



Growing up

Decision intercountry adoption cooperation with Hungary

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1. Location

The Flemish Coalition Agreement 2019-2024 provides that the Flemish Government will thoroughly examine the current practices surrounding intercountry adoption and take measures to improve intercountry adoptions to Flanders.

In response to the final report¹ of the panel of experts on intercountry adoption, the Flemish Government on September 17, 2021² formulated a number of basic principles and outlines for the further approach, both in terms of the future of intercountry adoption and in dealing with abuses from the past.

One of these outlines concerns strengthening partnerships with countries of origin. The communication to the Flemish Government of September 17 (VR 2021 1709 MED.0315/1) states the following on this subject: *"In order to increase children's chances of finding an appropriate home while also further eliminating the risk of abuse, the Flemish government wants to strengthen cooperation at the level of nations (country of arrival - country of origin). Flanders will visit the countries with which, after risk analysis, cooperation can be sought or new cooperation can be sought in order to arrive at intense cooperation agreements. This includes explaining very well at such a relaunch or start-up how Flanders wants to work, which candidate parents Flanders has, for which child profiles, etc. At the child level, the system is then driven by the demand of the countries of origin to place children within the agreements made. We anchor this working method around which good practices with a number of countries of origin already exist today, in the functioning of intercountry adoption."*

The Flemish Government asked the Flemish Adoption Center (VCA) to elaborate the framework for the above risk analysis and submit it to the Flemish Government for validation. The criteria for the decision framework for intercountry adoption were established by the Flemish Government on December 10, 2021³.

The decision framework was then further developed in concrete terms and serves as a basis for screening all current collaborations with countries of origin on intercountry adoption.

To provide information and advice, SCC collaborates for each screening with 3 independent organizations with a broad international network and expertise in alternative (youth) care, youth protection measures and children's rights. These are International Social Service⁴ (ISS), Child Identity Protection⁵ (CHIP) and UNICEF⁶.

In addition, input was also sought from the competent authority in the relevant country of origin, relevant intercountry adoption agencies, and the Federal Central Authority (FCA).

¹ <https://www.opgroeien.be/nieuws-en-pers/nieuws/rapport-expertenpanel-interlandelijke-adoptie-in-vlaanderen>
² <https://beslissingenvlaamseregering.vlaanderen.be/document-view/61404C18364ED90008000178>
³ <https://www.opgroeien.be/nieuws-en-pers/nieuws/nieuw-beslissingskader-voor-interlandelijke-adoptie>
⁴ <https://www.iss-ssl.org/index.php/en/>
⁵ <https://www.child-identity.org/en/>
⁶ <https://www.unicef.org/>

Based on the collected input, all current collaborations are evaluated on a color-coded basis by 2 stakeholders: adoptees on the one hand and the 3 current intercountry adoption services on the other. However, no adoptees were found for some countries of origin to go through and evaluate the information.

SCC will make a final decision based on the whole and, if in doubt, may additionally call upon an expert in children's rights.

SCC can make 3 possible decisions:

1. Cooperation with country of origin is positive

If the cooperation with the country of origin is decided positively, the full cooperation continues. However, work visits are planned to make further cooperation agreements around an operation aligned with the chalk line "Strengthen partnerships with countries of origin", as decided by the Flemish Government.

2. Cooperation with country of origin is stopped immediately

After screening the current collaborations, collaboration with a number of origin countries will no longer be possible. The files of candidate adopters who already have a current child allocation will continue to be completed according to the current system. The other candidate adopters can reorient themselves towards the countries of origin with which Flanders continues to cooperate. Transparent communication to those involved is then essential.

3. Cooperation with country of origin requires more clarification through work visit

After screening the country of origin, a working visit is planned to create more clarity around future cooperation. Cooperation continues unabated until after clarification through the work visit and final decision by SCC.

2. Assessment of current intercountry adoption cooperation with Hungary

The assessment is done on the basis of the completed "Decision framework for intercountry adoption - Hungary," which you will find in the Appendix. This document describes in detail the various assessment criteria. It is an integral part of the assessment and decision by SCC.

1. General situation in the country of origin

Security situation

FPS Foreign Affairs reports that travel in Hungary is generally safe, subject to the usual precautions.

→ **On-site safety is adequate.**

Corruption Index

Hungary has a Corruption Perceptions Index of 42 out of 100 in 2022 (Hungary - Transparency.org). This figure makes the country, along with Bulgaria, one of the most corrupt in the European Union. Statistics also indicate that the result is worsening every year.

→ **There is a lot of corruption in Hungary.**

Political stability

Hungary ranked 43 (out of 193 countries) on the Political Stability Index" (Political stability by country, around the world | TheGlobalEconomy.com) in 2021 and 73 (out of 140 countries) on the "rule of law" index (WJP Rule of Law Index | Global Insights (worldjusticeproject.org) in 2022.

