

Mandate for the Investigation of Historical Foreign Adoptions

Background

Introduction

An adoption is intrusive for everyone involved and will be a lifelong process. In foreign adoptions, children are taken from their country of origin and given a new home in another country. There must therefore be strict requirements for provisions and procedures to be able to carry out a foreign adoption, and for the system to ensure basic human rights and statutory protection for children and families.

In recent years, a number of countries have carried out investigations into their adoption systems, and unjustifiable practices have been uncovered in several places. Several of the relevant countries of origin are countries with which Norway has had adoption cooperation. In addition, it has been revealed in the press that illegal actions have taken place in connection with adoptions to Norway. Several of the adoptees who have come forward with their stories have said that they have also not received satisfactory follow-up when they have reported suspicions. Therefore, one cannot rule out the possibility that there have been unjustifiable aspects of the Norwegian system for foreign adoptions.

History

The number of foreign adoptions has fallen sharply in Norway over the past two decades. In 2022, 45 children were adopted to Norway. In the mid-1980s, the number of foreign adoptions to Norway was between 500 and 600 annually, and in 2005, over 700 adoptions were mediated through Norwegian adoption organisations. In the 1960s and 1970s, most adoptions were from Asia, while South American countries dominated in the 1980s. Today, Norway has cooperation with ten countries, with most adoptions from Colombia, South Africa and Thailand during the last few years.

Today, more of the cases go through the Advisory Committee for Adoption Cases, compared to previously. These are either cases concerning children who have reached the age of five, sibling groups of more than two children, or cases where the child needs special support for other reasons.

Before the Ministry of Family and Consumer Affairs, later the Ministry of Children and Families, was given responsibility for adoptions in 1990, the Ministry of Justice, the Ministry of Health and Care Services (formerly the Ministry of Social Affairs) and the Ministry of Consumer Affairs and Government Administration all had responsibility for the field. The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir), which is the adoption authority in Norway, was established in 2004. Prior to this, the Norwegian Government Office for Youth and Adoption and the Council for International Adoptions, among others, had this task.

The adoption system in Norway

Foreign adoption is currently regulated in the Convention on the Rights of the Child, where Article 21 applies specifically to foreign adoption, the Adoption Act and the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. From 2003, the Convention on the Rights of the Child applies as Norwegian law through the Human Rights Act. The 1993 Hague Convention, which came into force in Norway in 1998, is to prevent the abduction of children, and combat the slave trade and trafficking. The Convention has provisions on the duties of the country of origin and the receiving country respectively in connection with specific adoptions.

International adoption must only take place if the authorities in the child's native country have not been able to find a family in this country. Norway currently only cooperates with two countries that

have not joined the 1993 Hague Convention: South Korea and Taiwan. Norway can have such cooperation as long as the country has an adoption system in accordance with the Convention's purposes and principles. Norway has (after 1998) ended adoption cooperation with countries of origin that cannot document compliance with their duties according to the Convention.

Normally, the adoption is carried out in the child's country of origin. A final decision on adoption from a public authority or court in another country must be approved without further consideration in Norway if prior consent has been given. As a general rule, adoptions should take place through organisations that have an operating and mediation permit. Bufdir can give organisations that have an operating permit to work with adoption time-limited permission to mediate children from individual countries. Bufdir verifies that the country in question (the child's country of origin) has a need for adoptive families abroad, that the country has a satisfactory adoption system and legislation, and that the Norwegian adoption organisation has insight into and knowledge of laws, provisions and procedures that apply to international adoptions in the country. Bufdir oversees all aspects of the adoption organisation's activity, and carries out inspection trips to the cooperation countries. In addition, the Office for Children, Youth and Family Affairs (Bufetat) is responsible for approving adoption applicants in Norway.

In exceptional cases, it is possible to adopt outside an organisation in Norway. This applies to both known and unknown children. For all such adoptions, there is a requirement that at least one of the applicants has a special connection to the country where the child is habitually resident, and that the adoption can be carried out in a responsible manner. Furthermore, an unknown child can only be adopted outside of an organisation if no Norwegian adoption organisation has a mediation permit in the country from which it is to be adopted. For the adoption of a known child, a close personal connection to the child or the close family of the child is required, and the contact must have been established without the purpose of adoption. When adopting a known child, there is also a requirement that the child must lack security and permanent caregivers in the country of origin.

Challenges

International adoptions involve cooperation between two countries on an adoption across national borders. There is a need for cooperation both at system level and on individual cases, and the 1993 Hague Convention has provisions to ensure that responsibilities and duties are shared between the countries.

Such adoptions rest on two sets of national regulations and practices, as well as international provisions. For Norway's part, this involves cooperation with different countries, with different provisions and practices. Law and practice have developed, both in Norway and in the respective countries of origin, and it has been challenging to get a comprehensive overview of the system, provisions and practice that has been applicable to adoptions to Norway up to today.

Prior to the Convention on the Rights of the Child and the 1993 Hague Convention, adoption practices were regulated to a limited extent compared to today, and the international regulation was not satisfactory from today's point of view.

Both recipient countries and certain countries of origin have now initiated investigations in order to examine how international adoptions have been carried out in recent decades. These are arranged in different ways. The UN Committees' Joint Statement on Illegal Intercountry Adoptions (2022) recommends that countries should consider establishing an independent commission where this is appropriate.

The purpose of the investigation

An overarching purpose of the work is to obtain answers to whether there have been illegal or unethical circumstances in connection with foreign adoptions to Norway.

