

Summary report on the workshop on adoption - cross-border legal issues

Tuesday, 1 December 2015, 15.00-18.30

The workshop was opened by Cecilia Wikström, Chair of the Committee on Petitions, and Tadeusz Zwiefka, rapporteur for adoptions in the Committee on Legal Affairs.

First session

The first session of the workshop, focusing on petitions, was chaired by Mairead McGuinness, Vice-President of the European Parliament, Mediator for International Child Abduction.

In this session, Cecilia Wikström presented some of the outcomes of the PETI fact-finding visit to the United Kingdom and spoke on the adoption issues raised in the petitions received by the committee. 20 such petitions had been received relating to petitions without consent in England and Wales.

Mathew Thorpe reported on tensions created by differences between national laws on child protection, and also on recent changes to the law in the United Kingdom. He reported on the Peterborough Memorandum of Understanding, an agreement between the Slovak state and an English local authority on how care cases concerning children from another Member State were to be handled.

Pawel Jaros, former Children's Ombudsman in Poland, spoke on the role of ombudsmen. His contribution included details on the operations of the system in Poland, and on international agreements operational in this area. He also stressed the importance of hearing the child's point of view, depending on age and maturity.

In the discussion, the following took part: Janusz Wojciechowski, Peter Jahr, Mairead McGuinness, Mady Delvaux, Cecilia Wikström, Mathew Thorpe, Pawel Jaros.

Questions focused on the rights of the child, the importance of the question of adoption recognition for free movement and families, the specific situation of children who are dual nationals, the age from which children should be heard, the length of adoption proceedings, and the child's right to its own identity.

Second session

The second session of the workshop, chaired by Tadeusz Zwiefka, focused on the cross-border recognition of adoptions.

Gian Paolo Romano, of the University of Geneva, addressed the room on the cross-border recognition of family status. He set out the international and European legal framework relating to the recognition of family status, and the problems faced by individuals where their family status is not recognised by another Member States. He outlined the possible solutions which could be proposed by the European Union.

Laura Martínez-Mora, of the Permanent Bureau of the Hague Conference on Private International Law, explained the functioning of the 1993 Hague Convention, which had been

ratified by all of the EU Member States, and 95 States in all. The main criterion for attributing competence was the habitual residence of the parents and the child. Nationality was not a criterion. The convention largely worked by ensuring cooperation between the authorities of the signatory states, and setting up minimum common standards. The 1993 Hague Convention could be used as inspiration for the recognition abroad of a purely domestic adoption decision.

In the discussion, the following took part: Peter Jahr, Tadeusz Zwiefka, Gian Paolo Romano, Laura Martínez-Mora.

Questions focused on the possibility of international adoptions without consent and the role of the 1993 Hague Convention as an example for EU law.

Ruth Cabeza, a family law barrister, spoke on the failure to recognise adoptions across borders and its implications for free movement. She stressed that there was no automatic provision for the recognition of domestic adoptions in other Member States. This led to problems in terms of successoral rights and parental responsibility, as well as daily life. One solution could be involvement of the Member States of nationality and/or of residence of all parties concerned in the procedure.

Nadjma Yassari of the Max Planck Institute for Comparative and International Private Law made a comparative contribution, explaining Middle Eastern legal institutions equivalent to adoption that could be recognised in EU Member States. This served to illustrate the differences in the definition of adoption, even between European states.

The meeting was closed by Tadeusz Zwiefka, who summed up the important questions addressed in the workshop. He stressed the importance of the workshop for Parliament's own-initiative on cross-border adoptions, for which he would be the rapporteur.

Members and interested parties are reminded that a full video recording of the workshop, with interpretation, is available on the European Parliament website:
<http://www.europarl.europa.eu/ep-live/en/committees/video?event=20151201-1500-COMMITTEE-JURI-PETI>

The programme may be found here:
https://polcms.secure.europarl.europa.eu/cmsdata/upload/b0c2c887-a5e5-4a71-8f03-753f2fa93c64/Workshop_Cross-border%20adoption_Programme.pdf

The briefing papers drafted by the experts who spoke at the workshop are also available online:
<https://polcms.secure.europarl.europa.eu/cmsdata/upload/a8c2df53-7988-4790-a13f-4c18d7ffc9a5/Natalia.pdf>

You may also be interested in the study on adoption without consent:
[http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519236/IPOL_STU\(2015\)519236_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519236/IPOL_STU(2015)519236_EN.pdf)