These figures show that the country scores strongly on political stability, but weakly on the rule of law. In 2022, the European Parliament declared in a resolution that the country has evolved into an electoral autocracy, where law is used, among other things, to eliminate political opponents, and can no longer be considered a full-fledged democracy.

→ **Hungary is a politically stable country but scores weakly on the "rule of law" index**

Met opmerkingen [JW1]: See also: <https://www.eiu.com/n/campaigns/democracy-index-2022/>

Specific concerns:

The overall situation of women and children in Hungary is satisfactory, although there are growing concerns due to poverty (especially among single-parent families, large families and families with a dependent child), exclusion and discrimination against the most vulnerable groups of women and children (mainly Roma children, children with disabilities, LGBTQI+ children). In recent years, concerns have arisen within the EU regarding the rule of law in the country. Poverty remains a growing problem, with regional and ethical dimensions. The Roma population is particularly hard hit by poverty.

2. Ratification of the Hague Convention

The Hague Adoption Convention was ratified on May 25, 2004, and entered into force on August 1, 2005.

→ Ratification Hague Adoption Convention is ok.

3. Willingness to cooperate directly from government to government

Willingness to cooperate from the central adoption authority

The "Department for Adoption and Women's Policy," embedded in the "Ministry of Culture and Innovation," is the central adoption authority (CA) of Hungary. Communication with the CA of Hungary is smooth and constructive. Open dialogue seems possible.

The CA of Hungary last updated its "country profile" on the website of the Permanent Bureau of the Hague Conference on Private International Law ("HcCH") in 2014. The "table of costs associated with intercountry adoption" was not completed. The Authority appears to regularly cooperate with HCCH's "Special Commissions" (2000, 2005, 2010, 2015, 2022), but not with other working groups, such as the "Expert Group on the Financial Aspects of Intercountry Adoption" and the "Working Group on Preventing and Addressing Illicit Practices in Intercountry Adoption."

→ The CA of Hungary is willing to cooperate.

Possibility of direct government-to-government cooperation:

Experience shows that direct cooperation with the CA of Hungary seems possible, but this needs further discussion.

→ Direct government-to-government cooperation seems possible, but remains to be verified.

4. Positioning adoption practice within the broader care and shelter system of the country of origin in practice

Regulation of duties and powers in youth protection by a state agency

The juvenile protection system has a legal basis in the "Child Protection Act" and "Act III of 1993" establishing the rules under which the state, local governments, natural and legal persons, as well as other VZWs responsible for the protection of children, provide assistance. The assistance, defined in the regulations, consists of benefits and measures that contribute to the enforcement of children's legal rights and interests, the performance of parental duties and support the prevention and elimination of danger to children, the replacement of absent parental care as well as the social integration of young adults leaving the child protection system. In order to achieve these objectives, the law defines the fundamental rights of children as well as the guarantees and basic rules for the protection of children. Under the law, the actors involved must act with the best interests of the child as the primary consideration whereby education of the child within the family is paramount. Although most of the principles in the child protection system are family-oriented, emphasis is mainly placed on the responsibilities and duties of the family rather than on preventive care.

Theoretically, the regulatory framework provides for a system that uses certain work methods as well as monitoring influences on children at risk. It includes individual case management, family work aimed at eliminating dangerous factors and the provision of services aimed at meeting children's developmental needs. Government is playing an increasing role after two decades of decentralized youth protection in which local governments and NGOs played a crucial role. Today, the government is increasingly engaging church-inspired institutions to advocate for child welfare and protection services. The "Directorate-General for Social Affairs and Child Protection" is the government responsible for maintaining the conditions for local regional authorities in the provision of preventive care.

Met opmerkingen [JW2]: Here you could possibly refer to the gender inequalities raised by the UN on the Elimination of Discrimination against Women in 2023 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCOC%2FHUN%2F51815&Lang=en

Met opmerkingen [BS3R2]: Also to the EU's Gender Equality Index. In 2022 Hungary ranked in the last place and in fact it has stayed at the bottom since 2015 <https://www.euro.who.int/en/health-topics/communicable-diseases/prevention-and-control/prevention/gender-equality-index-2022-the-covid-19-pandemic-and-care> European Institute for Gender Equality (europa.eu)

Met opmerkingen [JW4]: Suggestion to also add migrant and refugee children as particularly vulnerable (See IRC Country situation of 2023)

Met opmerkingen [BS5R4]: Both the UN Committee on the Rights of the Child and the European Court of Justice have showed their concern in relation to the asylum law and its impact on this group of children.

