



RSJ calls for attention to the best interests of the child in the phasing out of intercountry adoption

The Ministry of Justice and Security has submitted a draft law for public consultation that regulates the phasing out of intercountry adoption, the expansion of possibilities for name change and identity recovery for adoptees, support for adoptees, and a legal procedure for domestic adoption. The Advisory Division of the Council for the Administration of Criminal Justice and Child & Youth Protection (hereinafter: the RSJ) has assessed this draft law against the United Nations Convention on the Rights of the Child and examined the extent to which the various elements of the proposal align with the principle of the best interests of the child.

Phasing out of intercountry adoption

The RSJ is positive about the decision to end intercountry adoption of children in the Netherlands. However, the current phasing out plan is not in line with the requirement that the best interests of the child must be the decisive factor in the context of adoption. As a result of a balancing of interests in which the best interests of the child are not decisive, intercountry adoptions of children and their (half-)siblings may still take place during the phasing out period. Given the high risk of irregularities during the intercountry adoption process - which is the reason the Dutch government proposed to phase out intercountry adoption - the RSJ considers it undesirable to initiate new matching procedures.

Provisions for adoptees

Furthermore, the RSJ is positive about most of the proposed measures regarding access for adoptees to their adoption files and options for name change. However, the RSJ sees possibilities to make these measures more widely available and accessible to adoptees and their descendants. The RSJ advises to give adoptees the opportunity to change their name once free of charge. Moreover the RSJ think post-adoption aftercare deserves more attention in both intercountry and domestic adoptions.

Relation to private international law

The phasing out and eventual termination of intercountry adoption in the Netherlands will have implications for Dutch private international law (PIL), particularly concerning the recognition of foreign adoption decisions and surrogacy arrangements. This draft law aims to prevent prospective adoptive parents from temporarily relocating abroad to adopt a child. The RSJ calls for vigilance in the context of the regulation of the recognition of parenthood after international surrogacy arrangements and the possibilities in the law on surrogacy currently in Parliament to circumvent the ban on intercountry adoption.

The RSJ recommends evaluating the current legislative amendments within five years after their entry into force. This evaluation should explicitly address the consequences of ending intercountry adoption and the potential emergence of abuse through the use of alternative legal routes to parenthood, such as foreign adoption decisions and surrogacy arrangements.

The RSJ's specific recommendations in Dutch can be found in the full advisory report.