

## **Adoption Procedure In Vietnam**

Nowadays, foreigners from other countries wish to adopt children in Vietnam and bring them up to his/her country for custody. Vietnam in the meantime encourages the adoption for the better conditions on life environment, education system which would bring to the children when living with the new family. However, the adoption conditions are still regulated strictly and its acceptance procedures are considered and controlled stringently by competent authorities of the Government.

ANT Lawyers will provide to you the regulated conditions of the adoptive parents need to be met as below:

### **I. GENERAL CONDITIONS OF THE ADOPTIVE PARENT:**

The adoptive parent has to meet fully conditions as below for adoption:

- Having full civil act capacity;
- Being 20 years or more older than the adopted person;
- Having health, financial and accommodation conditions for assuring the care for and nurture and education of the adopted child.
- Having good ethical qualities.

And not being one these following cases:

- Having some of the parental rights over a minor child restricted;
- Currently serving an administrative handling decision at an educational institution or medical treatment establishment;
- Currently serving an imprisonment penalty;
- Having a criminal record of commission of any of the crimes: intentionally infringing upon another's life, health, dignity and honor; maltreating or persecuting one's grandparents, parents, spouse, children, grandchildren or caretaker; enticing or compelling a minor to violate the law or harboring a minor violator; trafficking in, fraudulently swapping or appropriating children, which has not been remitted yet.

### **II. CONDITIONS OF THE FOREIGNER ADOPTIVE PARENTS:**

After meeting fully conditions above, Vietnamese living abroad, foreigners permanently living abroad will be entitled to adopt identified Vietnamese children if they fall into the following cases:

- Being the step father or step mother of the to-be-adopted child;
- Being natural aunt or uncle of the to-be-adopted child;
- Having adopted a child who is a sibling of the to-be-adopted child;
- Adopting a child who is disabled or infected with HIV/AIDS or another dangerous disease, including: children with cleft lip and cleft palate, children who are blinded with one or two eyes; mutism, deaf; dumb; children with curved arms or legs, children with missing fingers, hands, foot (feet), toes, children infected with HIV; children with heart diseases; children with navel, groin, belly hernia; children without an anus or sexual organ; children with blood disease; children with diseases requiring life-long treatment; children with other disabilities or dangerous disease which restricting the chances of adoption;
- Being foreigners currently working or studying in Vietnam for at least 1 year.



Foreigners would find it troublesome when dealing with Vietnam State Authorities due to the complexity of the requirements of the documents when applying for birth certificate involve foreigner being father or mother of the child.

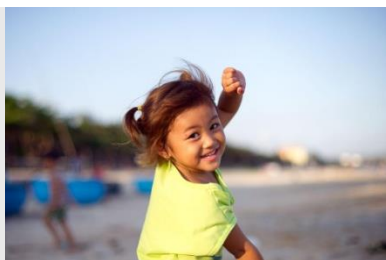


Even if the mother and father of the child are not married, it is important that, the parents of the child are acknowledged so as the child, whether newly born or at any age could enjoy its full rights.



When the parents accept the child and agree to be

## Who can adopt from Vietnam



The Vietnamese Law on Adoption No 52/2010/QH12 which entered into force from 01 January 2011 allows nationals of certain countries (including UK), to adopt Vietnamese children in a few specific cases/circumstances if the adoptive parents meet one of the following conditions:

- are currently working or studying in Vietnam for at least 1 year;
- are step parents of the to-be-adopted child; - are blood aunts or uncles of the to-be-adopted child;
- have already adopted a child who is a sibling of the to-be-adopted child;
- adopt a child who is disabled or infected with HIV/AIDS or another serious disease.
- are permanently residing in Vietnam

However, each application will be considered on its own merit and on a case by case basis by the Vietnamese Adoption Department. The Embassy/Consulate General cannot advise if you meet the criteria or not. Please contact the Adoption Department directly.

If those wishing to adopt a Vietnamese child do not meet the above conditions, they can still apply to adopt a child with disabilities or a serious illness.

### **Vietnam procedure**

All applications for adoption are considered by the Department of International Adoption under the Ministry of Justice.

### **Vietnam. Photos by Romain Garrigue.**

Melissa Fleming viewed the process to adopt in Vietnam as her full-time job, a dedication that took nine months of patience and reams of paperwork.

By being determined and methodical in preparing all the required documentation and working closely with Vietnam's Ministry of Justice, it took six months for Melissa and her family to be approved as adoptive parents and matched with a child in an orphanage in Danang. It took another three months for their baby to come home to her new Canadian-British family in Ho Chi Minh City.

