



**TREATY SERIES 2007**  
**N° 14**

**Agreement on Mutual Cooperation concerning Adoption  
between the Ireland and the Socialist Republic of Vietnam**

Done at Hanoi on 23 September 2003

Notification of completion of requirements for entry into force on 14 January  
2004 and 2 April 2004

Entered into force on 2 May 2004

Ireland notified the Socialist Republic of Vietnam of termination on 30 October  
2008, the Agreement expired on 1 May 2009

Presented to Dáil Éireann by the Minister for Foreign Affairs

## **AGREEMENT ON MUTUAL COOPERATION CONCERNING ADOPTION BETWEEN IRELAND AND THE SOCIALIST REPUBLIC OF VIETNAM**

The Socialist Republic of Vietnam and Ireland (hereinafter the “Contracting States”);

*Recognising* that children, for the full and harmonious development of their personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

*Recognising* that each Contracting State should take appropriate measures to enable children to remain in the care of their family of origin and children without a family to be raised in a substitute family environment,

*Recognising* that international adoption may offer the advantage of a permanent family to children for whom a suitable family cannot be found in their State of Origin,

*Recognising* that children adopted in accordance with this Agreement are entitled, in the territory of each Contracting State, to all the rights and interests to which children who are citizens or permanent residents in the territory of the contracting State are entitled,

**HAVE AGREED** upon the following provisions:

### **Chapter I - General Provisions**

#### **Article 1**

##### *Scope of Application*

1. This Agreement shall apply where a child who is eligible for adoption who is a citizen of one Contracting State and resident in the territory of this State is adopted by a person / or a couple resident in the territory of the other Contracting State (hereinafter called the “adopter”).

This Agreement shall also apply where a child who is stateless and resident in the territory of one Contracting State is adopted by a person or a couple resident in the other Contracting State.

2. The adoption referred in Paragraph 1 of this Article is one in which a permanent parent-child relationship between the adopter and the adopted child is created.

#### **Article 2**

##### *Adoption principles*

The Contracting States commit to co-operate to ensure that the adoption by the residents in the territory of one Contracting State (hereinafter “the Receiving State”) of children resident in the territory of the other Contracting State (hereinafter called “the State of Origin”) is carried out voluntarily on humanitarian grounds and in accordance with the law of each Contracting State, respecting the United Nations

Convention on the Rights of the Child dated 20, November 1989, in order to ensure the best interest of the children.

**Article 3**  
*Protection of children*

1. The Contracting States shall apply all measure in accordance with their laws to prevent and take appropriate actions against abusive acts of adoption to exploit children's labour and violate children's sexuality, to offer, kidnap, and smuggle children for adoption; activities for making illegal profits from adoption; and other actions of infringement of lawful rights and interests of children.
2. In a humanitarian spirit and for the protection of children, the Contracting States shall create favourable conditions to encourage the adoption of disabled children and orphans.

**Article 4**  
*Exemption from document legalization*

Documents issued by the competent authorities of one Contracting State and public notaries to be used for adoption in the other Contracting State under the provisions of this Agreement shall be exempted from consular legalization.

**Article 5**  
*Language and communication cost*

In the implementation of this Agreement, the Central Agencies of the contracting States shall communicate with each other in the language of the State of Origin. The communication cost shall be borne by whichever Contracting State incurs the cost.

**Chapter II – Competent Authorities and Authorised Organisations**

**Article 6**  
*Central Authority*

The Central Authorities of the Contracting States designated to implement this Agreement are as follows:

For the Socialist Republic of Vietnam: The International Adoption Agency under the Ministry of Justice, Department of Private Law

For Ireland: An Bord Uchtála (the Adoption Board) under the Department of Health and Children.

**Article 7**  
*Request for assistance (with a view to implementing this Agreement)*

To implement this Agreement, the Central Authorities of the Contracting States may request assistance from competent State authorities as well as adoptive organizations

allowed to operate in accordance with the its laws (hereinafter the Authorized Organisation).

**Article 8**  
*Authorized Organisation*

1. The Authorized Organisation permitted to operate in accordance with the Receiving State's law, after receiving a licence from the competent authority of the State of Origin, shall be allowed to operate as a humanitarian and non-profit organization in the territory of the State of Origin in order to provide assistance to adopters in the territory of the Receiving State who wish to adopt children resident in the State of Origin in accordance with the provisions of this Agreement.
2. When applying for a licence to operate in the State of Origin, an Authorized Organisation must fulfil the conditions stipulated by the law of the State Origin; and submit its non-profit plan, agenda and project of adoption, including humanitarian and financial assistance for nurturing institutions in the State of Origin.
3. According to the agreements of the Contracting States and written authorization of the Central Authority of the Receiving State, the Authorized Organization may perform some duties stipulated in Article 16, 17 (Paragraph 2), 18, 20, 22 and 24 of this Agreement. The authorized organisation shall operate under the surveillance and monitoring of the Central Authorities of both the State of Origin and the Receiving State.
4. The law of the State of Origin stipulates the specific rights and obligations of the Authorized Organisation in the State of Origin.

