



June 14, 2024

PA-2024-16

## Policy Alert

SUBJECT: Hague Adoption Convention Petitions

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to clarify requirements for petitions to determine children's eligibility as Convention adoptees.

### Background

The Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption<sup>1</sup> is an international treaty that provides a framework of safeguards to protect children, birth parents, and prospective adoptive parents (PAPs) in intercountry adoptions. The Convention ensures the appropriate authorities in a child's country of origin deem a child eligible for adoption before placing the child with a PAP for intercountry adoption.

The Convention entered into force for the United States on April 1, 2008. Since then, U.S. citizens who are habitually resident in the United States and seeking to adopt a child who is habitually resident in a country outside the United States that is a party to the Convention ([Convention countries](#)) must generally follow the Convention process.<sup>2</sup> In the Convention process, the PAP must first file an application to determine the PAP's suitability and eligibility as an adoptive parent,<sup>3</sup> and then file a petition to determine the child's eligibility as a Convention adoptee.<sup>4</sup>

USCIS has received public feedback on the need for additional guidance on Convention petitions. From the Request for Public Input in April 2021,<sup>5</sup> USCIS received several adoption-related comments, including a recommendation to update and maintain an accurate, specific, and easily accessible list of all required documentation.

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<sup>1</sup> This [Convention](#) is referred to in Part D as the Hague Adoption Convention or Convention.

<sup>2</sup> There are three different ways for a child to immigrate to the United States based on adoption: the Hague Adoption Convention process, the orphan process, and the family-based process. See Volume 5, Adoptions, Part A, Adoptions Overview, Chapter 2, Adoption Processes [[5 USCIS-PM A.2](#)].

<sup>3</sup> See the Application for Determination of Suitability to Adopt a Child from a Convention Country ([Form I-800A](#)).

<sup>4</sup> See the Petition to Classify Convention Adoptee as an Immediate Relative ([Form I-800](#)).

<sup>5</sup> See [86 FR 20398](#) (Apr. 19, 2021).

USCIS is updating the Policy Manual to consolidate and clarify existing guidance<sup>6</sup> on requirements to determine a child's eligibility as a Hague Convention adoptee.

This guidance, contained in Volume 5 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes related prior guidance on the topic.

### **Policy Highlights**

- Affirms the commitment of USCIS to the standards and principles of the Hague Adoption Convention, including safeguards to protect the best interests of children.
- Explains requirements for a child to be eligible as a Convention adoptee, including requirements when a child may have another legal parent.
- Clarifies requirements for PAPs to establish that the purpose of the adoption (or legal custody for adoption) is for the PAP to form a bona fide parent-child relationship with the child.
- Describes the required order of immigration and adoption steps, including that a PAP should not adopt or obtain legal custody of a child for purposes of emigration and adoption before completing certain steps in the Convention process.
- Incorporates existing guidance regarding required documentation and evidence.
- Describes guidance regarding the adjudication of Convention petitions and affirms that the standard of proof is preponderance of the evidence.
- Clarifies primary provider requirements, including when the primary adoption service provider has lost accreditation, or its accreditation has lapsed at the time of final adjudication.

### **Summary of Changes**

Affected Section: Volume 5 > Part D, Child Eligibility Determinations (Hague)

- Replaces current content in Part D in its entirety.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

### **Citation**

Volume 5: Adoptions, Part D, Child Eligibility Determinations (Hague) [[5 USCIS-PM D](#)] (Chapters 1-9).

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<sup>6</sup> For existing information on requirements, see the Petition to Classify Convention Adoptee as an Immediate Relative ([Form I-800](#)), U.S. Department of State (DOS)'s Adoption-based Classifications and Processing guidance at [9 FAM 502.3](#), USCIS regulations at [8 CFR 204 Subpart C](#), DOS regulations at [22 CFR 96](#), and U.S. immigration law at [INA 101\(b\)\(1\)\(G\)](#).