

Séminaire international sur la  
recherche des origines  
27 – 29 mai 2019  
Montréal, Canada

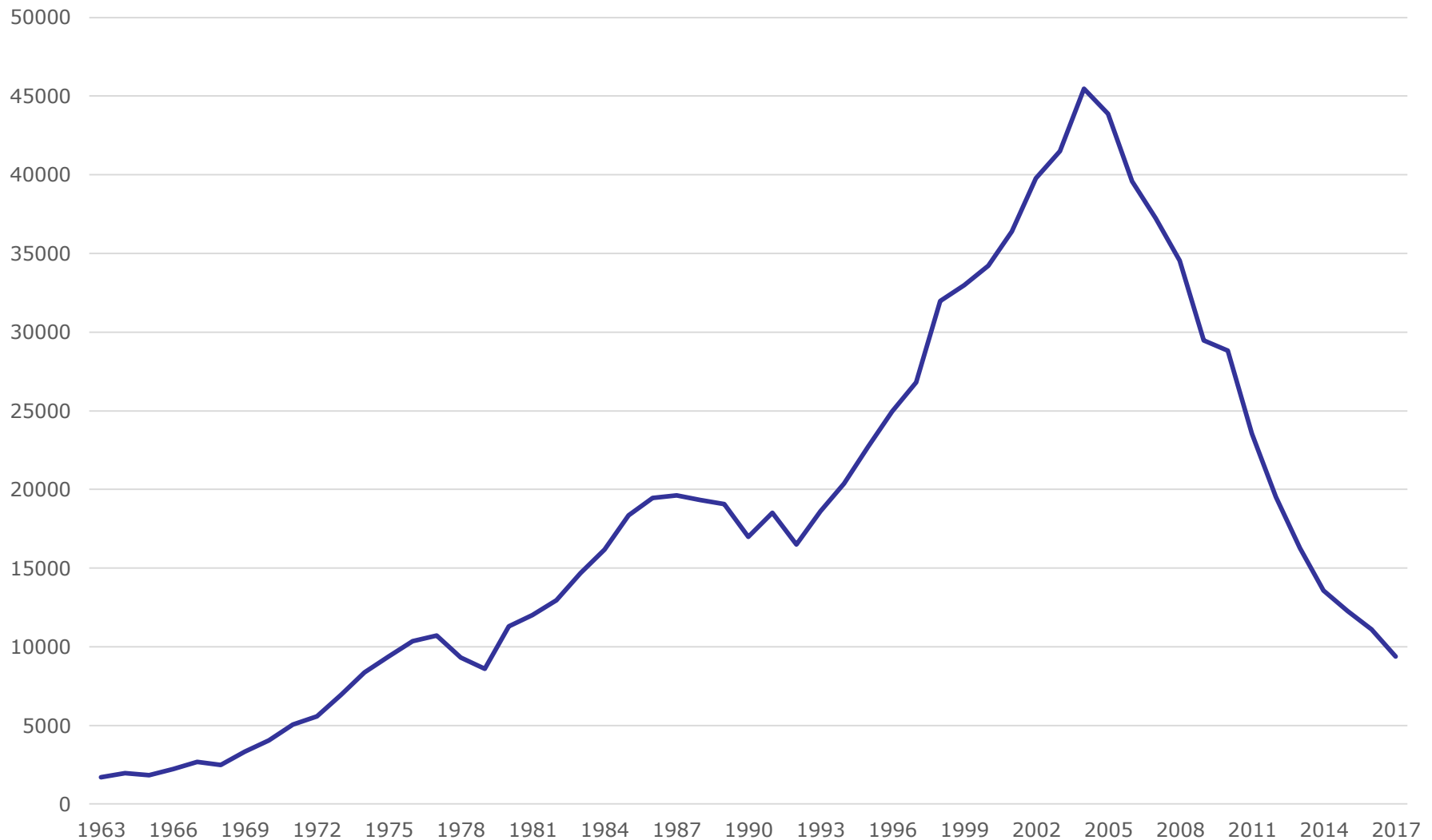


# L'évolution de l'adoption et la recherche des origines au fil du temps, la perspective internationale

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# Global statistics 1963 - 2017



