

Hague Intercountry Adoption Convention.<sup>7</sup> According to the data provided in the most recent U.S. Department of State *Annual Report on Intercountry Adoptions*, approximately 65.5% of intercountry adoptions in FY2018 involved children immigrating to the United States from nations that are party to the Hague Intercountry Adoption Convention.<sup>8</sup>

## **II. The Three Paths to Immediate Relative Immigration Status for Children Adopted by U.S. Citizens**

Children coming to the United States to join adoptive families are classified for immigration purposes as immigrants (i.e., aliens seeking permanent residence).<sup>9</sup> A U.S. citizen seeking to adopt a child from abroad will wish to qualify that child as an immediate relative, in order to obtain a visa not subject to numerical limitation and avoid a significant wait. 8 U.S.C. §1151(b)(2)(A).

A child adopted abroad or entering the United States for adoption by a U.S. citizen may qualify for immediate relative immigration status through three different routes, i.e., the “Orphan Visa,” the “Convention Visa,” and the “Adopted Child Visa”:

- (1) the child satisfies the statutory definition of orphan, 8 U.S.C. §1101(b)(1)(F);
- (2) the child is adopted from a nation that is party to the Hague Intercountry Adoption Convention and the requirements of 8 U.S.C. §1101(b)(1)(G) are satisfied; or
- (3) the child has been adopted and in the legal and residential custody of the adoptive parent for at least two years, 8 U.S.C. §1101(b)(1)(E).

The following chart presents a brief comparison of the major differences in the requirements of each of these categories.

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<sup>7</sup> For a complete list of the states parties to the Hague Intercountry Adoption Convention, see <https://www.hcch.net/en/instruments/conventions/status-table/?cid=69>.

<sup>8</sup> See Table 1, U.S. Department of State *Fiscal Year 2018 Annual Report on Intercountry Adoptions* (March 2019) at <https://travel.state.gov/content/dam/NEWadoptionassets/pdfs/Tab%201%20Annual%20Report%20on%20Intercountry%20Adoptions.pdf>. The reporting period for FY 2018 is from October 1, 2017 through September 30, 2018. *Id.* at 1.

<sup>9</sup> Two types of visas are available for immigrants—those that are subject to numerical limitation and those that are not. 8 U.S.C. §1151.