



Doc. 13059 – Compendium of written amendments

(Final version)

Intercountry adoption: ensuring that the best interests of the child are upheld

Contents	Page
A. Draft Resolution	2

A. Draft Resolution

1. Intercountry adoption is one of several possible care options for children without parental care. It may be the option of choice for children without parental care whose safety cannot otherwise be ensured (in particular for children who, in their home countries, face extreme poverty, neglect, exploitation and/or conflict situations).
2. However, intercountry adoption also represents an interference with the fundamental rights and personal identity of a child. Above all intended as a humanitarian act, transferring a child from the context of its biological family and home country to a foreign country and a new family is necessarily a traumatising experience and needs to be handled with utmost care and sensitivity for the child's individual situation.
3. In this context, the Parliamentary Assembly points to the central role of the United Nations Convention on the Rights of the Child of 1989 providing that the best interests of children shall be a primary consideration in all decisions concerning them. Children should grow up in a family environment, in an atmosphere of happiness, love and understanding. The main object of adoption is to find a family for a child and not a child for a family.
4. The Assembly is concerned by persisting reports of cases of intercountry adoption where the best interest of children has evidently not been the paramount consideration or where their human rights have been severely violated. Certain children fall victim to "child laundering" practices, involving the abduction and sale of children, the coercion or manipulation of birth parents, falsification of documents and bribery. Both sending and receiving countries involved in intercountry adoptions must therefore live up to their responsibilities to prevent and fight such criminal activities at a global level.

Amendment 1

Tabled by Mr René ROUQUET, Mr Christian BATAILLE, Mr Gérard TERRIER, Mr François LONCLE, Mr Jean-Yves LE DÉAUT, Ms Estelle GRELIER

In the draft resolution, paragraph 2, replace the words "from the context of its biological family" with the following words: "from the context of its family environment".

Sub-amendment 1 to amendment 1

Tabled by Ms Marlene RUPPRECHT, Ms Liliane MAURY PASQUIER, Mr Valeriu GHILETCHI, Mr Bernard MARQUET, Mr Andreas GROSS

In amendment 1, replace the words "from the context of its family environment" with the following words: "from the context of its biological family and its family environment".

Amendment 2

Tabled by Mr René ROUQUET, Mr Christian BATAILLE, Mr Gérard TERRIER, Mr François LONCLE, Mr Jean-Yves LE DÉAUT, Ms Estelle GRELIER

In the draft resolution, paragraph 4, replace the words "birth parents" with the following words: "their family environment".

Sub-amendment 1 to amendment 2

Tabled by Ms Marlene RUPPRECHT, Ms Liliane MAURY PASQUIER, Mr Valeriu

**GHILETCHI, Mr Bernard MARQUET, Mr
Andreas GROSS**

In amendment 2, replace the words “their family environment” with the following words: “birth parents and their family environment”.

5. The Assembly draws attention to the main legal references in this field: the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) and, at Council of Europe level, the European Convention on Adoption (revised) (CETS No. 202). The Assembly has regularly looked into the situation of children in intercountry adoption procedures, such as in its Recommendation 1443 (2000) “International adoption: respecting children’s rights” and Recommendation 1828 (2008) on the disappearance of newborn babies for illegal adoption in Europe.
6. In view of recent trends which continue to make intercountry adoption a possible and interesting care option for many children, the Assembly reiterates its call to Council of Europe member States to reinforce their relevant policies to pursue the practice of intercountry adoption under secure conditions while respecting the best interests of the child, by:
 - 6.1. if they have not yet done so, signing and ratifying the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and the European Convention on Adoption (revised) as complementary texts, with a view to effectively protecting children in the framework of intercountry adoptions;
 - 6.2. if they have not yet done so, signing and ratifying the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) as well as the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), with a view to protecting children against crimes which may be related to intercountry adoption;
 - 6.3. developing coherent national policies aimed at establishing fully supervised procedures of intercountry adoption involving a public central authority, which may – thanks to a sufficient level of resources – function as a competence centre and ensure a certain supervision of adoption standards and practice;
 - 6.4. developing strict rules and standards for the setting up, operation and supervision of specialist child adoption agencies in order to prevent their unregulated multiplication and competition from leading to insufficiently supervised adoption procedures or other unsafe practices;
 - 6.5. ensuring that the origins and personal identity of children are fully documented throughout the adoption process and beyond and that children have the possibility of accessing all information concerning them at the age of 18 at the latest;
 - 6.6. ensuring that adoption services and agencies work in a child-friendly manner as promoted by Recommendation CM/Rec(2011)12 of the Committee of Ministers on

children's rights and social services adapted to children and families, in particular with a view to the participation of children in decisions concerning them;

- 6.7. establishing a formal framework for regular international exchanges and solid co-operation in this field in order to effectively combat criminal activities related to intercountry adoption and prosecute offenders;
- 6.8. as regards countries receiving adoptive children in particular, conceiving national adoption policies and procedures according to the following principles:
 - 6.8.1. developing strong national adoption systems, as a means of responding to the interest of prospective adopters in the most secure manner and preventing them from turning to non-accredited agencies or independent adoptions which could expose them to illegal activities;
 - 6.8.2. establishing authorisation procedures ensuring that prospective adopters are suitable to adopt and obliged to follow specific training preparing them to welcome a foreign child, possibly even a child with special needs (due to illness or disability);
 - 6.8.3. ensuring that foreign children being adopted are fully monitored well before, during and after the actual legal act of adoption for an adequate number of years, and that families receive support throughout and after the adoption process;
 - 6.8.4. declaring moratoria if, for whatever reason (humanitarian disasters for example), safe adoption procedures can no longer be ensured, but maintain open lines of communication between central authorities involved to avoid legal vacuums and traumatising uncertainties for the children;
- 6.9. as regards the sending countries in particular, conceiving national adoption policies and procedures according to the following principles:
 - 6.9.1. establishing authorisation procedures ensuring that children foreseen for intercountry adoption are truly in need and that no better care alternative exists in their country of origin;
 - 6.9.2. reinforce family planning services and improve the living conditions of families living in extreme poverty and the support provided to them in order to avoid their considering intercountry adoption as a care option for their children and thus exposing them to the risk of being drawn into "child laundering" activities;
- 6.10. at Council of Europe level, where children's rights are promoted through various texts and activities, ensuring that the issue of intercountry adoption be considered in the work related to the Strategy on the Rights of the Child (2012-2015) and the Action Plan proposed for its implementation;
- 6.11. wherever appropriate, participating in and promoting international exchanges aimed at assisting countries in need in developing national alternative care options for children without parental care as well as effective child

protection services, including for children with special needs (with illnesses or disabilities).