\* Sources: HCCH website and P. Selman, *Key Tables for Intercountry Adoption: Receiving States and States of Origin 2004-2017*, Newcastle University, 2019. This data is subject to possible future

**Two families**

**From ... secrecy**

# Secrecy: reasons given !?

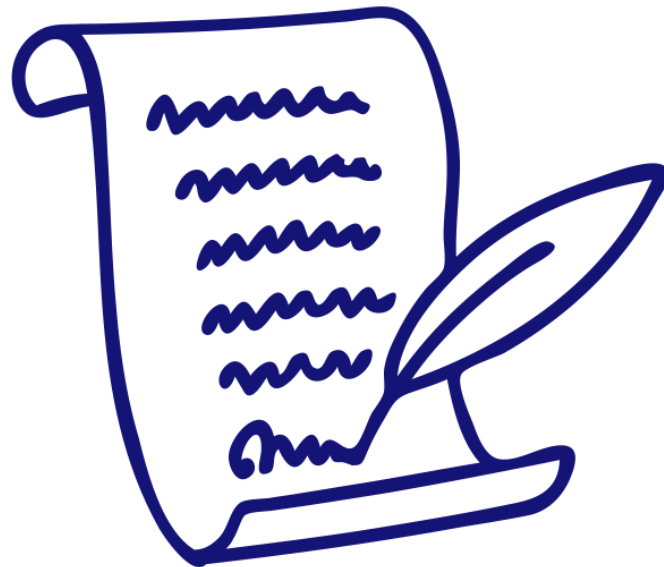
- Adoption: **substitution** of family by birth
- Protecting:
  - **adoptees** - circumstances of birth
  - **adoptive parents** and **adoptees** from birth parents
- **Birth mothers** - considered frequently as problematic
- **Searching adoptees** – viewed as the ones with problems

**To ...  
right of access to birth  
records**

# Why change?

- Change or going back to begging?
- Learning from the past
- Stories
- Advocacy groups
- It's fine to search for origins!

# International instruments





# HCCH Conventions

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- **1965:** on Jurisdiction, Applicable Law and Recognition of Decrees Relating to Adoptions
- **1993:** on Protection of Children and Cooperation in respect of ICA

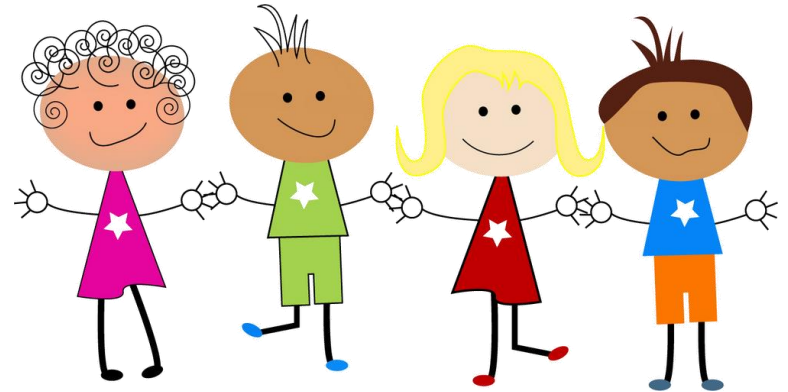
# Declaration on Social and Legal Principles - Protection and Welfare of Children, with Special Reference to [...] Adoption [...]

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- 1986
- The **need** of ... an adopted child to know about his or her background
- should be **recognized** by persons responsible for the child's care,
- **unless** this is **contrary** to the child's best interest (Art. 9)

# 1989 UN CRC

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Child's right to **know**,  
as far as possible,  
his or her **parents** (Art. 7)

# 1989 UN CRC (2)

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Child's right to **preserve** his or her **identity**,  
including ...name and family relations

Where a child is **illegally deprived** of some or all of  
the elements of his or her identity,  
States Parties shall provide appropriate **assistance**  
and protection,  
with a view to **re-establishing** speedily his or her  
**identity** (Art. 8)



**The 1993 Hague Convention  
on **protection** of **children** and  
**co-operation** in respect of intercountry adoption**

# Objectives of the Adoption Convention

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→ **UNCRC**

→ Minimum **standards** for ICA

→ System of **co-operation**

→ **Prevention** of abuses

→ Automatic **recognition** of adoption

# Fundamental principles

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Best **interests** of the child

