

**Please note: This is an unofficial translation**

**Act on the Implementation of the Hague Convention of 29 May 1993 on the Protection of Children and the Co-operation in the Field of International Adoption (Adoption Convention Implementation Statute – AdÜbAG)**

**Article 1**

**Definition of terms, competences and proceedings**

**Section 1**

**Definition of terms**

(1) The central authority within the meaning of article 6 of the Hague Convention of 29 May 1993 on the Protection of Children and the Cooperation in the Field of International Adoption (German Federal Law Gazette 2001 II, p. 1,034) (Convention) are the Federal Public Prosecutor at the Federal High Court of Justice in its capacity as the Federal Central Office for International Adoptions (Federal Central Office) and the central adoption offices of the Land youth welfare offices (central adoption office).

(2) Other state authorities within the meaning of articles 9 and 22, paragraph 1 of the Convention are the adoption placement offices of the youth welfare offices, provided section 2a, sub-section 3 No. 2 of the German Adoption Placement Act permits the international adoption relative to the countries party to the Convention.

(3) Permitted organisations within the meaning of articles 9 and 22, paragraph 1 of the Convention are the recognised adoption placement offices, provided they have been approved for international adoption placement relative to the countries party to the Convention (section 2a sub-section 3 No. 3, section 4 sub-section 2 of the German Adoption Placement Act).

(4) Within the meaning of this Act

1. the central adoption offices and the adoption placement offices mentioned in sub-sections 2 and 3 are the international placement offices.
2. the central office of the home country (article 2, section 1 of the Convention) is the office which performs the duties of a central authority in compliance with the laws of the country.

**Section 2**

**Pertinent competences**

(1) Without prejudice to sub-section 3, sentence 1, the adoption placement offices mentioned in section 1, sub-

sections 2 and 3 perform the duties in keeping with articles 9 and 14 to 21 of the Convention for their placement cases, whereas the recognised international placement offices perform the duties only with respect to the placement of a child with normal residence outside Germany for adoption applicants with normal residence in Germany.

(2) The Federal Central Office performs the duties in keeping with article 6, section 2, sentence 2 of the Convention as well as in keeping with section 4, sub-section 6 and section 9 of this Act, and co-ordinates the fulfilment of the duties in keeping with the articles 7 and 9 of the Convention with the international placement offices. The fulfilment of the tasks in keeping with article 8 of the Convention is co-ordinated with the central adoption offices. Unless the duties stipulated in the Convention are assigned to the Federal Central Office in keeping with sentence 1 or to the youth welfare offices, recognised international placement offices or other competent authorities in keeping with sub-section 1 of subject 3, sentence 1, the central adoption office shall perform these duties.

(3) With respect to the measures provided for in articles 8 and 21 of the Convention, the general judicial and official responsibilities shall remain unaffected. However, in the cases of article 21, section 1 of the Convention, the communication with the central authority of the home country shall be incumbent on the competent offices as stipulated in sub-sections 1 or 2.

**Section 3**

**Proceeding**

(1) The Federal Central Office and the international placement authority may communicate directly with all competent offices in Germany and abroad. The regulations of the German Adoption Placement Act shall apply to their activities. The sections 9b and 9d of the German Adoption Placement Act shall apply also for the personal data and documents transmitted by the central authority of another country party to the Convention. Their activities shall be based on the stipulations of the German Act on Adoption Placement. The sections 9b and 9d of the German Act on Adoption Placement shall apply for the transmission of personal data and documents by the central authority of another country party to the Convention. The tenth book of the German Code of Social Law shall apply in addition for the central adoption offices and the youth welfare offices, provided section 9d of the Act on Adoption Placement does not refer to these provisions already.

(2) The proceedings of the German Federal Central Office shall be applicable as proceedings of the German administration of justice without prejudice to sub-section 1, sentences 2 and 3. In proceedings in keeping with section 4, sub-section 6 or section 9 the applicant may be requested to supply suitable supporting documents or certified translations. The German Federal Central Office may commission the required translations itself; the amount of remuneration for the translations shall be based on the German Act on the Compensation of Witnesses and Experts.

## **Article 2**

### **International adoption placement relative to other countries party to the Convention**

#### Section 4

#### **Application for adoption**

(1) The applicants with habitual residence within Germany shall direct their application either to the central adoption office or to the youth welfare office competent in compliance with section 2, sub-section 1 in combination with section 1, sub-section 2, in the district of which they habitually reside or to a recognised international placement office within the meaning of section 1, sub-section 3.

