

MINISTRY OF JUSTICE AND PUBLIC SECURITY
NATIONAL SECRETARIAT OF JUSTICE
DEPARTMENT OF ASSET RECOVERY AND INTERNATIONAL LEGAL COOPERATION
FEDERAL ADMINISTRATIVE CENTRAL AUTHORITY

XXII MEETING OF THE COUNCIL OF BRAZILIAN CENTRAL AUTHORITIES - CACB

RESOLUTION N. 19/2019

Approves the flow of receipt and processing of requests for access to information of biological origin referred to in Article 48 of Law N. 8,069 of July 13, 1990, and Article 30 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded in the Hague on May 29, 1993, sent by people adopted in national territory by foreign residents.

Considering the provisions of Article 48 of the Statute for Children and Adolescents, Law no. 8,069, of July 13, 1990, and recognizing the right of adopted children and adolescents to know their biological origins;

Considering the provisions of Article 30 of the 1993 Hague Convention, promulgated by Decree no. 3,087, of June 21, 1999, and aware of the responsibility of the Brazilian State for preserving available information regarding the origin of the adopted child and adolescent;

Considering the right of the adopted child and adolescent, or their legal representative, to receive due guidance from the Brazilian authorities regarding access to biological origins;

The Council of Brazilian Central Authorities, in the use of its powers, according to Decree no. 10,064, of October 14, 2019, at its 22nd Ordinary Assembly, held on October 24th and 25th, 2019, approves the following provisions:

Flow of receipt and processing of requests of access to information on the biological origin of people adopted in national territory by foreign residents

Section I

Right to information on the biological origin

Art. 1 The State and District Central Authorities, after the final hearing of the international adoption procedure of children residing in Brazil, will deliver a full copy of the judicial adoption procedure to the adoptive family, or their legal representative, along with all available documents related to the previous life of the adoptee, above all, that which allows for the identification of its biological origin and medical conditions.

Sole paragraph. A full copy of the judicial procedure for the termination of parental rights of the adopted child and adolescent must be made available to the adoptive family or their legal representative.

Art. 2 To enable compliance with the provisions of Article 48 of Law no. 8,069, of July 13, 1990, the State and District Central Authorities will make efforts to develop and implement all actions necessary for the conservation of information related to the international adoptions carried out in its jurisdiction, including by electronic means.

Procedures related to receiving requests for access to origins

Art. 3 The requests for access to information of biological origin referred to in article 48 of Law no. 8,069, of July 13, 1990, and article 30 of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, of May 29, 1993, must be sent to the Federal Administrative Central Authority - ACAF, by filling in a specific form available on its website and sent to the electronic address acaf@mj.gov.br.

Paragraph 1. In cases where the State and District Central Authorities directly receive requests for access to information of biological origin, they must inform ACAF about the request and measures taken for its fulfilment, exclusively by electronic means, within up to 30 (thirty) days.

Paragraph 2. In cases where the State Courts directly receive requests for access to information of biological origin, they must inform the Central Authority of their federation unit about the request and measures taken for its fulfilment.

Paragraph 3. In the event of paragraph 2, the State or District Central Authority shall inform the ACAF of the request and measures taken for its fulfilment, exclusively by electronic means, within a period of up to 30 (thirty) days.

Paragraph 4. The form mentioned in the chapeau of article 3 is included in Annex I of this Resolution.

Art. 4 The Ministry of Foreign Affairs - MRE may maintain information service aimed at those interested in accessing information of biological origin at its Brazilian consular assistance posts or websites, orienting the interested party to direct the request to the Federal Administrative Central Authority - ACAF, as provided for in the chapeau of art. 3 of this Resolution.

Procedures related to the processing of requests for access to origins

Art. 5 The request for access to information of biological origin may be made directly by the adoptee, after completing 18 (eighteen) years of age.

Paragraph 1. The request referred to in the chapeau may be submitted by electronic message ("email") or by physical means.

Paragraph 2. The request referred to in the chapeau may relate to an adopted child under 18, provided that:

- a) presented on behalf of the adoptee by any of its legal representatives; or
- b) the applicant is the adopted person him/herself and must indicate the reasons for the refusal of a legal representative(s) to present the request on his/her behalf.

Paragraph 3. In the event of paragraph 2, point b, of article 5, full access to the records of court proceedings and documents mentioned in articles 1 and 2 may also be granted to the adopted child under the age of 18 (eighteen), at his/her request, when assured legal and psychological guidance and assistance.

Paragraph 4. The adoptee has the right to know his/her biological origin, obtain unrestricted access to the procedure in which the measure was applied and its eventual incidents, and his/her medical history and that of his/her biological family.

Paragraph 5. The mother is guaranteed the right to secrecy about the birth, respecting the right of the adoptee to know its biological origin, as well as to obtain unrestricted access to the procedure in which the measure was applied and its eventual incidents.

Art. 6 The request for access to information of biological origin, unrestricted access to the procedure in which the adoption measure was applied, and personal and family medical history, received by the ACAF under the terms of the chapeau of article 3, will be forwarded to the Central Authority of the federation unit in which the adoption took place, which will, if necessary, request assistance from the competent local court.

Art. 7 In the event of art. 6, the Central Authority of the federation unit in which the adoption took place will forward the information and documents resulting from the research to meet the formulated request to the ACAF, exclusively by electronic means, which will be transmitted to the applicant by the ACAF.

Sole paragraph. In the cases of paragraphs 1 and 2 of article 3, the Central Authority of the federation unit where the adoption took place will directly transmit the information and documents produced and/or obtained to the applicant, with a copy to the ACAF, preferably by electronic means.