Met opmerkingen [JW6]: You may want to stress the following:

To date, there is no comprehensive strategy encompassing the protection and promotion of all children's rights.

Met opmerkingen [JW7R6]: • The Act V of the 2013 Civil Code (Book of Family Law) deals with marital legal matters, covering all major provisions on cohabitation, custody, maintenance and child protection and adoption provisions.

• Other relevant legal instruments include: the Minister's Decree No. 15. of 1998 (IV.30.) on the tasks and operational conditions of child welfare and child protection services and professionals providing personal care (15/1998. (IV. 30.) defines establishment, reception and placement conditions; the 29/2003 (IV.20) Decree of the Ministry of Health, Social and Family Affairs on the professional and exam requirements of substitute parents, foster parents and families providing day care and on counselling and preparation training prior to adoption and the Government Decree No. 149 of 1997 (IX. 10) on Guardianship Authorities and the child protection and guardianship procedure (149/1997 (IX. 10). Please see IRC Country situation of 2023

Met opmerkingen [JW8]: Need to highlight the roles/tasks assumed by the district local governments and the guardianship offices

Met opmerkingen [BS9R8]: In Hungary, guardianship offices will be the competent authorities responsible for the care of children temporarily or permanently deprived of parental care.

The district professional child protection services support guardianship offices in a) performing the personality test of the child, preparing a professional opinion, and placing a recommendation with respect to the child upon the request of the guardianship office; b) developing individual placement plans of the child upon the request of the guardianship office and c) selecting ... [1]

→ Regulations and guidelines regarding youth protection duties and responsibilities are sufficiently clear.

Youth protection measures in practice

The decision to place a child out of the home is the responsibility of the "Public Guardianship Authority." The organization and management of the care of children separated from their families, the long-term and short-term placement in various forms of care aimed at family reunification and, if necessary, the preparation for adoption is done by the "National Child Protection Services," together with the "Regional Child Protection Services." These state bodies are funded and controlled by the "Ministry of Interior." In its 2020 concluding observations, the Children's Rights Committee recommends that the country invest heavily in the training and supervision of professionals working in alternative care and provide them with adequate infrastructure and financial resources.

Basically, formal kinship care and foster care should be considered as a priority and only as a last resort group or residential care. Regulations also require that children under 12 be placed in foster care, with the exception of multiple abuses, children with specific medical care or against the will of the biological parents. In practice, however, there appears to be a shortage of foster care placements. Often the foster homes are overburdened and the foster parent or foster family does not have a favorable status. From the data available to ISS, about 2/3 of children in alternative care, are taken into foster care. The UN Children's Rights Committee is concerned about the lack of foster placements and the remote areas where some foster families are located, distanced from supported services and biological relatives of the child.

In the mid-1980s, the country began introducing preventive care and promoting foster care, along with efforts to de-institutionalize children in alternative care. In the last 10 years, however, the process has slowed and the reality is that many children are still being cared for in both smaller group settings and larger homes. The majority of children stay in alternative care for several years as families do not receive the necessary support and there is no capacity, resources and commitment to reunite them and the children.

Despite state control of the homes, minimum legal standards and inspections, the quality of the homes is not improving and even deteriorating, due in part to insufficient funds. The homes have no authority in changing the child's status or control over adoption.

→ There is room for improvement in the expansion and financing of alternative care and the creation of foster care placements. A thorough deinstitutionalization policy and control mechanism is lacking, and there is a shortage of qualified personnel and resources.

Policy of prevention and reintegration to the family of origin

The regulatory framework explicitly provides for the right for the child to grow up in the family, as well as the provision that a child should not be separated from his parents because of financial vulnerability. In practice, however, it appears that there are too few resources available for professionals supporting families, caseloads are also higher than the legal limit and there is no differentiation based on the severity of the challenges at hand. Child support is provided for all families but this amount has not increased since 2008 and other forms of material support have also been minimized over the past 10 years. Moreover, preventive care also seems to focus mainly on material support rather than the provision of services. As a result, families rely mainly on themselves and there is little government involvement.

Very few efforts are made in the reintegration of children to their families, despite the legal obligation to do so. The semi-annual evaluation of the child's situation during the first two years in alternative care, required by law, is usually merely a formal evaluation in which neither the child nor the family are consulted in person.

In 2020, the UN Committee on the Rights of the Child urged Hungary to further implement the prohibition of separation of children from their families and placement in alternative care for economic reasons through programs that address the challenges faced by families. In addition, the Committee urged measures to provide families in need with adequate and long-term social housing and to increase social benefits to low-income families with children. The Committee further expressed concern regarding children with disabilities and the ongoing

Met opmerkingen [JW10]: You may also want to include gaps to include the child's rights to be heard in placement decisions as highlighted by the CRC Committee in 2020:

Committee on the Rights of the Child (para. 18)

Met opmerkingen [JW11]: Including their adequate support

Met opmerkingen [JW12R11]: the support they received is still very limited and community support services are severely under-resourced and often non-existent, especially in rural, remote and poor areas (Opening Doors for Europe's Children, 2018).