(2) The applicants shall be obligated to

1. state, from which country they want to adopt a child
2. participate in the preparations for the presentation of a report in keeping with section 7, sub-section 3 of the German Act on Adoption Placement, and
3. affirm that another application for the placement of a child from a foreign country has not been filed.

(3) The international placement office shall give advice to the applicants for adoption. In good time prior to the first transmission of personal data to the home country, the international placement office will advise to which extent, according to their knowledge, the protection of the secrecy with respect to adoptions and other personal data as well as the liability for unauthorised or incorrect processing of personal data is ensured in the home country, and advises the applicants on any risks.

(4) The international placement office may carry out investigations on its own and after participation of the local adoption placement office (section 9a of the German Adoption Placement Act) competent for the habitual residence of the adoption applicant may prepare the report mentioned in sub-section 2, No. 2.

(5) After the international placement office has convinced itself of the suitability of the adoption applicant, it shall forward the requested application documents inclusive of the report mentioned in article 15 of the Convention to the central authority of the home country. The transmission shall require the approval of the adoption applicant.

(6) Upon request of the adoption applicant, the German Federal Central Office shall participate in the transmission in keeping with sub-section 5 and in the transmission of other messages relative to the application to the central authority of the home country. The participation shall be refused if the applied transmission evidently does not suffice in form or contents the stipulations of the Convention or of the home country.

#### Section 5

#### **Adoption**

(1) The placement proposal of the central authority of the home country shall require the approval by the international placement office, which shall have to make detailed examinations in particular of whether

1. the adoption is in the best interest of the child and
2. (a) the establishment of an adoption relationship is probable in Germany or
  - (b) if the adoption is to be carried out in a foreign country, this will lead to a result which under consideration of the best interests of the child is evidently inconsistent with significant principles of German law, in particular with the fundamental rights.

Before or after receipt of a placement proposal, the international placement office may enter into an exchange of opinions with the central authority of the home country. An exchange of opinion as well as the approval or rejection of a placement proposal shall be placed on record with respectively decisive factual considerations.

(2) If the international placement office has approved the placement proposal within the meaning of sub-section 1, the said shall inform the adoption applicant about the contents of the personal data and the documents on the proposed child transmitted by the home country, and shall advise about acceptance. The identity and residence of the child, his/her parents and other persons having the care and custody of the child shall be disclosed prior to approval in compliance with article 17, letter c of the Convention only, if the central authority of the home country approves.

(3) After the consultation in keeping with sub-section 2 has taken place, the international placement office shall ask the adoption applicant to submit a declaration in compliance with section 7, sub-section 1 within a

period of time to be determined by the said. As soon as the submittal of this declaration has been substantiated, the international placement office may make a declaration in compliance with article 17, letters b and c of the Convention.

(4) The international placement office shall consult with the local adoption placement office competent for the habitual residence of the adoption applicants about the examination and consultation in keeping with sub-sections 1 and 2, sentence 1. The former shall inform the latter about the submittal of the declaration in keeping with sub-section 3, sentence 2.

## Section 6

### Entry and residence

(1) For the purpose of the establishment and preservation of a familial community between the adoption applicants and the child to be adopted, the entry and residence prior to the execution of the adoption shall be based on the regulations on the right of entry of children as stipulated in the German Aliens Act as soon as

1. the international placement office has approved the placement proposal of the central authority of the home country in compliance with section 5, sub-section 1, sentence 1 and
2. the adoption applicants have consented to the placement proposal in compliance with section 7, sub-section 1.

(2) Upon request of the international placement office the German Aliens Office shall approve the granting of the required visa in advance, provided the pre-requisites of sub-section 1 have been met and do not oppose the stipulations of the German Law Concerning Aliens. The visa shall be granted to the child *ex officio*, if the international placement office requests this and stipulations of the German Law Concerning Aliens are not in opposition.

(3) If the residence purpose mentioned in sub-section 1 is not valid, the residence permit of the child shall be extended for a limited period of time as an independent right of residence as long as the pre-requisites for unlimited extension are not given or the competent authority in compliance with article 21, section 1, letter c of the Convention causes the return of the child to his/her home country. If the child has been granted a residence allowance or a right of abode in keeping with section 29, sub-section 2 or section 31, sub-section 1 of the German Law Concerning Aliens, a residence permit shall be granted or extended within the meaning of sentence 1.