**Subsidiarity**

Division of **responsibilities**

**Authorities** and **bodies**

**Safeguards** and **procedures**

# 1993 HCCH Convention (1)

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**Collect + preserve**  
information (identity / medical  
history)

**Access** to information

(Arts 9 & 30)



# 1993 HCCH Convention (2)

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- Rules of **substantive** nature
- But so **important**
- Need of **cooperation**
  
- Art. 9 – all appropriate measures to **collect**, **preserve** and **exchange** information

# 1993 HCCH Convention (3)

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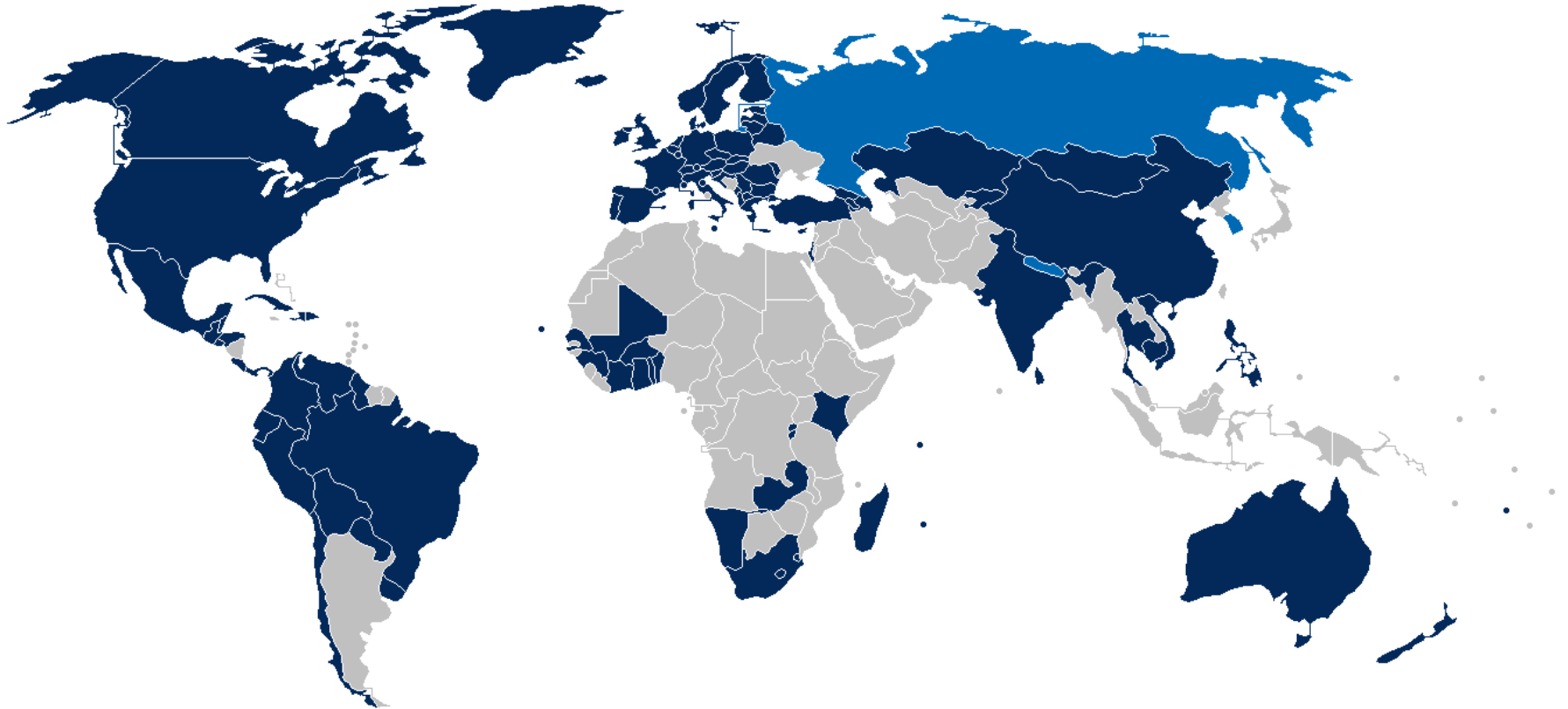
- How much **information**?
- For how **long** ?
- Right to obtain information – not under discussion
- BUT **unrestricted access** may be, in certain cases, contrary to the respect of the rights of parents
- Inconvenience of unlimited right of information in certain situations: **birth mother** has reorganised her life.

