

APPENDIX

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Content

| | |
|--|---|
| Sources to European and country-specific legislation, including information acts and legislation for Table 2 on the child’s consent to adoption..... | 1 |
| Sources to country-specific statistics on adoptions from care, including additional information. | 4 |
| Accountability in adoption from care proceedings: Criteria and commonalities | 6 |
| Extended summary of accountability mechanisms..... | 7 |

#1: Sources to European and country-specific legislation, including information acts and legislation for Table 2 on the child’s consent to adoption.

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3: Accountability in adoption from care proceedings: Criteria and commonalities

| | |
|---|--|
| Format of proceedings | Hearing in the form of a meeting with all parties concerned in front of the decision maker, except <i>Finland:</i> meetings rarely take place; <i>Estonia:</i> judge's discretion to hold joint or separate meetings; only child and adoptive parents in hearing; <i>Germany:</i> separate meetings most common. |
| Decision format | Written decision, except <i>England:</i> Oral hearing recorded but transcript availability contingent on request of the parties or judge's discretion. |
| Recipients of decisions | Parties involved, incl. CPS / adoption agency, except <i>Estonia:</i> Adoptive parents and child only. |
| Reasoning | Substantial reasoning, including application of best interests principle to facts of the case and context of adoption. Additional focus on <i>Estonia, Finland:</i> Assessment of suitability of adopters; <i>Germany, Ireland:</i> Justification for substitution of / dispensing with parental consent |
| Appeal | Appeal allowed for specific reasons, and <i>Finland, Germany, Norway:</i> always allowed. |
| Public availability of decisions | Decisions not publicly available, except <i>England, Norway:</i> non-representative selection of decisions is publicly available. |
| Practical obstacles | Lack of clear and transparent procedures for requesting or reviewing adoption decisions. In addition, <i>England:</i> high cost of legal support and lack of legal aid; <i>Norway:</i> fee charged to private citizens for access to public case database. |

#4: Extended summary of accountability mechanisms

| | Format of proceedings | Decision-maker and format | Recipients of decisions** | Reasoning given in judgement | Appeal (full / partial) | Public available decision | Obstacles |
|----------------|---|--|--|--|-------------------------|---------------------------|-------------|
| Austria | <p>Oral hearing</p> <p>Present: Child, foster parents or manager of residential home where the child resides, child welfare services</p> <p>Not open to observers</p> | <p>District court; single judge</p> <p>Written</p> | <p>Child, birth parents, foster parents, adoptive parents, child welfare services agency</p> | <p>Yes</p> <p>Background information about the child's care trajectory leading to the adoption</p> | <p>Yes, partial</p> | <p>No</p> | |
| England | <p>Oral hearing</p> <p>Present: Child (usually via solicitor and Cafcass guardian), adoptive parents, local authority.</p> <p>Press and independent observers upon consent of the court</p> | <p>Family court; single judge</p> <p>Oral decision, but can be written at discretion of judge or upon the request of parties</p> | <p>Placement order: Parents, local authority, Cafcass guardian. Others with consent of judge.</p> <p>Adoption Order: adoptive parents, birth parents, adoption agency. Adopted young person/adult on request</p> | <p>Yes</p> <p>Background, on child, parents, harm experienced, services provided. Care plan for child, Reasons why adoption is necessary</p> | <p>Yes, partial</p> | <p>Yes</p> | <p>Cost</p> |

| | | | | | | | |
|----------------|---|---|--|---|--------------|----|------|
| Estonia | <p>Oral hearing</p> <p>Present: Child, adoptive parents, Social Insurance Board</p> <p>Researchers can attend at the discretion of the court.</p> | <p>District court; single judge</p> <p>Written</p> | Adoptive parents, child | <p>Yes</p> <p>Suitability of adoptive parents, including their commitment to form a family; if there are siblings, how their connection could be retained</p> | Yes, partial | No | |
| Finland | <p>Not obligatory to hold a hearing but the views of the parties need to be heard</p> <p>Independent observers possible</p> | <p>District court ratifies the petition filed by the future adoptive parents.</p> <p>Decision made by one or more legally trained persons.</p> <p>Written</p> | Parties involved (adoptive parents, child, birth parents, social welfare agency) | <p>Yes</p> <p>Content of the petition filed by adoptive parents; justifications for court's decision</p> | Yes, full | No | |
| Germany | <p>Oral hearing</p> <p>Present: Child, birth parents, adoptive parents, youth welfare office</p> <p>No independent observers</p> | <p>Family court; single judge</p> <p>Written</p> | Parties involved, Youth Welfare Office | <p>Yes</p> <p>Reasoning for overruling consent; circumstances of the child; facts about adoptive parents</p> | Yes, full | No | Cost |

| | | | | | | | |
|----------------|---|--|--|---|---|---------------------------------------|-------------|
| Ireland | <p>Oral hearing</p> <p>Present: Child, adoptive parents, Child and Family Agency or accredited adoption authority, guardian <i>ad litem</i>, and other family members</p> <p>Independent observers possible</p> | <p>Administrative body (AAI), panel of professionals</p> <p>Oral decision at hearing</p> <p>Written determination placed on file.</p> <p>Transcripts of hearing.</p> | <p>Adoptive parents, birth parent(s), child, Child and Family Agency or accredited adoption authority, General Registry Office</p> | <p>Yes</p> <p>Background circumstances, best interests of the child, supporting reasons for adoption and legal basis for the order to be made</p> | <p>High Court decision to set aside parental consent can be appealed to the Court of Appeal</p> <p>AAI can be judicially reviewed</p> | <p>AAI: No</p> <p>High Court: Yes</p> | |
| Norway | <p>Oral hearing</p> <p>Present: private and public parties, including testimonies from both parties</p> <p>Media and researchers upon consent of the court</p> | <p>Administrative court-like body (County Board); lawyer, expert member and layperson</p> <p>Written</p> | <p>Birth parents, child protection service, and the child (if 15 years or older)</p> | <p>Yes</p> <p>Facts, arguments from private and public parties, justification for decision</p> | <p>Yes, full</p> | <p>Yes</p> | <p>Cost</p> |
| Spain | <p>Oral hearing, but not mandatory</p> <p>Present: Children and adoptive parents</p> <p>Media and researchers upon consent of the court</p> | <p>Written court judgement</p> <p>Family court, single judge</p> | <p>Parties involved, public prosecutor</p> <p>Adoptions section staff of the child protection area</p> <p>Adoptive parents</p> | <p>Yes</p> <p>Judgement includes facts of the case and justifications to support the adoption decision</p> <p>Best interests of the child</p> | <p>Yes, partial and full</p> | <p>No</p> | |