The Committee will report on whether the system for adoptions to Norway has been justifiable. This includes questions about regulations and practice. The Committee will study whether considerations of legal protection and human rights obligations, including the best interests of the child, have been safeguarded.

The aim is also to learn from any weaknesses in the system. The review will provide a basis for the development of legislation as well as the development of practice for control and supervision.

The main issue for the Committee is to report on whether the Norwegian governing authorities have had sufficient control over foreign adoptions, and to uncover whether illegalities have occurred in adoptions to Norway.

The tasks of the Committee

The Committee will investigate adoptions at system level, and will go into a selection of individual cases. The Committee will describe which systems have existed for control and supervision of foreign adoptions. The Committee will assess how Norwegian authorities have handled situations where they have received notice or knowledge of circumstances in the country of origin that require follow-up. Assessments and measures that have been carried out will be examined, including whether the governing authorities have suspended cooperation with the country of origin when there has been a basis for this. As regards the duties of the countries of origin, the Committee will study whether we from the Norwegian side have had the opportunity or been requested to follow up more closely. This applies to the procedures for connecting prospective adoptive parents and adopted children, control of information regarding the child's identity and family connections, as well as consent.

The Committee will also study whether Norwegian authorities and adoption associations have had the opportunity or been requested to follow up more closely when it comes to money transfers in connection with adoptions, both money transfers from Norway to the country of origin, and between actors in the country of origin.

The Committee will also assess how the ratification of the 1993 Hague Convention led to changes in regulations and practice for adoptions to Norway.

The Committee will study whether the assessments have been thorough enough when mediation permits have been granted for cooperation with the country of origin. The Committee will study whether there are circumstances that should have been identified in the processing of mediation permits.

The Committee must also assess regulations and practice for giving prior consent to applications for adoption. Here, the Committee must assess what has been the subject of assessment, whether the best interests of the child have been sufficiently prioritised, and whether there have been strict enough requirements for the parents based on the relevant context that foreign adoption represents.

The Committee should study findings in surveys from other countries where this is appropriate, and assess whether the circumstances are comparable.

The Committee will also study the need for forward-looking measures, and make recommendations concerning the system for adoption in the future. Recommendations concerning the system in the

future should be based on the requirements in the investigation instructions, including assessment of alternative measures and the consequences (including financial) of various proposals.

Most adoptions take place through adoption organisations, and such adoptions will be the key topic for the Committee. The Committee will also study adoptions outside the organisations. The Committee will study both refusals and approvals in order to achieve a representative picture of practice, and the Committee must study different countries and time periods.

The Committee should study the child's opportunities to gain knowledge of his or her biological origin, the duty of the adoptive parents to share information about the adoption with the child, and the child's right to access their own adoption case. In particular, the Committee should study the practice of anonymous adoption, which is now regulated through the Hague Convention. The Committee will assess how the children and families have been safeguarded in Norway after the adoption has been completed.

[More about countries and time periods](#)

The Committee will investigate the adoption system linked to all countries of origin from which Norway has adopted children. The Committee will go through a selection of cases from each country Norway has cooperated with, in order to decide whether the cooperation has been justifiable. The Committee can make its own assessments of how comprehensive the investigation should be in relation to the different countries. However, the Committee must at least prioritise a more thorough investigation of the following countries (in alphabetical order): Bangladesh, Brazil, Chile, Colombia, Costa Rica, Ecuador, Ethiopia, Indonesia, China, Sri Lanka, South Korea and Vietnam. There is also reason to look more closely at countries from which the adoption organisations or the Norwegian authorities have decided to end adoption mediation.

When it comes to time periods, the Committee itself should assess which periods it is necessary and appropriate to investigate in relation to each individual country. The Committee must nevertheless make sure to assess processes both before and after 1998, when Norway ratified the Hague Convention, in order to assess how the ratification has functioned, if possible. Different considerations must be taken regarding the different countries, and the Committee is also expected to adapt according to its own findings along the way. The Committee shall state the reasons for delimitations and the choice of time periods.

[About the process](#)

The Committee must facilitate the greatest possible transparency in its work. Individuals should be able to contact the Committee. The Committee must have a system for receiving information from private individuals, and using such information as background for its work.

The Committee shall ensure input from and dialogue with relevant actors, including the organisations that organise adoptees, adoptees who are not linked to an organised group, and adoptive parents. The Committee can obtain information from biological parents, if possible.

The Committee shall, in collaboration with the Ministry, set up a reference group, which the Committee will use in its ongoing work. The Committee is otherwise free to make choices in the work with participation.

As the Committee will also study specific adoption cases in its work, the Government will present a proposal for a provisional act on access to information for the Committee. The Act will give the Committee access to necessary information subject to confidentiality, and ensure that they can carry

out their tasks in a good and efficient manner. Any individual cases that are mentioned in the report from the Committee must be made anonymous.

The Committee can cooperate with the investigation committees of other countries, etc. It is beyond this Committee's mandate to contribute to foreign investigations of individual cases in the country of origin.

The Committee can raise questions about the interpretation or delimitation of the mandate with the Ministry of Children and Families. The Ministry can supplement the mandate if necessary.

The Committee shall present its findings in a Norwegian Official Report (NOU). In the NOU, a summary of the main findings will be included in the report in English. The Committee shall also prepare a summary for children.

The time limit for the Committee is up to 2 years from its inception. The Committee will deliver one or more interim reports on the circumstances in individual countries or other topics that are suitable. Adoption cases from Ecuador and South Korea and any other relevant countries must be prioritised. If the Committee considers that adoptions to Norway from certain countries should be stopped, the Committee shall bring this up with Bufdir and the Ministry.