Art. 8 In the cases in which the Central Authority of the federation unit where the adoption took place concludes that it is impossible to comply with the request for access to information of biological origin, unrestricted access to the procedures of destitution of family power and/or adoption and/or personal and family medical history, it must present the reasons for the total or partial non-fulfilment of the request to the ACAF, so that these can be transmitted to the applicant by the latter.

Paragraph 1. In the event it was impossible to find the records of the procedure of termination of parental rights and/or adoption, the competent state or district authority will issue a certificate with the declaration of inexistence or exhaustion of efforts to locate the physical records of said legal procedures.

Paragraph 2. In cases where it has been certified the impossibility to locate the records of the procedure of termination of parental rights and/or adoption due to irregularities or illegalities, the State or District Central Authority shall forward a request to investigative bodies, including those of a criminal nature and child protection for eventually applicable measures.

Paragraph 3. In the cases of paragraphs 1 and 2 of article 3, the reasons for non-compliance with the request, in whole or in part, must be forwarded to the applicant by the State or District Central Authority

and must include all measures taken and documents produced by the competent authorities.

Section II

Requests for the location of biological parents and/or family

Art. 9 In the event that the application includes a request to locate parents and/or a member of the biological family, the State or District Central Authorities will evaluate the convenience and opportunity of compliance.

Sole paragraph. In the case of the chapeau, it is recommended that the Central Authority of the federation unit where the adoption took place consider in its analysis whether the fulfilment of the request is in accordance with the guarantee provided for in paragraph 9 of art. 19-A of Law no. 8,069, of July 13, 1990.

Art. 10 In cases where the request includes the location of one or both biological parents, as well as of other member(s) of the biological family, the Central Authority of the federation unit in which the adoption took place must inform the ACAF on the possibility and what measures it will take to fulfil the request, within up to 30 (thirty) days.

Paragraph 1. In cases where the Central Authority of the federation unit in which the adoption took place is equipped with the adequate resources to fulfil the request referred to in the chapeau, especially human resources with the training and professional qualification required for this type of approach, the information on the current location of one or both biological parents, as well as that of other member(s) of the biological family, can only be provided to the applicant after the consent of the located person, certified in a signed consent form.

Paragraph 2. After obtaining the consent of the located person, and if there is an interest both by this person and the applicant, the Central Authority of the federation unit where the adoption took place may promote the approximation between the parties, taking the necessary measures for the adequate psychological support of those involved.


Art. 11. This Resolution will be published on the website of the Ministry of Justice and Public Security, a copy of which will be sent by electronic mail to the members of the Council of Brazilian Central Authorities - CACB, within 30 (thirty) days of its publication.

Art. 12. The State and Federal District Courts of Justice will adopt specific regulations to implement what is contained in this Resolution.

Art. 13. This Resolution takes effect on the date of its publication.

ANNEX I

REQUEST FORM FOR THE ACCESS TO INFORMATION ON BIOLOGICAL ORIGIN OF ADOPTEE BY A FOREIGN RESIDENT

 <p>MINISTRY OF JUSTICE NATIONAL SECRETARIAT OF JUSTICE DEPARTMENT OF RECOVERY OF ASSETS AND INTERNATIONAL LEGAL COOPERATION</p>	<p>SCN Square 06, Block A, 2nd floor – Shopping ID Brasilia/DF Zip Code: 70716-900 acaf@mj.gov.br Telephone: +55 (61) 2025-7672</p>
<p style="text-align: center;">ANNEX I of the Resolution nº 19/2019 REQUEST FORM – Access to biological origin</p> <p style="text-align: center;">1993 Hague Convention on Child Protection and Cooperation on International Adoption Request based on the CACB Resolution no. 15, of October 25, 2019.</p>	

Request Guidelines:

- The request for access to information of biological origin may be made directly by the adopted after completing 18 (eighteen) years of age.
- The request referred above may be submitted by email to acaf@mj.gov.br or by letter (sent by mail or submitted in person to the ACAF).
- The request referred above may concern an adopted under the age of 18 (eighteen), provided that:
 - Submitted on behalf of the adopted by any of his/her legal representatives;
 - The applicant is the adopted himself and must state the reasons for the refusal of a legal representative.
- The request must be signed by the applicant or his representative and must be accompanied by an identification document of the applicant and his legal representative.
- Fill in the form, preferably in a digital format and in Portuguese or English.

I – Request for access to origins

Access to the documents related to the legal procedure of adoption and identity of the parents (art. 48, Law no. 8069/1990)	<input type="checkbox"/>
Access to personal and family medical records (art. 30, Hague Convention on Child Protection and Cooperation on International Adoption)	<input type="checkbox"/>
Access to the current address of biological parents/family	<input type="checkbox"/>
Interest in meeting biological parents/family	<input type="checkbox"/>
I authorize sharing my information with my biological family	<input type="checkbox"/>

II – Birth information

Full name (before adoption)	Click here to type.		
Date of birth	Click here to type.	Name of birth mother	Click here to type.
		Name of birth father	Click here to type.
Place of birth (city/state)	Click here to type.	Hospital of birth	Click here to type.

III - Adoption Information

Name after adoption	Click here to type.	Date of adoption	Click here to type.
Name of the adoptive mother	Click here to type.	Name of the adoptive father	Click here to type.

Name of the organ/foreign body which intermediated the adoption	Click here to type.	City and State where the adoption took place	Click here to type.
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IV – Contact information and Complementary data

Full address	Click here to type.		
Phone number	Click here to type.	Email	Click here to type.
Educational level	Click here to type.	Marital Status	Click here to type.
Occupation	Click here to type.	Number of children	Click here to type.

V – Details and reasons for the request

Click here to type.

VI – List of attached documents

Click here to type.

Place (City, State, and Country) and date of issue of the request:

Signature of the adopted or his/her legal representative:
