aspect in the assessment of the tasks assigned to the intermediaries is the extent to which there may be a risk that the assessments made by managers, staff and the board are influenced by extraneous considerations. An important part of the agencies' role in adoption mediation is to enter into agreements with partners in countries of origin, and a risk in this context is that aid agreements may be concluded which are likely to influence the adoption agencies' ability to be allocated children for adoption. It is therefore important that the authorities supervise the adoption agencies' aid projects and other agreements. See section 25.9.5 for further details on the supervision of aid.

Impressions from the Inquiry Committee's interviews indicate that it was a sense of commitment, idealism and the exciting nature of the work involving international contacts that motivated those who chose to work for or become involved with an agency. The organisations' finances have experienced clear periodic fluctuations, and staff pay levels appear to have been modest. Financial statements have been submitted to the Norwegian authorities, which, to the committee's knowledge, have raised no objections.

However, a personal connection to the field of adoption may be likely to consciously or unconsciously influence the assessments made by the agencies, including in ways that could be problematic.
For example, this personal connection *may* entail a risk of bias or a blind spot when assessing potentially problematic circumstances in countries of origin, perhaps particularly in the country from which one has oneself adopted and/or plans to adopt. Furthermore, proximity to the adoptive parents' perspectives and experiences may contribute to adoption being understood to a greater extent as a fundamentally and consistently positive endeavour, which touches on profound aspects

regarding people’s lives and identities. Such a framework of understanding may influence how information is interpreted and weighted, and make it more difficult to maintain sufficient objectivity when assessing matters that might cast the practice of adoption itself, or cooperation with countries of origin, in a critical light.[2439]

According to the information provided to the Committee, none of the adoption agencies had rules on disqualification enshrined in their articles of association, and neither Adopsjonsforum nor InorAdopt had any practice requiring board members to recuse themselves in cases concerning countries from which they themselves were applicants or from which they had adopted.[2440]

The Committee considers it a weakness of the adoption agency system that it is not regulated by law or regulations, nor are conditions imposed on agencies when they apply for an operating licence regarding the composition of their boards or the rules governing disqualification.

The international landscape within which Norwegian adoption agencies operated is an important context for understanding the agencies’ work, assessments and actions. Research and documents from the Hague Conference show that intercountry adoption was, during several periods, characterised by strong financial incentives and inadequate regulation of private agencies.[2441] This allowed market-oriented and, in some cases, less reputable adoption agencies to operate in the countries of origin, which could contribute to competition between private agencies for adoption placements.[2442] The Committee understands that the Norwegian agencies were aware of this dynamic – as an ethical issue that they had to address.

The Committee’s investigation of individual countries and of the adoption agencies’ general work shows that the adoption agencies have carried out assessments and taken measures to try to mitigate the risk of illegal and unethical adoptions. Adoption agencies have also been active in various forums where, together with other adoption agencies from Norway, the Nordic countries and other European countries, they have shared knowledge and experience and worked to ensure sound adoption processes. Through the Nordic Adoption Council and EurAdopt, the agencies were also represented at meetings relating to the work on the Hague Convention. We refer to the account of this in section 7.7.

The Committee is also aware of instances where adoption agencies withdrew from country-specific cooperation where the agencies assessed that adoption placement from that country was no longer sound. One example of this, highlighted by a long-serving head of the Norwegian adoption authorities in interviews with the Committee, is when Verdens Barn chose to cease adoption placements from Romania in 1999. Verdens Barn informed the Norwegian authorities of circumstances they considered unacceptable. They state that ‘the number of placements was, to an ever-greater extent, linked to the size of donations that the Romanian authorities expected from foreign organisations’.[2443] Verdens Barn therefore considered it necessary to...

[2439] See, for example, JF. Bernt and C. Bernt, 2018. *Good Administrative Practice. Legal certainty, communication and conflict resolution in public administration*, pp. 154–155 and 157–159, with further references.

[2440] The only rule on impartiality that the committee has found in the adoption agencies’ articles of association is from AF’s articles of association from 2025, and this is a rule concerning eligibility for election to the national board. It states: ‘For reasons of impartiality, members who are in the process of adoption may not be elected to the national board’. VB’s articles of association neither contain nor have ever contained any rules on impartiality. However, the managing director of VB stated in an interview with the Committee that, after 1999, it became more common for board members to recuse themselves when countries from which they had adopted were under consideration.

[2441] See, inter alia, *Guide to Good Practice No. 2* (2012); HCCH. (2014). ‘Note on the financial aspects of intercountry adoption’; Carruthers, J. M., & Lindsay, B. W. M. (2024). Intercountry adoption: preventing and addressing illicit practices. In **Research Handbook on International Family Law**. Edward Elgar Publishing Limited.

[2442] See, for example, Daniel Hailu (2017). *Children for Families: An Ethnography of Illegal Intercountry Adoption from Ethiopia*, **Adoption Quarterly**, 20:3, pp. 201–221.; Elvira Carolin Loibl (2019). **The Transnational Illegal Adoption Market**, Maastricht University.

[2443] VB’s letter to Bufdir dated 20 January 2014, requesting permission to arrange a number of adoptions from Romania to Romanian nationals in Norway.

cease adoption mediation from that country, and was at that time the first member organisation of EurAdopt to do so.[2444]

At the same time, the committee has also observed examples in the country reviews where the boundaries of what was considered ethically justifiable appear to have shifted. In Colombia, the agreements Adopsjonsforum entered into with CRAN and Los Pisingos regarding advance payment of the so-called 'donations' are examples of this; see the detailed account in section 12.7.3. Another example is the aid agreements entered into with private children's homes in Ethiopia during the most recent period of adoption placements from that country; see section 15.7.4.4.

The Committee considers that, regardless of the ethical awareness of the intermediaries, there are some fundamental concerns about entrusting significant parts of the adoption processes to private member organisations, where all members have either adopted or are planning to adopt themselves. The extent of these concerns will, however, depend on the responsibilities and tasks assigned to the adoption agencies. The fact that the Article 17(c) consent has been transferred to the Norwegian adoption authorities (Bufdir) is therefore, in the Committee's view, a step in the right direction.

24.4.3 The significance of the fact that adoption agencies have largely been funded through income linked to adoptions

One factor that may influence the work and decisions of adoption agencies is that they are largely funded by private funds received in connection with each individual adoption. The finances of adoption agencies have therefore been highly dependent on the number of adoptions carried out. As the number of adoptions has fallen, this has gradually led to financial constraints and, in turn, staff cuts.[2445] Ensuring the continuation of existing partnerships and establishing new ones has therefore been vital to the agencies' survival.

The intermediary organisations have received some support from the state budget. From 1991 to 2007, they received 1 million kroner annually, to be distributed amongst the three associations.[2446] In 2008, the sum was increased to 1.2 million kroner,[2447] and to 2 million in 2011.[2448] Bufdir's annual report for 2020 states that the 'drastic decline in 2020 in the number of cases involving international adoption meant that, in 2020, all three adoption organisations received financial crisis support'.[2449] This totalled 11.1 million kroner.[2450] In 2021, the grant was increased by 3.5 million kroner.[2451] With the exception of recent years, government grants have accounted for a relatively small proportion of the agencies' total income.[2452]

[2444] Interviews with department heads at SUAK, BUFA and Bufdir on 27 June 2024, 12 February 2025 and 5 February 2026. The then managing director of VB also highlighted this in an interview with the committee on 4 June 2025.

[2445] See, for example, PwC, Bufdir. Adoption Organisations. Report of 13 June 2018 commissioned by Bufdir, pp. 8–16, containing figures and an analysis illustrating the relationship between adoption placements and wage costs for the years 2012–2016, on p. 13 ff.

[2446] Letter from the adoption agencies to the Ministry of Children and Family Affairs (BFD), 31 March 2005: 'Application for operating grants for the year 2005'.

[2447] Letter from the adoption agencies to the Ministry of Children and Equality (BLD), 6 April 2009: 'Application for operating grants for the adoption associations for the year 2009'.

[2448] BFD's letter to VB dated 17 October 2011.

[2449] Bufdir's Annual Report for 2020, p. 61.

[2450] Bufdir's Annual Report for 2020, p. 149.

[2451] Bufdir's Annual Report for 2021, p. 194.

[2452] For example, AF's accounts for 2014 show that it had income of approximately 15.5 million kroner in payments from applicants, whilst the public operating grant amounted to approximately 900,000. For 2020, AF's accounts show that the public operating grant and the additional grant to compensate for loss of income in connection with the COVID-19 pandemic amounted to approximately 3.9 million kroner, whilst income from applicants amounted to approximately 5.7 million kroner.

The Committee considers that the fact that adoption agencies are financed to such a large extent by individual adoptions entails a risk that decisions may, consciously or unconsciously, be influenced by a desire to maintain operations. The Committee believes that adoption agencies should have been funded to a greater extent by the public sector. Given the important tasks assigned to adoption agencies by the Norwegian authorities, public funding should have been far higher to ensure that the agencies were financially independent.

24.5 Overall assessment

The Committee finds that there have been, and continue to be, significant weaknesses in the system of adoption agencies in Norway.

The fact that adoption agencies are organised as private membership organisations raises several issues of principle. On the one hand, it is positive that adoption work is based on personal commitment, and that adoption agencies are not commercially motivated enterprises. On the other hand, it is unfortunate that the agencies have to such a large extent been run by people with a personal connection to adoption. This applies to the annual general meeting, the overwhelming majority of board members and a large proportion of the staff. When this is viewed in the context of the agencies having been heavily dependent on a certain number of adoptions to sustain their operations, there is a risk that both strategic choices and decisions, as well as assessments in individual cases, have been influenced – consciously or unconsciously – in undesirable ways. In light of the absolutely central role that the intermediaries have played and continue to play in establishing international cooperation and in the handling of individual cases, the Norwegian authorities should have ensured more thorough control and supervision of the intermediaries' organisation and work. The Norwegian authorities' supervision and control are discussed in Chapter 25.