Met opmerkingen [JW13]: Here you could indicate that there is no data about family reintegrations. "Local experts also confirmed that reintegration efforts are still very limited, as there are hardly any family and parenting support services provided."

(See 2023 IRC Country situation + Assessment, item 33)

Met opmerkingen [JW14]: Add reference to the Ombudsman report of 2019:

Over 95% of the children remain at the same placement on an average. According to the Investigation of the Ombudsman most of them are formal, lacking proper assessment.

stigma they face. Lack of access to support services, appropriate education, medical care and preventive care often forces parents of children with special support needs to agree to institutional placement.

→ **The policy of prevention and reintegration to the original family has a firm basis in the regulations, but in practice is faced with a shortage of personnel and resources resulting in limited family reunification.**

Central database containing data on all children in youth services

The government provides a national registry of data on children in care using standardized questionnaires sent annually to all service providers.

→ **There is a central database with data on all children in youth care.**

Embedding adoption in the child protection system

Adoption is governed by the "Family Law" which contains rules regarding parental responsibilities, custody, legal aid and other family matters.

→ **Adoption is embedded as a measure in the youth protection system.**

Specific concerns

UNICEF notes that mainly Roma children end up in the alternative care circuit, both for financial reasons and from the assumption that parents of Roma background are not considered able to discharge their parental duties. These children are hardly adopted domestically and end up in the inter-country adoption track, together with children with special care needs. The quasi-automatic channeling of Roma children into alternative care (and mainly intercountry adoption) perpetuates a system in which little effort is made to change discriminatory perceptions towards this population group.

5. Consistent application of the subsidiarity principle in intercountry adoption

Embedding the subsidiarity principle in regulation

The "Family Law" provides that an intercountry adoption can be considered only if no solution can be found for the child at home. The subsidiarity of domestic adoption is not explicit in the regulations with respect to other alternative care measures.

→ **The subsidiarity principle of intercountry adoption is embedded in the regulations.**

Application of the subsidiarity principle in the practice of domestic adoption

The number of domestic adoptions remains stable over the years. The procedure to declare children adoptable usually takes a long time which is partly due to an overload of the competent authorities. According to national statistics, there are around 1,000 domestic adoptions per year while 23,400 children are in various forms of alternative youth care. The ratio shows that in practice there seems to be a subsidiary use of domestic adoption. No more than 1/3^e of adoptions are by parental consent. Most children considered for adoption have a Roma background, special care needs or are older than 10 years. The children who are adopted domestically are usually children who are under 6 years old, healthy or with limited care needs and no Roma background.

In public opinion, adoption generally has a positive image. There is a perception that individuals who cannot care for their child are best off giving their child up for adoption.

→ **In practice, the principle of subsidiarity seems to be adequately implemented, although there seems to be a simplistic view of the measure in society.**

Application of the subsidiarity principle in the practice of intercountry adoption

ISS indicates that there is no overall view of intercountry adoption, nor is there reliable information available on the subject. The figures do show that the number of intercountry adoptions is consistently much lower than the number of domestic adoptions and is 17 to 25 percent in proportion.

There are no deadlines that one waits before proceeding with an intercountry adoption, but in reality a lot of time would pass.

Met opmerkingen [JW15]: Poverty and other circumstances, such as ethnic origin (Roma children) and disability remain to this day important factors leading to the placement of children in alternative care in Hungary. (IRC Country situation, 2023)

Met opmerkingen [JW16]: conducted by the Central Statistical Office and the Ministry of Interior.

Met opmerkingen [JW17]: You may want to include the following data:

Main reasons for being placed in alternative care: 35% of children enter alternative care due to poverty and social exclusion (Eurochild, 2021).
Statistics: In 2022, the total number of children in alternative was 22,935 (KSH, 2022).

See 2023 IRC Country situation

Met opmerkingen [JW18]: The Act V of the 2013 Civil Code (Book of Family Law) deals with marital legal matters, covering all major provisions: cohabitation, custody, maintenance and child protection and adoption provisions.

Met opmerkingen [JW19]: This would also be in line with ISS' findings shared throughout the Hungary assessment.

