

INTERCOUNTRY ADOPTION

CONGO, DEMOCRATIC REPUBLIC OF THE

June 2006

DISCLAIMER: The following is intended as a very general guide to assist U.S. citizens who plan to adopt a child from a foreign country and apply for an immigrant visa for the child to come to the United States. Two sets of laws are particularly relevant: 1) the laws of the child's country of birth govern all activity in that country including the adoptability of individual children as well as the adoption of children in country in general; and 2) U.S. Federal immigration law governs the immigration of the child to the United States.

The information in this flyer relating to the legal requirements of specific foreign countries is based on public sources and our current understanding. It does not necessarily reflect the actual state of the laws of a child's country of birth and is provided for general information only. Moreover, U.S. immigration law, including regulations and interpretation, changes from time to time. This flyer reflects our current understanding of the law as of this date and is not legally authoritative. Questions involving foreign and U.S. immigration laws and legal interpretation should be addressed respectively to qualified foreign or U.S. legal counsel.

PATTERNS OF IMMIGRATION OF ADOPTED ORPHANS TO THE U.S.: Recent U.S. immigrant visa statistics reflect the following pattern for visa issuance to Congolese orphans:

Fiscal Year	Number of Immigrant Visas Issued
FY 2005	11
FY 2004	1
FY 2003	0
FY 2002	6
FY 2001	6

ADOPTION AUTHORITY IN THE DRC: Although the Ministry of Justice has jurisdiction over adoptions, individual cases are handled by the Tribunal de Paix in the region where a prospective adoptive child resides. Mailing addresses do not exist as there is no mail service. Attorneys have current contacts at appropriate courts.

ELIGIBILITY REQUIREMENTS FOR ADOPTIVE PARENTS: Adopting parents may be married, single, widowed or divorced. Persons in these last three groups may not adopt a child of the opposite sex unless the court grants an exemption. Couples should have been married for at least five years and be at least 15 years older than the intended adoptee. This "15-year rule" may be waived if the adoptee is a biological child of one of the parents. Any person who has a prior history of child abuse is not permitted to adopt. There is no age limit for adopting parents. No couple may adopt more than three children unless a subsequent prospective adoptee is the biological child of one of the parents. Parents may not already have more than two children when they adopt. No adoptive parent may marry the adopted child. There is no medical ineligibility for adoptive parents.

RESIDENCY REQUIREMENTS: Prospective adoptive parents do not need be permanent or long-term residents of the DRC.

TIME FRAME: It can take from a minimum of three months to a maximum of one year to complete the adoption process from child placement to visa issuance.

ADOPTION AGENCIES AND ATTORNEYS: There are no adoption agencies in DRC. However, orphanages must be licensed or accredited by the Congolese government. It is customary and accepted practice to engage Congolese lawyers to carry out adoption proceedings. Lawyers are automatically accredited by the government by virtue of their professional training. The U.S. Embassy in Kinshasa maintains a list of attorneys known to work with U.S. citizens on its web site. http://kinshasa.usembassy.gov/attorneys_in_congo.html. This list does not imply an endorsement of specific attorneys by the Embassy.

Please see [Important Notice Regarding Adoption Agents and Facilitators](#) at the U.S. Department of State, Bureau of Consular Affairs web site travel.state.gov.

ADOPTION FEES IN THE DRC: Court fees for an adoption case average between \$100 and \$300. Lawyer fees can range from \$1,000 to \$2,500. Fees can be kept to a minimum if, prior to the first consultation, adopting parents secure any required documents such as birth, death, marriage and relevant court records on their own.

ADOPTION PROCEDURES IN THE DRC: Prospective parents apply for permission to adopt by sending a letter to the Tribunal de Paix in the region where the child resides. Postal delivery is very limited, so a letter should be sent by messenger or delivered by hand. There is no application form. The Judge from the Tribunal de Paix approves foreign adoptive parents for adoption. If the adoptive parents choose the adoptive child at an orphanage, they do so according to their own criteria (age, gender, etc.). A lawyer may represent the adoptive parents, but adoptive parents' criteria are taken into consideration, rather than a governmental agency or social organization.

