

## **INTERCOUNTRY ADOPTIONS FROM HAITI: GENERAL INFORMATION**

The information outlined below applies to all intercountry adoptions from Haiti completed on or after November 15, 2013.

**Consents to adoption:** Biological parents or legal guardian of Haitian children can provide two types of consent: either simple or plenary. Only consents to adoption that are explicitly characterized as plenary are considered valid for intercountry adoption purposes. The biological parent(s) or legal guardian provides consent in person before the judge at the Children's Court. If converting from a simple adoption to a plenary adoption, the consent must be confirmed in person to the Dean of the Tribunal of First Instance (Tribunal).

- Children, ages eight and older, must receive counseling from the Haitian Central Authority, *L'Institut du Bien-Etre Social et de Recherches* (IBESR), and children, ages 12 and older, must provide their own consent to the proposed adoption.
- Prospective adoptive parents (PAPs) who submitted consents to adoption before a Justice of the Peace prior to November 15, 2013, must also provide documentation showing the biological parents, legal guardian, and/or child received counselling at IBESR on the effects of a plenary consent. If the biological parents, legal guardian, and/or child did not receive counselling, IBESR will provide such counselling and issue a statement confirming the same (*preconsentement*, or pre-consent, form). Only then can the case move before the Dean of the Tribunal for confirmation of the consent to a plenary adoption.
- Consents must cite the 2013 adoption law to be considered sufficient for intercountry adoption.

**Attendance at court:** U.S. prospective adoptive parents (PAPs) are not required to appear in person at the Tribunal at any stage in the process.

**Children's names:** The 2013 Haitian adoption law requires that surnames of origin of adopted Haitian children be completely removed and the adoptive parents' surnames be added when an intercountry/plenary adoption is completed. See the other document attached to the Adoption Alert to determine whether a conversion or correction is required.

- IBESR and the Tribunal have clarified that any adoption where the child's biological surname remains (even as a middle name) is considered a simple adoption and must be corrected or converted.
- If a plenary adoption was finalized without the child acquiring the adoptive parents' surname and/or without removing the biological surname, the case must be returned to the Tribunal for correction. The Tribunal staff must issue an addendum (*par ces motifs*) to the judgment officially changing the child's surname.

**Convention cases with prior contact and/or out-of-order adoptions:** Under U.S. immigration regulations, U.S. PAPs, unless relatives of the proposed adoptee, must not have contact with the child's legal guardians (which may include biological parents) until the PAPs have been found suitable and eligible to adopt by USCIS and IBESR has reviewed the necessary consents to the adoption and determined the child is available for adoption. U.S. PAPs also must not complete an adoption until after USCIS provisionally approves the Form I-800 immigration petition and the U.S. Embassy issues the Article 5/17 letter stating the U.S. PAPs have been found suitable to adopt and counseled as necessary, providing assurances that the child will be able to enter and reside in the United States permanently, and agreeing the adoption may proceed, and IBESR issues the authorization to adopt (*autorisation d'adoption*).

Both U.S. and Haitian officials recognize that many U.S. families began the adoption process under the non-Convention process and will finish under the Convention process – and that this will cause some cases to fall outside the normal Convention procedures (i.e. with respect to prior contact and out-of-order adoptions). Therefore, IBESR has stated it will consider the merits of each Convention adoption on a case-by-case basis if the adoption involves situations where U.S. adoptive parents had contact with the child's legal guardians too early in the Convention adoption process *and/or* completed an adoption of a Haitian child *before* USCIS provisionally approved the Form I-800 petition and the U.S. Embassy in Port-au-Prince issued the Article 5/17 letter (out-of-order cases).

The U.S. Embassy in Port-au-Prince, in coordination with the USCIS National Benefits Center, will provide IBESR with a list of known Convention cases currently pending with USCIS in which the U.S. families already completed an adoption in a Haitian court and/or had prior contact with the child's legal guardians (which could include biological parents). IBESR will review the cases and inform the U.S. Embassy in writing whether each case will be permitted to proceed

through the Convention process. Please note that we do not yet know how quickly IBESR will be able to review the cases and make decisions.

**Convention case filing:** When filing a new Form I-800 petition, we ask that families wait to file until **after** they receive a match from IBESR. With the petition, we ask that families include evidence of the IBESR match, the Article 16 report issued by IBESR as the Central Authority, and evidence of necessary consents. After the Form I-800 petition is provisionally approved by USCIS, the Consular Section will determine if it can issue an Article 5/ 17 letter and, if so, IBESR will then issue the authorization to adopt. U.S. PAPs should not proceed with an adoption until they have received express authorization to adopt from IBESR.