Met opmerkingen [BS20R19]: And the information/research published by the European Roma Rights Centre.
2011: [life-sentence-romani-children-in-state-care-in-hungary-20-june-2011.pdf](https://www.errc.org/hungary-20-june-2011.pdf) (errc.org)
2020: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=x85cWzFfjW05vVyxofaq10U7QnkKdAlgWwKnPOETCD+1WYw7ObjOZAqnAzElxxTHtuMyjI8wqzW93M/VpJp3w==

Met opmerkingen [JW21]: + it challenges the effective implementation of the double principle of subsidiarity for this group of children

Met opmerkingen [JW22]: Information provided by ISS that might be useful to indicate here:

documentation on ethnicity is prohibited besides the parents declare their ethnic belonging, but there are always "estimates" or background information provided. Prospective adoptive parents have a right to declare their preferences concerning the age, health, gender, and ethnic belonging of the child. (Item 45 of the assessment)

Met opmerkingen [JW23]: This might be true in general but not really for Roma children

Met opmerkingen [JW24]: The available figures

Regarding child profiles, ISS relies on info from local experts. These state that most children adopted intercountry are older children, children of parents with mental health problems, children with special care needs and/or Roma background.

→ **Based on the figures and the ratio of intercountry adoptions to domestic adoptions, the subsidiarity principle seems to be adequately applied in the practice of intercountry adoption in Hungary.**

6. Adoptability

Central registration of adoptable children

Children eligible for adoption (both domestic and intercountry) are registered in a central registry. The information in this registry is based on the declaration of adoptability by the competent authorities, the "Guardianship authorities."

→ **There is central registration of children eligible for adoption.**

Assessment of and decision to adoptability

It is the "regional public guardianship authorities" who decide on the child's adoptability and this on the basis of all documents and hearings on the child's situation and needs. The social services, the regional child protection service as well as possibly the foster parent(s) or, where appropriate, employees of the home should provide information about the child's contacts and relations with his biological family. The child's adoptability is established for matching with prospective adopter(s).

Met opmerkingen [JW25]: Staff of the residential care facility (might be a translation issue into English)

Met opmerkingen [JW26]: Before? (might be a translation issue into English)

→ **The assessment of adoptability is done by a government agency based on the documents and information provided by various actors.**

Situations in which a child may be declared adoptable

The Child Protection Act regulates the conditions in order for a child to be declared adoptable. Adoptability can be declared if it appears that there is no possibility for the child to be reunited with his parents and if there are no legal barriers. The manner in which adoptability is declared depends on the child's situation.

It is possible to leave the child "legally" by placing the child in one of the founding shelters located at the entrances of designated hospitals. If necessary, no search for the child's family is initiated and the child may be declared adoptable without being placed in foster care beforehand. Leaving a child in other places is considered a crime. When a child is found, the police initiate a search for family.

Parents have the option of relinquishing even before the child is born. To do so, parents must sign a statement at the local custody office. From then on, parents have 6 weeks to revoke their decision. There is no official data that provides insight into the reasons parents renounce their child. Local experts name poverty, age and family circumstances, disability and hidden pregnancy as reasons.

The guardianship authority has the ability to remove the child from the home if the local child welfare services have determined that the child is in serious danger and if parents fail to comply or follow the conditions and suggestions of the child welfare services. There is no time limit on the protection of the child, but inclusion in the child protection registry should not exceed two years, during which time the family situation should improve.

Met opmerkingen [JW27]: based on the referral of the education or health professionals, neighbours or a family etc.

→ **Regulations are clear in which situations children can be declared adoptable, yet in-depth investigations often fail in practice.**

Examination of psychosocial adoptability

ISS indicates that no investigation of the child's psychosocial adoptability is done and only the fulfillment of the legal conditions is checked. Experts in Hungary have found from their professional experience that the perception prevails that children are lucky if they are adopted, especially if it is an adoption to a foreign country. Therefore, the mere fact of an adoption is considered to be in the best interest of the child. In principle, the guardian, foster parents (if applicable) and a social worker are involved in the assessment of psycho-social adoptability, but no dates or further information are known about this.

Met opmerkingen [JW28]: + the child's development is merely assessed

→ The research on child adoptability seems to focus on the fulfillment of the legal conditions for adoptability and not on psychosocial adoptability.

Consent of original parents or legal guardian

The Hungarian Civil Code clearly regulates when the original parent(s) or guardian must consent to adoption. If both parents are known and only in the case of an open adoption, both parents must consent. However, if they relinquish their child for a closed/secret adoption, they will not be informed that an adoption has taken place. The consent of the parents at the time of relinquishment of the child is then regarded as the consent to a potential later adoption. Intercountry adoptions are always secret adoptions.

If no parents are known, consent is given by the guardian. If only one of the parents is known, this parent must consent to the adoption. Parents who are deprived of their parental rights and duties should not consent to the adoption as the decision is then made by the competent authority.