STEP ONE: OBTAINING CONSENT

The court will require consent to the adoption be settled before granting a judgment. Biological parents, or other family members if one or both parents are deceased, must give their consent. If no family members are identified, the court will step in to determine consent. Any child over

the age of 15 and over must give his or her own consent. Please bear in that U.S. immigration law states only adopted orphans under the age of sixteen are eligible for immigrant visas; sixteen and seventeen year olds are eligible only when adopted with a sibling group.

STEP TWO: THE HEARING

After obtaining the proper consent, the prospective adoptive parents request a hearing in open court at the Tribunal de Paix in the area where the child resides. Along with the request for hearing, the prospective adoptive parents must submit copies of their birth certificates and the birth certificate of the prospective adoptee. The court will require proof that any and all interested family members of the child have been informed of the adoption and have received notice of the court hearing. The adoptive parents and prospective adopted child (if over age 10) must appear personally in court before the judge. Other interested parties may attend or submit documents to the court. After the initial hearing, the court conducts an investigation to determine that all conditions for placement or final adoption have been met and that all documents are legitimate. Adopting parents are not required to remain in DRC after the hearing while waiting for the judgment.

STEP THREE: THE JUDGMENT

Once the investigation is completed and all requirements have been satisfied, the court will issue a judgment of adoption. The date of the adoption will be retroactive to the date of the first court appearance. The adopted child's name on the judgment will incorporate his/her original name along with the newly adopted family name. At the time of adoption, choices concerning citizenship will be made by the adoptive parent (in the case of minors) or by the adoptee (if 18 years or older). The adoptive parents must register the judgment at the local city hall or magistrate within one month or the adoption is null and void. This is done either where the adoptive parents live (if they live within DRC) or where the child resides (if the adoptive parents do not live in the DRC).

DOCUMENTS REQUIRED FOR ADOPTION IN DRC: The adopting parents must submit copies of their own birth certificates, the birth certificate of the prospective adoptee, police certificates from the adoptive parents place of birth and attestations of good conduct from their city hall or local embassy or consulate.

AUTHENTICATING U.S. DOCUMENTS TO BE USED ABROAD: The language describing the process of authenticating U.S. documents to be used abroad is currently under review. Please click on the following link for more information until the new language is finalized:
http://www.travel.state.gov/law/info/judicial/judicial_701.html

CONGOLESE EMBASSY IN THE UNITED STATES:

Embassy of the Democratic Republic of Congo
1726 M Street, N.W.
Washington, D.C. 20036
Telephone: (202) 234-7690

U.S. IMMIGRATION REQUIREMENTS

Prospective adopting parents are strongly encouraged to consult USCIS publication [M-249, The Immigration of Adopted and Prospective Adopting Children](#), as well as the Department of State publication, International Adoptions. The USCIS publication is available at the [USCIS Web site](#). The Department of State publication [International Adoption](#) can be found on the Bureau of Consular Affairs Web site, [travel.state.gov](#), under "Inter-country Adoption."

Before completing an adoption abroad, prospective adoptive parents are strongly encouraged to read the requirements for filing Form I-600 Petition to Classify Orphan as an Immediate Relative. Please see the flyer "How Can Adopted Children Come to the United States" at the U.S. Department of State, Bureau of Consular Affairs web site [travel.state.gov](#).

U.S. EMBASSY IN THE DEMOCRATIC REPUBLIC OF THE CONGO: Americans living or traveling abroad are encouraged to register with the nearest U.S. Embassy or Consulate through the State Department's travel registration website, <https://travelregistration.state.gov/>, and to obtain updated information on travel and security within the country of travel. Americans without Internet access may register directly with the nearest U.S. Embassy or Consulate. By registering, American citizens make it easier for the Embassy or Consulate to contact them in case of emergency. The Entrance to the Consular Section of the Embassy is on Avenue Dumi, opposite Ste. Anne residence and the telephone number is 243-81-225-5872. The U.S. Embassy in Kinshasa is located on 310 Avenue des Aviateurs.