The role of adoptive parents within the associations is an argument in favour of the responsibility for issuing Article 17(c) consents under the Hague Convention having been assigned to the Central Authority rather than delegated to the adoption agencies.

There have been significant variations in the level of competence of staff and board members at the agencies, and there have also been variations regarding the soundness of the work carried out. As explained in this chapter and in section 25.8, cf. 25.7.1, this must be viewed in the context of the fact that the authorities have exercised relatively limited oversight of the agencies' organisation and staffing, despite there being a legal basis for such oversight. Although adoption agencies have an independent responsibility to ensure they possess sufficient expertise to operate in a sound manner, the Committee considers that the Norwegian authorities bear the overarching responsibility and should have imposed stricter requirements regarding the overall level of expertise that each adoption agency must possess amongst its staff and board members, regarding the composition of the boards and the content of the articles of association, as well as written work instructions.

As the committee has explained, the adoption agency system emerged in a different era, and it would hardly have been organised and regulated in the same way if such a scheme were to be introduced today. In the early years, the work of adoption agencies centred on assisting prospective adoptive parents as an alternative to them having to operate entirely on their own in the countries of origin. From the latter half of the 1970s, the Norwegian authorities sought to bring adoption mediation into a more structured framework, but there were still clear weaknesses in the oversight exercised by the Norwegian authorities. In the Committee's view, the Norwegian authorities should, at the very least in connection with the ratification of the Hague Convention, have carried out a thorough assessment of the system of adoption intermediaries and also ensured more systematic supervision of them.

The Committee considers that the application form for operating licences, which was drawn up before the agencies applied for their first operating licence in 2019, provides a sound basis for the adoption authorities' assessment of the agencies' competence and for the assessment of organisational matters, including their articles of association. See further details on this in section 24.2.4 above. However, operating licences are granted for up to 7 years, and it is therefore important that the authorities carry out supervision in the period between operating licences.

In Chapter 31, the Committee will assess whether the adoption system in Norway for intercountry adoptions has been sound, and examine the connection between the weaknesses outlined here and our findings regarding the Norwegian authorities' work on placement licences and individual cases, as well as supervision and monitoring.

25 The Norwegian authorities' work on placement licences and the supervision of placement agencies

25.1 Introduction

In this chapter, two key themes will be outlined and discussed – the Committee's findings regarding the Norwegian adoption authorities' work on placement licences and the adoption authorities' supervision and control in the field of adoption. These themes cover significant parts of the Committee's mandate.

An overarching objective of the mandate is to 'ascertain whether the system for adoptions to Norway has been sound', and this 'includes questions regarding regulations and practice'. It is stated that one aim of the inquiry is 'to learn from any weaknesses in the system', and the report 'shall provide a basis for legislative development as well as the development of practices for control and supervision'. A key issue for the report is 'whether the Norwegian authorities have exercised sufficient control over international adoptions'. It is further specified that the committee is to 'describe the system that has existed for the control and supervision of international adoptions'.

More specific issues concerning the authorities' control and supervision are also set out. Firstly, the committee is to 'assess how Norwegian authorities have handled situations where they have received warnings or become aware of circumstances in the countries of origin requiring follow-up'. The committee is also to examine whether the Norwegian authorities 'have had the opportunity and been encouraged to monitor more closely' the adoption processes in the countries of origin with regard to 'the procedures for matching prospective adoptive parents and adoptive children, the verification of information concerning the child's identity and family ties, and consent'. The committee shall also 'examine whether Norwegian authorities and adoption agencies have had the opportunity and been encouraged to monitor more closely money transfers in connection with adoptions, both transfers from Norway to the country of origin and between parties in the country of origin'. The committee shall furthermore "examine whether the assessments have been thorough enough when granting intermediary licences for cooperation with countries of origin" and "whether there are issues that should have been identified during the processing of applications for intermediary licences".

The report contains separate chapters on the pre-approval of adoption applicants, on the processing of cases concerning registration or adoption authorisation, and on adoptions outside the mediation organisation (Chapters 26, 27 and 28). In Chapter 24, the committee has assessed the system of adoption agencies and outlined the regulation of operating and placement licences, as well as other rules governing the agencies' activities and obligations towards the Norwegian authorities. This chapter is therefore primarily focused on the Norwegian authorities' work regarding placement licences and applications for the approval of contact persons, as well as on general and more targeted supervisory work in this field.

By examining the twelve priority countries of origin specified in the Review Committee's mandate, the Committee has gained a great deal of information about the work of the Norwegian adoption authorities. Firstly, the Committee has gained an insight into how the work on placement licences has been carried out, including the requirements imposed on applications and how the authorities themselves have assessed the cases. Secondly, information has come to light regarding the supervision and monitoring carried out in relation to adoption placements, amongst