# 1993 HCCH Convention (4)

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- **Access** to information by
- the **child** + legal **representative**
- under appropriate **guidance**,
- in so far as is **permitted by the law** of the State where it is preserved
- having regard to the **age** and his or her personal **conditions**

# 101 States parties to the 1993 HC

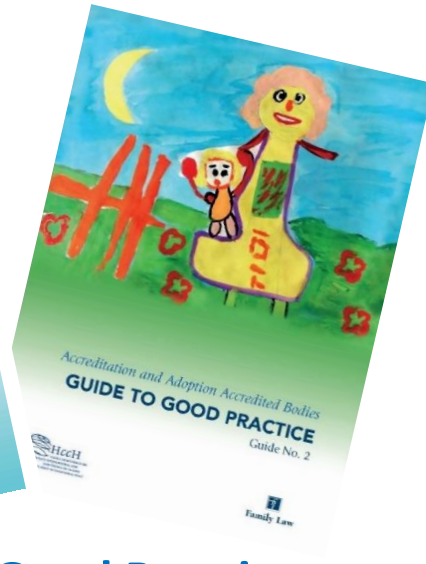
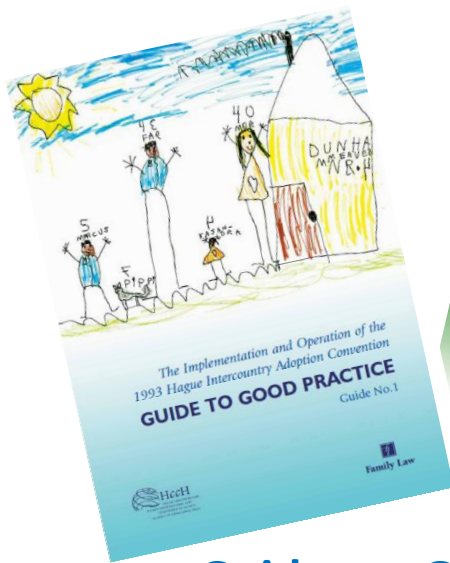


States parties (101)

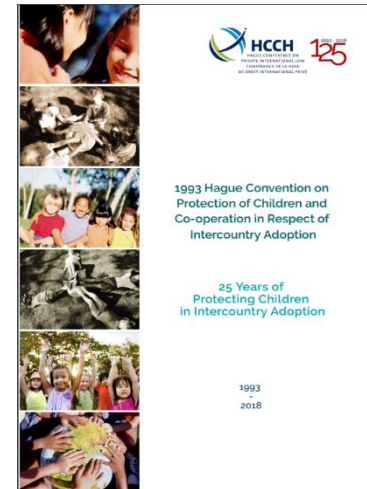
Only signatories (3)

*NB: Boundaries on this map are based upon those used by the UN Cartographic Section. The number of States reflects the Parties as recorded by the Depositary (NL MFA). Neither should be taken to imply official endorsement or acceptance.*