APPLYING FOR A VISA AT THE U.S. EMBASSY IN KINSHASA: In addition to the Form I-600, also known as the Petition to Classify an Orphan as an Immediate Relative, and other supporting documents, adoptive parents applying for immigrant visas for children adopted from the Democratic Republic of Congo should present the following three documents to the consular officer:

Judgment of adoption;

Certificate of no appeal; and

Proof that the adoption judgment was registered in the Congolese "Commune" (city hall) with jurisdiction over the child.

Note: Certificates of "Guardianship," often used in Congo, do not constitute a legal adoption and will not suffice for U.S. immigration requirements.

Pre-approved adoptive parents (fingerprint report available and current, home study report complete and available, etc.) whose cases are clearly approvable and who are eligible to submit a petition at the Consular Section, would be scheduled for an interview within one to two weeks, based on the availability of medical exam results. Petitions submitted at post that are not clearly approvable must be sent to the nearest Department of Homeland Security office in Nairobi, Kenya for additional review.

Interviews may take up to one week to schedule for adoption petitions that have been submitted and approved in the United States and then sent to Kinshasa.

The Consular Section schedules all interviews for adoption cases. Interviews are held on Tuesday and Wednesday afternoons at 2 p.m. Following the interview, eligible adopted children's' visas will normally be returned to the adoptive parents within forty-eight to seventy-two hours.

ACQUIRING U.S. CITIZENSHIP: The language describing the acquisition of U.S. citizenship for adopted children is currently under review. Until the new language is finalized, please click on the following link for further information:

http://travel.state.gov/family/adoption/info/info_457.html.

ADDITIONAL INFORMATION: Specific questions about intercountry adoption in the Democratic Republic of Congo may be addressed to the U.S. Embassy in Kinshasa. General questions regarding intercountry adoption may be addressed to the Office of Children's Issues, U.S. Department of State, CA/OCS/CI, SA-29, 4th Floor, 2201 C Street, NW, Washington, D.C. 20520-4818, **toll-free Tel: 1-888-407-4747**.

Useful information is also available from several other sources:

Telephone:

- **Toll Free** - For information on intercountry adoption and international parental child abduction, call Overseas Citizens Services at 1-888-407-4747. This number is available from 8:00 a.m. to 8:00 p.m. Eastern Standard Time, Monday through Friday (except U.S. federal holidays). Callers who are unable to use toll-free numbers, such as those calling from overseas, may obtain information and assistance during these hours by calling 1-202-501-4444.
- **U.S. Department of State Visa Office** - recorded information concerning immigrant visas for adopting children, (202) 663-1225.
- **U.S. Citizenship and Immigration Services** - recorded information for requesting immigrant visa application forms, 1-800-870-FORM (3676).

Internet:

- **Adoption Information Flyers:** The U.S. Department of State, Bureau of Consular Affairs web site at: <http://travel.state.gov/> contains intercountry adoption information flyers like this one and the International Adoptions brochure.
- **Country Specific Information:** The State Department has general information about hiring a foreign attorney and authenticating documents that may supplement the country-specific information provided in this flyer. In addition, the State Department publishes Country Specific Information (CIS) for every country in the world, providing information such as location of the U.S. Embassy, health conditions, political situations, and crime reports. If the situation in a country poses a specific threat to the safety and security of American citizens that is not addressed in the Country Specific Information for that country, the State Department may issue a Travel Alert alerting U.S. citizens to local security situations. If conditions in a country are sufficiently serious, the State Department may issue a Travel Warning recommending that U.S. citizens avoid traveling to that country. These documents are available on the Internet at: <http://travel.state.gov/> or by calling the State Department's Office of Overseas Citizen Services Toll Free at 1-888-407-4747. This number is available from 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday (except U.S. federal holidays). Callers who are unable to use toll-free numbers, such as those calling from overseas, may obtain information and assistance during these hours by calling 1-202-501-4444.
- **USCIS web site** - <http://uscis.gov/>.