

### **c. State Pre-adoption Requirements if Adoption in the U.S.**

Just as with orphan visa applications, if the child is to be adopted in the United States rather than in his or her country of origin, prospective adopters must also establish that any state pre-adoption requirements for transnational adoptive placements have been satisfied. 8 U.S.C. §1101(b)(1)(G)(i)(V)(bb). For further discussion of this requirement, see Section II.A.3.c. above.

## **4. Child's Eligibility for Convention Visa**

The second stage of the process to obtain a Convention visa focuses on determining the child's eligibility under the criteria for a Convention visa. Following receipt of a favorable advanced processing determination, the ASP transmits the I-800A and other supporting documents to the appropriate governmental authority or accredited or approved body in the Convention country to review, arrange a placement, and return through the ASP a background report on a child, including medical and social history (as required by Article 16 of the Convention), with verification that governmental authorities in the country of origin have determined the child is eligible, intercountry adoption is in the child's best interests, appropriate consents have been obtained without inappropriate payments, and the requisite counseling was provided.

If the prospective adoptive parents accept the match, they then file an I-800 (Petition to Classify Convention Adoptee as an Immediate Relative), along with the I-800A approval notice and records (including the home study), the Article 16 report, the child's birth certificate, copies of the consents, a summary of the medical information provided to petitioners, proof that their pre-placement training was completed, evidence that any state pre-adoption requirements have been satisfied (if the child will be adopted in the United States), and information providing the factual basis establishing the grounds for the child's eligibility for the visa. These documents may be filed with the stateside or overseas USCIS office identified with the instructions that come with Form I-800 or with the visa-issuing post (a U.S. consular office) in the country of origin when permitted by the form's instructions.. 8 C.F.R. § 204.308(b).

### **a. Age and Marital Status of the Child**

To qualify for a Convention visa, the statute requires the child must be unmarried and under the age of sixteen when the petitioner files the I-800 (Petition to Classify Convention Adoptee as Immediate Relative) with USCIS. 8 U.S.C. §1101(b)(1)(G). An exception is created in 8 C.F.R. 204.313(c)(3), which provides:

If the Form I-800A was filed after the child's 15th birthday but before the child's 16th birthday, the filing date of the Form I-800A will be deemed to be the filing date of the Form I-800, provided the Form I-800 is filed not more than 180 days after the initial approval of the Form I-800A.