# HCCH Publications

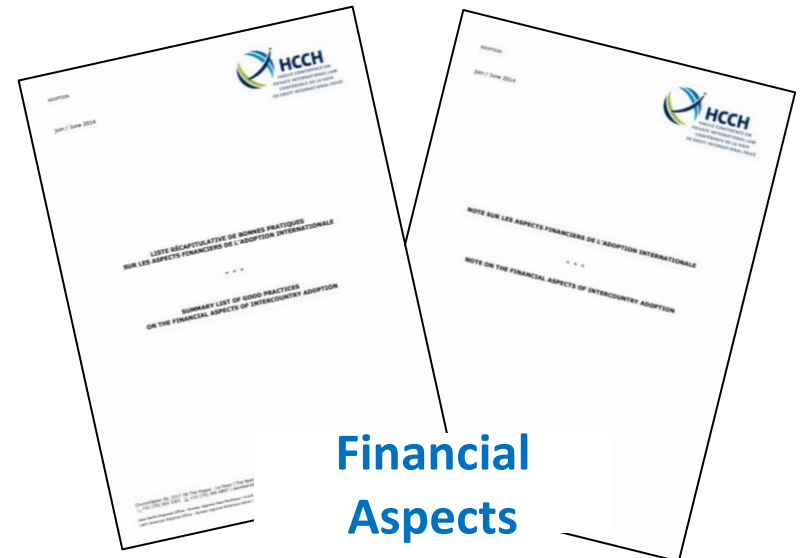
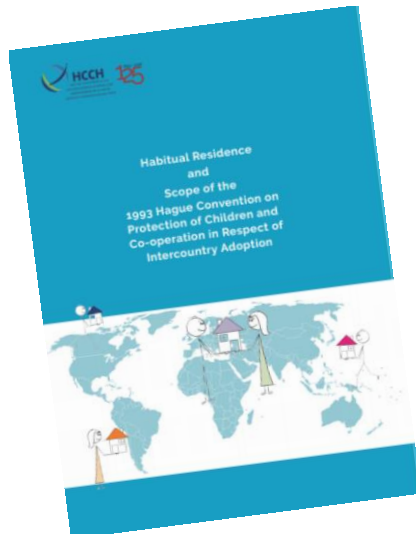


## Guides to Good Practice



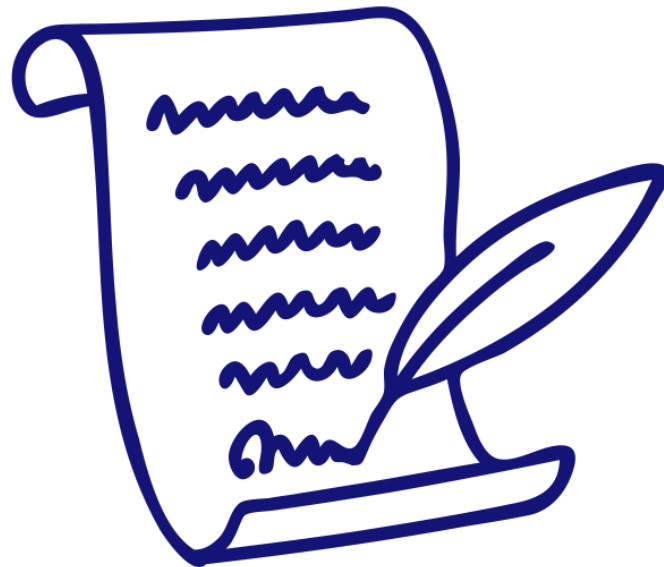
## 25 years of the Convention

## Habitual Residence



## Financial Aspects

# Regional instruments



# Inter-American Convention on conflict of laws concerning the adoption of minors

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- Where called for, the **secrecy** of the adoption shall be **guaranteed**.
- However, whenever possible, medical **background** information on the minor and on the birth parents, if it is known, shall be **communicated**
- to the legally appropriate person, **without** mention of their names or of other data whereby they may be **identified**.

# 1990 African Charter on Rights and Welfare of the Child

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## 2012 Guidelines for Action on ICA of Children in Africa:

- **Preservation of information** on the origin of adopted children, in particular information concerning the **identity** and **medical** history of the biological parents,
- Children should
  - be **informed about their adoption**
  - have **access** to such information at the appropriate **age** and level of **development**, and after appropriate **counseling**.



# 1990 African Charter on Rights and Welfare of the Child

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## 2012 Guidelines for Action on ICA of Children in Africa:

- States of origin should **collaborate** with receiving States to provide different forms of **assistance** and **counselling** for different stages of the child's development to adulthood,
- including **preparation** for origin searches
- and **reunions** of the adoptees with members of their biological families.

# 2008 European Convention on the Adoption of Children (Revised)

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## Article 22 – Access to and disclosure of information

- Enables **adoption without disclosing** the identity of the PAPs to the child's family of origin.
- Require or permit adoption proceedings **in camera**.

### Adoptee access to origins:

- **BF right not to disclose their identity** – depends on domestic law and competent authority to override – balance btw BF and adoptee rights
- Appropriate **guidance** to child adoptee (minor).

# 2008 European Convention on the Adoption of Children (Revised)

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- Document with **date and place of birth**, but **not** expressly revealing the fact of **adoption** or the identity of **BF**.
- Relevant information collected and retained for **at least 50 years** after the adoption becomes final.
- Public records shall be **kept** to **prevent** persons who do **not** have a **legitimate interest** from
- **learning** whether a person was **adopted** or not,
- and if this information is disclosed, the **identity** of his or her **parents of origin**.

# Website



www.hcch.net

**Hague Conference on Private International Law**  
Conférence de La Haye de droit international privé

**News items:**

- Apostille Convention enters into force for Guyana, 18-Apr-2019
- African Regional Conference on the HCCH Children's Conventions, 01-Apr-2019
- Nicaragua accedes to the 2007 Child Support Convention, 16-Apr-2019

**22nd Diplomatic Session**  
Adoption of the 2019 HCCH Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial matters

**14 June - 2 July 2019**  
Hague Academy  
Peace Palace, The Hague  
#2019HCCTripJudgments

**The Diplomatic Session will begin in 59 Days**

**Access to Justice:**

- Access to Justice
- Apostille
- Choice of Court
- Evidence
- Form of Wills
- Service

**Choice of Law in Contracts:**

- Securities
- Trusts

**Upcoming meetings:**

- Working Group on Secretaries General
- Working Group on Rules of Procedure
- Working Group on Illicit Practices



**ADOPTION SECTION**

**1993 - 2018**  
**25TH ANNIVERSARY of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption**  
**Brochure "Celebrating 25 Years of Protecting Children in Intercountry Adoption"**

This Brochure:

- presents the **fundamentals** of the 1993 Hague Convention in an easily accessible form,
- analyses the **main achievements** in the past 25 years,
- identifies the **remaining challenges**, and
- includes the **main tools** which have been developed over the years by the HCCH and the International Social Service to assist with the implementation of the Convention.

The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention) protects children and their families against the risks of illegal, irregular, premature or ill-prepared adoptions abroad. This Convention, which operates through a system of national Central Authorities, reinforces the UN Convention on the Rights of the Child (Art. 21) and seeks to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights. It also seeks to prevent the abduction, the sale of, or traffic in children. For further information, see the Outline of the Convention or the more detailed "Information Brochure" on the Convention.

Please note that the Permanent Bureau of the Hague Conference has no mandate to assist in individual adoption cases. If you have a question relating to intercountry adoption and your country is a Party to the 1993 Adoption Convention, please contact the Central Authority designated by your country.

Text of the Convention Translations Central and other Authorities	Contracting States (status table) States which participated in the XVI <sup>th</sup> Session (see Art. 48(1))
<b>Explanatory documents</b>	<ul style="list-style-type: none"> <li>Explanatory Report</li> <li>Information Brochure</li> <li>1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption - 25 Years of Protecting Children in Intercountry Adoption</li> <li>Preparatory work (history of the Convention)</li> <li>Hague Recommendation on Refugee Children (adopted on 21 October 1994)</li> </ul>
<b>Information for new Contracting States</b>	<ul style="list-style-type: none"> <li>Checklist of notifications and declarations to be made by States Parties</li> <li>Checklist of questions for new Contracting States</li> </ul>
<b>Recommended Model Forms</b>	<ul style="list-style-type: none"> <li>Statement of consent to the adoption</li> <li>Certificate of conformity of intercountry adoption</li> <li>Medical Report on the Child</li> <li>Supplementary Medical Report Form - very young children</li> </ul>
<b>Guides to Good Practice</b>	<ul style="list-style-type: none"> <li>The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice No 1</li> <li>Accreditation and Adoption Accredited Bodies: General Principles and Guide to Good Practice No 2</li> </ul>
<b>Country profiles</b>	<ul style="list-style-type: none"> <li>Country Profiles for receiving States and States of origin</li> <li>State responses</li> </ul>
<b>Special Commissions</b>	<ul style="list-style-type: none"> <li>All Special Commission meetings</li> </ul>

**Specialised Section**

- Full text
- Status table
- Authorities
- Country Profiles
- Special Commission meetings
- Working Groups
- Experts Groups
- Questionnaires & Responses
- Seminars
- HCCH Publications
- Translations
- Statistics
- Bibliography
- Miscellaneous
- Latest updates

**Guides to Good Practice**  
Guides No. 1  
Guides No. 2



**Merci beaucoup pour  
votre attention!**