**Chapter III – Applicable Law and Competence to Decide Adoption**

**Article 9**  
*Conditions for the adopted child*

Children to be adopted must fulfil the conditions stipulated by the law of the State of Origin.

The designation of individuals or organisations that are entitled to give consent to the adoption of children as well as the form of this consent must be in compliance with the law of the State of Origin.

**Article 10**  
*Conditions for the adopter*

The adopter must fulfil the conditions stipulated by the law of the Receiving State as well as by the law of the State of Origin.

**Article 11**  
*Authority to decide adoption*

The decision on adoption of the child shall be made by the competent authority of the State of Origin.

**Article 12**  
*The recognition of an adoption*

A decision by the competent authorities of the State of Origin for the adoption of children in compliance with the law of the State of Origin and this Agreement shall have full recognition in the Receiving State.

**Article 13**  
*Legal consequences of adoption*

1. The law of the Contracting State in which the adoption is completed identifies the legal consequences of an adoption in compliance with the provisions of this Agreement.
2. If the law of the Receiving State stipulates that the child who is adopted to the Receiving State has the citizenship of the Receiving State, the Central Authority of the receiving State is to inform the Central Authority of the State of Origin of the date when that child has the citizenship of the Receiving State.

The Contracting State commit to favourable conditions for children of the State of Origin, who after the adoption have citizenship of the Receiving State, to continue to have citizenship of the State of Origin in accordance with the law of the State of Origin and be entitled to choose citizenship when they are at the age of choosing citizenship.

**Chapter IV – Adoption Procedures**

**Article 14**  
*Adoption application documents*

1. The adopter's documents must be complete in compliance with the law of the Receiving State and the State of Origin and be certified by the Central Authority of the Receiving State as stipulated in Article 15 of this Agreement.
2. The adopter's documents must be translated into the language of the State of Origin and a diplomatic representative or a consular mission of the State of Origin must certify the translation. The costs for such translation and certification of the documents are to be borne by the adopters.

**Article 15**  
*Responsibilities of the Central Authority of the Receiving State*

The Central Authority of the Receiving State shall have responsibility to ensure that:

- a) The adopters are eligible and suitable to adopt as set out in Article 10 of this Agreement;
- b) The adopters have been counselled and received necessary information on adoption, especially information on the family and social environment of the State of Origin;
- c) The Child is allowed to enter and reside permanently in the Receiving State.

**Article 16**  
*Documentation*

The Central Authority of the Receiving State shall transmit the documents on the adopters to the Central Authority of the State of Origin, and an official letter, which shall include the following information:

- a) Family name and name, date of birth, gender number of passport or identity card, place of residence, occupation, address;
- b) Eligibility and suitability to adopt (economic conditions, annual income, personal status, family status, health and mental condition, social environment);
- c) Reasons for adopting child;
- d) Characteristics of the children for whom the adopter would be qualified to care.

**Article 17**  
*Responsibilities of the Central Authority of the State of Origin*

1. The Central Authority of the State of Origin shall have responsibility to ensure that:
  - a) A child recommended for adoption is eligible and suitable for adoption according to the law of the State of Origin;
  - b) An international adoption is the most appropriate measure to ensure the best interest of the child after having examined the possibility of raising and nurturing the child within the State of Origin.
  - c) The persons and institutions whose consent is necessary for the adoption have freely given their consent in written form – including a written consent of the child if the child has reached the age where it is required by law to obtain the consent of the child in question.

Such persons and institutions have been counselled and duly informed of different forms of adoption in the Receiving State according to the law of the Receiving State, especially the legal consequences of those forms.

2. If the child is found eligible and suitable for adoption, the Central Authority of the State of Origin shall transmit the document file of the adopter to the internal competent authorities of the State of Origin for processing and informing the Central Authority of the Receiving State.

