



Opinion 266 (2007)¹

Draft convention of the Council of Europe on the adoption of children (revised)

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the preparation of the draft convention of the Council of Europe on the adoption of children (revised).² It regards this draft as a significant and necessary step forward, given the general recognition of the need to update the 1967 European Convention on the Adoption of Children (ETS No. 58), not only in the light of jurisprudential and societal developments but also having regard to the other relevant international instruments.

2. Not only is the draft revised convention updated but, since it deals essentially with non-international adoption, it complements the relevant international standards, principally the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (“The Hague Convention of 1993”), adopted on 29 May 1993, the provisions of which only apply to international adoptions.

3. The future revised convention is perfectly integrated with a well-established priority of the Assembly and the Council of Europe as a whole: building a Europe for and with children. It makes the concept of “the child’s best interests” central to adoption procedures, in accordance with the well-established case law of the European Court of Human Rights.

4. Concerning Article 27 of the draft convention permitting reservations, the Assembly considers this contrary to the basic purpose of the draft convention, which is to harmonise substantive adoption law in the states parties. It further considers that the terms, or the actual substance, of the provisions in question render any reservation needless. Consequently, it recommends that the Committee of Ministers remove all possibility of expressing reservations. Failing that, it recommends that all member states accede to the convention without making any reservation, and calls on national parliaments to exercise vigilance in that regard.

5. The Assembly, moreover, advocates certain additions to the text regarding the natural father’s place and the rights of different-sex couples living together in a stable relationship, in order to guard against any discrimination. In this context, the Assembly feels that societal evolution is such that its proposals for amendments will not have the effect of making ratification more difficult for some states.

6. The Assembly therefore recommends that the Committee of Ministers amend the draft convention as follows:

6.1. in Article 5, paragraph 5, replace “A mother’s consent to the adoption of her child” with “The mother’s and, where possible, the father’s consent to the adoption of their child”;

6.2. in Article 7, paragraph 1.a, add the following phrase: “iii. who live together in a stable relationship”;

6.3. in Article 7, paragraph 2, delete “different-sex couples and”;

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 23 November 2007 (see [Doc. 11381](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany; and [Doc. 11453](#), opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Vermot-Mangold).

2. See [Doc. 11274](#).



6.4. in Article 11, paragraph 2, after the words “the spouse”, delete the word “or” and, after the words “registered partner”, add “or unmarried partner, provided that the couple live together in a stable relationship.”;

6.5. replace paragraph 3 of Article 22 with the following text:

“The adopted child shall have the right to know his or her parents of origin and to have access to information held by the competent authorities concerning his or her origins. Where his or her parents of origin are exceptionally entitled by law not to disclose their identity, a competent authority shall determine whether it is appropriate to disclose identifying information, having regard to the circumstances and to the respective rights of the child and of his or her parents of origin. Appropriate guidance may be given to an adopted child not having reached the age of majority.”;

6.6. replace Article 27 with: “No reservations may be made to this convention”.