According to ISS, there are no provisions regarding the guidance that first parents should obtain in relinquishing their child and consenting to adoption. According to local experts, some NGOs offer assistance. Hungary's Central Adoption Authority indicates that counseling is provided by NGOs and regional child protection agencies and that the state provides funding for these services.

→ The consent of the original parents or legal guardian is clearly regulated but there is no provision for compulsory supervision of first parents.

Consent of the child

According to ISS, the child's consent is not required for adoption. However, Section 4:120 of the Civil Code provides that the child must consent from the age of 14. Below that age, the minor should be heard and the child's opinion should be taken into account if he has sufficient discernment. Overall, a child is not considered capable of acting.

→ The regulations provide that a child must consent to his adoption from the age of 14. However, it is not clear whether in practice the child's consent is actually sought.

Stave documents in the adoption file at the time of assignment

Adoptability must be established before matching with prospective adopter(s) and this is evidenced by the adoption declaration by the guardianship authorities.

→ At the time of assignment, the adoption file shows that legitimate adoptability is established.

Policy on keeping siblings together

In several places, the regulations mandate the keeping of siblings together. In practice, however, the decision to keep siblings together or separate them depends on the person who has to make a decision about the children. Thus, cases have been known where siblings, despite their very close relationship, were separated from each other.

→ Regulations state that siblings must be kept together but in practice it appears that this is not always observed.

7. The course of the adoption procedure

Preparation/ bonding period for the child

ISS indicates that basically the child's guardian and caregiver (foster parent and/or social worker, psychologist, educator in home, etc.) prepare the child for adoption. There are no standardized methods or procedures for preparing the child, and often any preparation is even lacking. The adoption service, The Little Miracle, mentions that in preparation for his adoption, a psychologist or social assistant shows photos of the prospective adopters to the child, as well as handwritten letters for their arrival in Hungary. For eight days, the prospective adopters visit the child in the home or foster family where he or she resides, and after that there is a pre-adoptive placement pronounced by the Guardianship Authority. The pre-adoptive placement lasts one month.

→ A bonding period is provided for the child's final adoption decision, but it is uncertain whether standard preparation of the child is provided.

The matching process

There is no professional matching process. A child is usually assigned based on the preferences expressed by the prospective adoptive parents and their place on the waiting list. Hungary accepts that domestic prospective

Met opmerkingen [JW29]: This is not super clear to us (might be a translation issue)

Met opmerkingen [JW30]: Suggestion to reformulate by first stating the legal obligation and then highlighting that in practice, the child's consent is often not gathered/taken into account.

Consent of the child is only legally required when the child is 14 years old or older. So, children under 14 years old shall be heard by the Court but their consent is not required.

However, there are no reports or data on how children's consent is obtained or their right to information respected. In addition, according to local contacts, authorities do not provide any kind of preparation and in most instances, they never meet the child (see pages 11 and 18, IRC Country Situation 2023).

Met opmerkingen [JW31]: Please refer to the info we have included in IRC Country situation (see p. 12 point 4 of the procedure).

The information stems from the HCCH Country profile (see question 14, page 9: [adop2014cp_hu.pdf \(hcch.net\)](#)) and from the document the Hungarian CA shared with IRC containing detailed information on the procedure (see attached, highlighted in yellow, p. 14)

Met opmerkingen [JW32R31]: We are wondering whether you may want to add information on the probationary period of 1 month?

Met opmerkingen [BS33R32]: The CA also said this: **During the mandatory care period** of at least one month ordered by the guardianship authority, the staff of the regional child protection service monitor and assist the child's integration into the adoptive family (see parts of the attached doc highlighted in yellow, p. 15).

Met opmerkingen [JW34]: Please have a look at the info we have published in the 2023 Country situation

Met opmerkingen [BS35R34]: Please see what we have highlighted in green in the document the CA shared with IRC on the adoption system and process ([pages 15 and 16](#)).

The Hungarian CA also said that the specialists preparing the adoption, in all cases, are looking for suitable adoptive parents for the child who has become adoptable and not a child for those who wish to adopt (see [page 6](#), also highlighted in green).

Despite this information shared by the Hungarian CA, it seems to be true what you point out here in relation to the place of the PAPs in the waiting list.

It seems that no proper guidance (criteria, requirements, relevant assessments...) has been established regarding how children are matched with PAPs who can best meet their needs.

adopters communicate their preferences regarding gender, age, ethnicity and health and these are taken into account in the matching process, according to ISS.

The adoption service indicates that the Central Adoption Authority of Hungary prefers a family that they consider most suitable for the child. The matching would be done together with the local child protection service. Then the preset matching must be approved by the Guardianship Authority. Prospective adopters have a 30-day period to accept the child allocation.