#### Article 18

#### *Procedures of recommending children for adoption in case the adopter asks for unidentified child*

1. The Central Authority of the State of Origin shall transmit to the Central Authority of the Receiving State a written report on the child who is recommended for adoption with following information:
  - a) Full name, gender, date of birth, place of residence;
  - b) Eligibility for adoption;
  - c) Individual, family and social situation;
  - d) Health status;
  - e) Special likes, interests and needs, if available
2. Within the shortest possible time the Central Authority of the Receiving State must reply in writing to the Central Authority of the State of Origin with the adopter's view on the recommended child.

#### Article 19

#### *Hand-over Procedures*

1. The hand-over of the adopted child to the adopter must be in accordance with the law of the State of Origin.
2. If required by the Central Authority of the Receiving State, the Central Authority of the State of Origin shall certify that the adoption is in compliance with the law of the State of Origin and his Agreement.
3. The Central Authority of both contracting States shall create favourable conditions for the adopted child to exit the State of Origin and to promptly enter and take permanent residence in the territory of the Receiving State.

## Article 20

### *Completion of the adoption procedures in the Receiving State*

After completing the procedures for adoption in accordance with the law of the Receiving State, the Central Authority of the Receiving State shall inform the Central Authority of the State of Origin about the completion in writing.

## **Chapter V – Co-operation obligations**

### Article 21

#### *Co-operation obligations for protecting children*

1. Contracting States commit to implement all necessary measures to protect children that are adopted under the provisions of this Agreement.
2. Contracting States shall ensure that children adopted under this Agreement are protected and entitled to have all rights and interests that the Receiving State reserves for children who are citizens or residents in the territory of the Reserving State.
3. In case it is found that it is not in the best interest of the child to remain in its adoptive family, the competent authority of the Receiving State shall have responsibility to immediately take all necessary measures to protect the child. The competent Authority of the Receiving State shall have the responsibility to arrange for the child another placement in which the child's stable development is ensured and to inform the Central Authority of the State of Origin.
4. Contracting States must have appropriate measure to repatriate the child to the State of Origin if it is the last measure to ensure the best interest of the child.

### Article 22

#### *Information exchange*

1. The Central Authority of the Contracting States shall exchange their respective legal normative documents related to adoption, especially those outlining the conditions of the adopters and adopted children, statistics and other necessary information on adoption.
2. The Central Authority of the Contracting States shall inform each other of the implementation of this Agreement and take necessary measures to resolve difficulties arising from enforcing this Agreement.
3. At the request of the Central Authority of the State of Origin and in accordance with the law of the State of Origin, the Central Authority of the Receiving State commits to provide the Central Authority of the State of Origin information in detail on the development of the child. The Central Authority of the State of Origin commits to keep confidential the information provided in accordance with the law of the State of Origin to protect the best



interest of the child, and this information shall only be used for the purpose as stated in the written request for information.

#### Article 23

##### *Technical assistance to implement Agreement*

To implement this Agreement, the contracting States commit to cooperate with each other by technical assistance, staff training, providing assistance to State competent authorities involved in adoption and the care of children as well as exchanging experiences on international adoption.

#### Article 24

##### *Joint working group*

1. To implement this Agreement, the contracting State shall establish a Joint Working Group including representatives of their Central Authorities and other competent adoption authorities of each Contracting State.
2. The Joint Working Group shall hold meetings as required.  
Under the agreement between the Contracting States, representatives of authorized organisations may be allowed to attend as an observer at the meeting of the Joint Working Group, should this be necessary.
3. The Joint Working Group shall be responsible for reviewing and evaluating the implementation of this Agreement and agreeing on technical assistance as stipulated in Article 23, on the humanitarian financial supports of the authorized organisations for the child care centres in the State of Origin provided for in Paragraph 2 Article 8 of this Agreement, and discussing solutions for difficulties arising during the implementation of this Agreement.

### **Chapter VI – Final Clauses**

#### Article 25

##### *Validity and validity term*

This Agreement must be ratified in accordance with the law of each Contracting State, and enter into force 30 days after the date of receiving the last notification of the certification required in each of the two Contracting States.

This Agreement shall be valid for 5 years and shall automatically be extended for another 5-year term if 6 months before the expiry of the Agreement, neither of the Contracting States receives a written notice from the other Contracting State about an intention to terminate the Agreement.

#### Article 26

##### *Amendments*

This Agreement can be modified or amended when there is a written mutual accord of the Contracting States. Any requirements for amendment or modifications must be conveyed through diplomatic channels.

**MADE** in Hanoi on this day 23 in the month of September, 2003 in two copies, each copy includes the Vietnamese language and English language versions, all have equal value.

The duly authorized representatives of the Contracting States have signed and stamped in this Agreement.