

Report on HCCH Special Commission on Adoption 8-12 June 2015.

Short overview of the impressions of the representatives of Defence for Children International. The final report and recommendation will be sent as soon as our DCI international HQ received them.

Monday

The opening day started with many welcoming remarks, introductions and formalities. However, a discussion on the conflicting principle of subsidiarity between the ICRC (Original family, community, foster care, kafalah, domestic adoption, suitable institution and then international adoption) and HC (Original family, domestic adoption, intercountry adoption. Foster care and institution are only temporary) became somewhat lively.

Other issues that were noted were the statement that Children with special needs are in need of intercountry adoption and the wish to put a timeline on ICA to ensure fast proceedings, even with disciplinary penalties if the speed of process is frustrated, e.g. by a "late" decision of the Judge.

Tuesday

In the morning the special needs adoptions are discussed. Whether sending and receiving countries use certain categories and whether a two tier system for 'normal' and 'special' children is necessary. The chair proposes that all adoption children are in a certain way special need children, cause they all start life with loss. There does not seem to be a felt need for a two tier system among the representatives. Another session is held on post adoption reports and for how long these should be available. What about privacy?

The afternoon session was on adoption breakdown. There is a need for more data and information on causes and the right to origins and the role of social media. The meeting closed with a discussion on Good Practice Guide 3.

Wednesday

What was clear from the discussions was that states have a widely different approach to matters of habitual residence. Countries like Denmark, for example, who has ratified the HCCH adoption convention, still uses the concept of 'domicile' rather than that of 'habitual residence'. Most speakers indicated that they would like to have the notion of 'habitual residence' clarified in a more formal way.

Also, what was interesting was that most countries who took the floor mentioned that they sanction couples who bypass the international adoption rules by not granting residence rights to the children thus adopted. There are apparently quite some situations where the adoption formalized in the sending country is not recognized in the receiving country.

Also, Mozambique for example mentioned that they have not ratified the HCCH Adoption Convention as in the country there is some association between this instrument and the history of slavery.

One afternoon session was held on the accessibility of adoption records organised by IS. The majority of the representatives in this meeting were from receiving states which influenced the debate somewhat.

Furthermore, it was mentioned that the EU intends to develop EU instruments on surrogacy and potentially adoption. It was also noted that the level of expertise of the representatives was quite varied. Not all participants were as well informed as possible.

Thursday.

The day started with addressing specific procedural issues concerning bilateral agreements, such as a memorandum of understanding and other non compulsory agreements between contractors States. The debate focussed on the article 39.2 of the Convention and the range of this article.

Secondly the question of the availability of information on the web was discussed: advantages and difficulties. Cécile Maurin (ISS) intervened by raising on the one hand the valuable benefits of social media (better communication, wider dissemination of information on the web pages of the central authorities, etc.) but on the other hand the serious difficulties, including the right to respect for personal data. The ISS conducted a survey on this issue, available on request.

In the afternoon financial issues were addressed, the need for greater transparency and better monitoring of costs and fees. Lastly, the tools developed by the working group tables were promoted.

Friday

Friday morning was dedicated to illegal practices. After a synthesis of most frequently encountered difficulties by states concerning illegal practices measures were highlighted to both prevent and respond to these practices. A sharing of good practices so to say. The working group on this issue will continue. It will develop ways of preventing illicit practices and restore the rights of victims of fraud. Lastly, the question of the prohibition of private adoptions should be resolved once and for all.