But the wait to adopt was actually much longer for Melissa and her husband, Kim, who had decided to give their biological son an adopted sibling when the family was living in Hong Kong. When they made their decision, they were adamant their adoption would comply with the Hague Adoption Convention, drafted in 1993 to protect the rights of children in the adoption process.

The family applied to adopt in Hong Kong, and, after 12 months of rigorous checks, were approved as prospective adoptive parents. When they'd been on the adoption waitlist for six months, Kim was offered a new role in Vietnam, a country where they'd raised their first child and felt a strong connection. Accepting the new job meant re-starting the adoption process again, Melissa said. And in Vietnam, that process can only start once a foreigner has resided in the country for 12 months. For Melissa, the 12-month wait was an opportunity that gave her time to research all the adoption requirements and make sure everything was ready to submit once the family was eligible.

Abandoning their Hong Kong adoption application was an emotionally tough decision, and a big risk, she admitted. But on July 26 this year, their baby daughter, JaeLinh, finally joined their family.

### **Turbulent History**

The history of non-Vietnamese people adopting Vietnamese babies goes back to the final days of the American War, when thousands of babies and children were evacuated under Operation Babylift. More than 10,000 Operation Babylift children were adopted by families in the US, Canada, the UK, Australia, France and Germany.

The youngest of those babies are in their 40s now, and many have returned to Vietnam to try to reconnect with their heritage.

Brad Pitt and Angelina Jolie reignited international attention to adopting in Vietnam in 2007, when they adopted a three-year-old boy, renamed Pax, from Tam Binh Orphanage in Ho Chi Minh City's Thu Duc District.

But with the international attention, and the celebrity cache of adopting a Vietnamese orphan, came international scrutiny, and the following year the US suspended international adoptions from Vietnam following reports of corruption and baby trading.

What followed was a shakeup of the international adoption procedures in Vietnam, and the creation of a central Department of Adoptions within the Ministry of Justice. Vietnam ratified the Hague Adoption Convention in 2011 and revised the domestic adoption law the same year. In 2014, international adoptions to the US resumed. Now, a small number of adoption agencies operate in Vietnam, processing international adoptions, including to the US.

While international adoptions are best handled through an agent, expats who have lived in Vietnam for 12 months or more can deal directly with the Department of Adoptions.

### **Two-step process**

An in-country adoption, however, is a two-step process. The first step is the actual adoption, and the second step is organising a foreign passport for the adopted child. While international adoptions from Vietnam are only possible to countries that have an adoption agreement with Vietnam, in-country adoptions are open to any nationality.

While many families from countries with no international adoption agreement with Vietnam, such as the UK and Australia, adopt in-country and successfully take their new family member home, the right to assume the parents' citizenship and live in their home country is not guaranteed.

The first step in an in-country adoption in Vietnam is obtaining a no objection to adopt letter from your country of origin. Only once this is obtained can an application to adopt be lodged with the Department of Adoptions.

As with most bureaucratic processes in Vietnam, every document required for an adoption must be certified, translated and notarised. Melissa recommends compiling four dossiers: three for the Department of Adoptions and one for your own records, and to assist with applying for citizenship and a passport from your home country.

The adoption process requires medical reports and supplying criminal checks from every country the prospective adoptive parents have lived in.

"The paperwork is rigorous and intensive," Melissa told AsiaLIFE. But she regards the process as necessary to protect the children.

In 2008, UNICEF estimated there were 1.5 million orphans in Vietnam. Very little information exists about the rate of domestic adoptions, but most Vietnamese remain suspicious of anyone who is "not blood" so the concept of adopting a non-relative is not very popular.

In developed countries, however, the demand for orphans is high, while supply is low. Hence the concept of adopting orphans from developing countries.

Orphan Impact, a Vietnam-based education project of US non-profit Kidspire, estimates there are 13,000 institutionalised orphans in the government's 153 orphanages.

"I have three sisters who were adopted from Vietnam as infants and are now 22, 20, and 16," said Tad Kincaid, Orphan Impact's project director. "I am a firm believer that the best response society can give to institutionalised children is to do everything we can to help them gain the skills and the confidence they require to look towards their future with hope, and find a career that will enable them to break the cycle of poverty that most usually is what initially brought them into the orphanage."

Tad said although inter-country adoptions from Vietnam had slowed in recent years, projects such as his were improving the skill levels of orphans.

### **Adoption Support Group**

Csilla Beata Mezei is an adoption mentor from Hungary who last month set up an adoption support group in Ho Chi Minh City.

With one biological child and two adopted children herself, Csilla felt the need to reach out to local adoptive families after realising how little support and information was available about adopting in Vietnam.

The new support group, Adoption Support Group Saigon, can be found on Facebook.