→ **It is unclear what criteria the central adoption authority in Hungary considers when matching a child with prospective adopters. It seems that the place of the prospective adopter on the waiting list is given a prominent role. The regulations do not provide criteria for matching.**

8. Avoiding financial risk

Costs and fees for adoption procedure in itself regulated by law or government

The adoption procedure itself is free of charge. Thus, no amounts are paid to the adoption authority.

→ **The adoption procedure per se in Hungary is free of charge. Therefore, there is no need to provide for regulation by law or governmental regulation.**

Overview of costs in practice

Hungary has not completed the Table on Costs of the Permanent Bureau in The Hague so only the costs agreed by the Flemish adoption authority with the candidate adopters are shown here. The Central Adoption Authority only mentions a cost in the range of 48 - 100 euros for the delivery of a passport of the child.

The agreement between the adoption service HKM and the contact person, Ms. Rita Kardos, includes a schedule of costs. In the current operation, prospective adopters must pay 1,800 euros at the time of sending their file to Hungary under the title of pre-adoptive services. At the time of acceptance of a child allocation, they must pay a fee of 3,200 euros. The services justifying the payment of 5,000 euros under the agreement include, among others: pre-adoptive preparation, visit to foster family, legal services, correspondence, review of the documents in the parent file, application for new birth certificate, representation of the candidate adopters before public authorities, study of child file, medical care, etc. Furthermore, the contact person describes in her duties administrative costs for the authorities as well as for visits by the social assistant to the family after the child's placement. It is not clear how these costs can be charged, given that the adoption procedure itself is free of charge. As part of a work visit, clarification will therefore be sought from the contact person regarding the specific services she provides and for which she receives reimbursement from the adoption service.

Payment is made by wire transfer to the adoption service who transfers the amount due to the contact person.

→ **Costs in practice are dust for further inquiries.**

Donations, contributions and project support

HKM's fee schedule shows that the adoption service does not charge a project fee, nor dues or donations. The Central Adoption Authority confirms that such payments are not mandatory.

→ **Donations, contributions and project support are not solicited by either the government or the Flemish Adoption Service in its current operation.**

Agreement costs of adoption service with table on costs of HcCH

Hungary has not completed the Table on Costs of the Permanent Bureau at The Hague. Considering that the adoption procedure in Hungary is free of charge, only payments agreed upon by the adoption service with the contact person are made.

→ **The Central Adoption Authority of Hungary did not complete HcCH's table on costs.**

9. Legal framework to support adoptees in the right to information about their origins and/or their search for relatives

Central birth registration

According to the Hungarian "Act on Civil Registration Procedure," parents must fulfill the obligation to register his/her birth with the competent Registry Office within one day of a child's birth. CHIP indicates that of all the organizations interviewed, none expressed systematic problems regarding the birth registration of Hungarian children.

→ **There is a central birth registration where 100% of the population would be registered.**

Procedure for inspection of adoption file in regulations

There is a clear regulation in the Civil Code governing access to information about the adoptee's first parents and siblings. The adoptee has the right to request information from the Guardianship Authority about being adopted, about his/her biological parents and the existence of any siblings. From the age of 14, the child may access identifiable information from the aforementioned persons. Before releasing identifiable information from the biological parent(s) and sibling to the adoptee, the individual's consent must be sought. By law, the requested identifiable information will not be released if the search could not take place for reasons that the parent(s) and/or sibling(s) could not be traced, the search resulted in a refusal of consent, the release of the data is deemed not to be in the best interest of the child (in particular in the case of disqualification from parental rights due to misconduct towards the child) and if the biological parent(s) and/or sibling(s) are already deceased and have already expressed their refusal prior to that.

CHIP notes that it is problematic that biological parents and siblings seem to have an absolute veto right on the release of data. It is not clear whether, if release is refused, the adoptee is at least entitled to non-identifying information.

A local expert who has represented Hungary at the UN reports that there is only 1 designated guardianship authority (Budapest) responsible for tracing. Only the adoptee himself (no legal representative or third party) can initiate a pathway to trace the biological parents and siblings. Neither the adopter nor other family members have this option. If contacting the first parents and/or siblings has resulted in a refusal to release information, the question can be asked again at a later time. The procedure is free of charge.

Finally, CHIP refers to the "Country adoption registry" in Hungary that offers the possibility of searching for each other through a system of matching.

