

regarding the adopter(s)' eligibility through a two stage process (filing a Form I-600A petition before filing the I-600 Petition for an Orphan Visa), or in one-stage (combining a petition for both determinations regarding the adopter's eligibility as well as the child's eligibility by filing only an I-600), the process for obtaining a Convention visa must occur in two stages. Initially, the petitioner must file an Application for Determination of Suitability to Adopt a Child from a Convention Country (Form I-800A). Only after it has been approved may the ASP transmit it to the appropriate authority in the country of origin and facilitate a match; at which point the prospective adopters may accept the match and then file a Petition to Classify Convention Adoptee as an Immediate Relative (Form I-800) to seek approval of the child. *See* 8 C.F.R. § 204.308(b).

a. Citizenship, Marital Status, Age, and Habitual Residence in the U.S.

If the adopters are a married couple, at least one spouse must be a U.S. citizen habitually resident in the United States in order for the child to be eligible for immediate relative status. If the other spouse is an alien residing in the United States, he or she must be in lawful immigration status. If the non-citizen spouse is not a permanent resident, his or her immigration status will be "a factor evaluated in determining whether the family's situation is sufficiently stable to support a finding that the applicant is suitable as the adoptive parents of a Convention adoptee." 8 C.F.R. § 204.307(a)(2)(3). There is no age requirement for married adopters. 8 U.S.C. § 1101(b)(1)(G);

If the adopter is single, he or she must be a U.S. citizen habitually resident in the United States and at least 24 years of age on the date that the I-800A form is filed and 25 years of age when the I-800 form is filed. 8 U.S.C. § 1101(b)(1)(G); 8 C.F.R. § 204.307(a)(1).

The U.S. citizen adopter is deemed to be habitually resident in the United States if:

(1) the adopter is domiciled in the United States, even if temporarily living abroad, or

(2) the adopter establishes by a preponderance of the evidence that

(i) he or she will have established domicile in the United States on or before the date that the child is admitted to the United States for permanent residence as a Convention adoptee; or

(ii) he or she intends to bring the child to the United States after an adoption abroad and before the child's 18th birthday, at which time the child will be eligible for and apply for naturalization. This final option is not available if the child will be adopted in the United States. 8 C.F.R. § 204.303(a).