### **Different Motivations**

People are motivated to adopt for many reasons, Csilla said. For some couples, many years of infertility leads them to consider adopting. Others are motivated by noble and altruistic reasons, wanting to give an underprivileged child a better future.

For Csilla, complications from the birth of her first child 17 years ago meant she could have no more biological children. But now her family is complete with three children, aged 17, 15 and seven.

Catherine Chae-Taylor from the UK also has one biological child, and a traumatic birth story. Catherine and her husband have been trying for a second child with no luck so far, so the family has decided to adopt to give their three-year-old son a sibling.

"It's something that we said we'd do, even prior to having Albert," she said. "It's something we've discussed at length, it's not a whim. It's going to impact on our whole family."

Catherine and her husband are only at the research stage at the moment, but they are keen to adopt a Vietnamese orphan before they leave Vietnam at an undetermined future date.

For those considering adopting in Vietnam, the advice from adoption experts and adoptive parents is universal. Make sure you do it properly, under the processes set up by the Hague Adoption Convention.

That means you don't go baby-shopping in orphanages and then try to organise paperwork. It means going through the proper processes set out by Vietnam's Department of Adoptions and waiting to be matched with a child in state-run orphanage.

### **Cautionary Tale**

Adrian Scott's experience adopting his son is a cautionary tale.

The English chef, known universally as Scotty, and his wife, Mai, had discussed adoption between themselves and with Mai's family. They hadn't started researching the process when Mai's sister, a nurse at the Ca Mau Hospital in Vietnam's southern-most province, called to say she'd found a baby for them.

It was a baby from an impoverished local family, who'd been fostered out to relatives. The aunt and uncle cared for the baby for several months but decided they couldn't continue. The biological parents and the foster parents decided the baby should to be adopted by a family who could give him a better life.

It seemed like fate. Scotty and Mai wanted to adopt, and here was a baby available for adoption in Mai's hometown. Mai and her sister checked the legal procedures for adopting with the police and Ca Mau authorities and submitted all the paperwork that was required. Mai and Scotty brought their new baby, an undernourished eight-month-old, home to Ho Chi Minh City.

### **Legal Hiccup**

And then they discovered the local authorities had given them the outdated information and they were not actually entitled to have their baby. They just couldn't hand him back, so Scotty hired a lawyer to help them sort out the legal wrangle. Their lawyer has been working on the paperwork for 18 months already, and Scotty expects it will take another 18 months before the adoption is properly finalised.

"We've got all the legal documents," he said. "The criminal checks, the medical checks. It's just very time consuming, but we're now on track."

Scotty and Mai's baby is now an active and talkative two-and-a-half-year-old, as cute and cheeky as they come. Scotty says the family may adopt again, but they would follow the proper procedures to avoid all the confusion and heartbreak they inadvertently experienced the first time round.

Dutch national Julie Adams adopted her daughter Giovanna from a Catholic orphanage in Lam Dong Province in the Central Highlands through a process only open to Catholics. Julie was eligible to adopt in Vietnam because she's been living here for more than 12 months. "When I received my official adoption dossier number in December 2016, I was 45 years, single, Catholic and a Dutch national," she says on her website, [julieadams.nl](http://julieadams.nl), which she set up to help prospective adoptive parents.

“You can adopt as a single parent (in Vietnam) and there is no maximum age of the adoptive parent under Vietnamese law,” she says on her website. “There are no guidelines with regards to financial status of the adoptive parent (but) you will need to provide proof of income and assets.”

### **Adoption Costs**

The cost of adoption varies, with the actual application fees quite low. The extra costs for a home study, medical reports and notarisation of documents do mount up. On her website, Julie recommends reserving US\$15,000 to US\$20,000 for the whole process, including travel and legal fees in your own country. The travel costs can include trips within Vietnam if the orphanage is not in Ho Chi Minh City.

The government categorises orphans into two groups. List 1 orphans are healthy children, and local authorities must dedicate at least three months checking the child is in fact an orphan with no family willing to take it in. An extra fee of VND50 million applies to those wanting to adopt a List 1 child.

List 2 children are those aged over five years, siblings and children with special needs. This can range from something mild like asthma or dermatitis to severe disabilities.

Adoptive mother Melissa advises expats who are thinking of adopting in Vietnam to remain focused on their adoption goal, accepting emotion and frustration as a part of the journey.

“It’s not cut and dried,” Melissa said. “It’s not a journey where you download an application form from the Internet and do everything it states and things just fall into place. You need to drive yourself towards your goal.”

But from the loving look on Melissa’s face as she shows off a photo of her gorgeous two-year-old daughter, her adoption journey was worthwhile.