→ **The right to knowledge of origin and identity has been incorporated into regulations. The procedures and guidelines for the preservation of and the right to inspect adoption files are well developed in the regulations, but do not guarantee the adoptee to obtain knowledge of his or her origin, as first parents and siblings have a right of veto to disclose information. It should be clarified whether in practice agreements can be made to at least release non-identifiable information if the above-mentioned right of veto were to be exercised.**

Regulations on changing place and date of birth

With the adoption comes a new birth certificate on which the adoptive parents are registered as being the biological parents. The name of the adoptee is changed, subject to permission by the guardianship authority to retain the surname in very exceptional cases. In exceptional cases, the authority may allow the adoptee to change his/her first name. The name is then chosen by the adoptive parents. The place and date of birth cannot be changed.

Except when the adoption is secret, the adopted child - once of age - and/or the adoptive parents may declare to the guardianship authority that they request that the birth name and first name of the biological parents be included in the family register. After the adoption is pronounced, they can request the same authority to omit the relevant names from the family register.

→ **The place and date of birth cannot be changed on the new birth certificate. The adoptive parents are posited on the birth certificate as being biological parents of the adoptee which can complicate the search for the adoptee's origin.**

Professional support in government search for origin

It is only possible for adoptees to obtain information about their origins from the guardianship authority. It seems that there are no organizations active in helping and assisting adoptees in tracing their roots. CHIP's local expert also reports that no specific actions or measures are taken if it is found that an adoption has not taken place in accordance with the law.

Met opmerkingen [JW36]: This is also in line with the information provided by ISS (see Item 6 of the assessment)

Met opmerkingen [JW37]: This is not in line with the information we hold at ISS/IRC.

the Civil Code refers to "the natural personal identification data of the biological parent and the sibling (...)", so it is safe to say that the refusal of contact concerns identifiable information. However, the second part is partially incorrect because as stated in Article 4:135(6) in the event of the release being denied, "the guardianship authority (...) without disclosing the natural personal identification data of the biological parent, inform the adopted child of the medical data of the biological parent that is relevant for his health". So at least this type of non-identifying information (medical data) can be disclosed.

Perhaps also worth adding that if the biological parent is dead upon the submission of the application identifying information can be disclosed (unless they have already declared they do not consent to such disclosure) - Art. 4:135(5).

→ **There is no professional government support in the search for origins.**

Met opmerkingen [JW38]: In line with information ISS holds (see SFO Factsheet)

Specific concerns:

Putting the prospective adopter's name on the child's birth certificate complicates the adoptee's potential search for his first parents. In addition, it is unclear what data the adoptee can obtain about his roots when first parents and/or siblings are unwilling to share data.

10. Child file contents

Sufficient information in child file to identify child's origin

From the responses of the Central Adoption Authority of Hungary and the Adoption Service in the Decision Framework, it appears that the child file contains sufficient information to identify the child's origin. In the files received by VCA regarding child adoptions, it appears that child files contain information on the social and family environment of the child, but not always in a comprehensive manner. Often the information about possible siblings is sparse.

→ **The child's file usually includes enough information to determine the child's origin.**

Display of the child's complete trajectory in the child's file

The file contains information about the child's identity and family background, legal adoptability, a psychological and medical opinion, the child's development and some photographs.

From the files it is usually possible to trace the child's full trajectory, but not the efforts made in terms of alternative care measures for the child. Upon further inquiry to the central adoption authority, this information is normally released.

Met opmerkingen [JW39]: This would also be in line with the information provided by ISS (see Item 44 of the assessment)

→ **In practice, the full trajectory of the child is reflected in the file or this information can be obtained through inquiries to the central authority.**

Specific concerns:

Although intercountry adoptions are always secret adoptions under Hungarian law, VCA has reached an agreement with the Hungarian Central Adoption Authority that the names of the first parents will be shared if they are known.

3. Decision on current intercountry adoption cooperation with Hungary

Cooperation with home country Hungary requires more clarification through a working visit.

Based on the above considerations and the information in the completed decision framework for Hungary, SCC decides to further evaluate cooperation with Hungary. A working visit is planned to create more clarity around possible future cooperation.

This working visit will focus on the matching process, as well as the right to information on origin.

The cooperation continues unabated until after clarification and final decision by SCC.

Should the Hungarian adoption authority show no willingness to reach agreements for the organization of a working visit, cooperation will be terminated in any case.

Ariane Van den Berghe
Flemish adoption officer

In Hungary, **guardianship offices** will be the competent authorities responsible for the care of children temporarily or permanently deprived of parental care.

The **district professional child protection services** support guardianship offices in a) performing the personality test of the child, preparing a professional opinion, and placing a recommendation with respect to the child upon the request of the guardianship office; b) developing individual placement plans of the child upon the request of the guardianship office and c) selecting foster parents and children's homes performing the duty of temporary placement (Article 60 Child Protection Act, or Act No. XXXI of 1997 on the protection of children and the administration of guardianship affairs).