## Section 7

### Declaration of willingness to adopt; responsibilities for a foster child to be adopted

(1) The declaration of the adoption applicants that they are willing to adopt the child proposed to them shall be rendered vis-à-vis the youth welfare office, in the district of which the adoption applicants have their principal residence at the time of the request in compliance with section 5, sub-section 3, sentence 1. The declaration shall require public authentication. The youth welfare office shall forward a certified copy to the international placement office.

(2) On account of the declaration within the meaning of sub-section 1, the adoption applicants shall be obligated jointly and severally to reimburse public funds which are paid for the livelihood of the child from the point of entry of the child for the duration of six years. The costs to be reimbursed shall comprise all public funds for the livelihood inclusive of accommodation, education, care in case of illness and nursing, even if the expenditure is based on a legal claim of the child. However, the following funds shall not be included:

1. the funds which were spent whilst the child was legal in the care of the adoption applicants
2. the funds which would have had to be spent also if at this point an adoption relationship had existed between the adoption applicants and the child.

The obligation shall cease when the child is adopted.

(3) The reimbursement claim shall be due to the public authority which has spent the funds. If the youth welfare office is informed about the expenditure of public funds in keeping with sub-section 2, the said shall inform the authority mentioned in sentence 1 about the reimbursement claim and shall render all information required for the assertion and realisation of the said.

(4) The youth welfare office, provided it acts as a guardian or curator of the child, another guardian or curator nominated for the child as well as the adoption placement office which executes the duties of the adoption consultation in compliance with section 9 of the German Adoption Placement Act, shall inform the international placement office about the development of the adopted child to the extent needed by the international placement office to fulfil their duties in compliance with articles 9, 20 and 21 of the Convention. Until the adoption has been executed, the youth welfare office, the German Aliens Office as well as the guardianship and family court shall have to include the international placement office in all procedures dealing with the adopted child except in cases of imminent danger; an inclusion omitted due to a case of imminent danger shall have to be made up without delay.

international placement office at the time when the law came into force.

(2) The German Federal Central Office shall be permitted to agree with the central authority of the home country the application of the stipulations of the Convention to such applications which were received by the international placement office prior to the point in time mentioned in sub-section 1. The agreement may be limited in time or deed. The stipulations of article 2 shall be applied to a case of mediation of an agreement which is based on sentences 1 and 2.

### **Article 3**

#### **Certificates on the establishment or conversion of an adoption relationship**

##### Section 8

#### **Certificates on an adoption or conversion of an adoption relationship completed in Germany**

If a central adoption office gives its consent in compliance with article 17, letter c of the Convention, the said shall issue the certificate in compliance with article 23 or article 27, section 2 of the Convention upon request of a body with a legal interest. If a youth welfare office or a recognised international placement office has given its consent, the central adoption office shall be responsible, in the district of which the youth welfare office is located or in the district of which the recognised international placement office is based.

##### Section 9

#### **Verification of foreign certificates on the execution of an adoption or conversion of an adoption relationship**

Upon request of a body with a legal interest the German Federal Central Office shall examine and confirm the authenticity of a certificate on the adoption or conversion of an adoption relationship executed in another country party to the Convention, the conformity of contents of the said with article 23 or article 27, section 2 of the Convention as well as the competence of the issuing authority. The confirmation shall establish proof of the circumstances mentioned in sentence 1; the proof of inaccuracy shall be permissible.

### **Article 4**

#### **Temporal scope**

##### Section 10

#### **Application of Article 2**

(1) The stipulations of article 2 shall be applied relative to another country party to the Convention, if the Convention is in force between the Federal Republic of Germany and this country party to the Convention and if the application in keeping with section 4, sub-section 1 was received by the

##### Section 11

#### **Application of Article 3**

(1) A certificate in keeping with section 8 shall be issued, when the adoption has been executed at the point in time mentioned in section 10, sub-section 1 and upon the approval required by article 17, letter c of the Convention.

(2) A certificate in keeping with section 9 shall be issued, if the agreement is in force between the Federal Republic of Germany and the country, the competent authority of which has presented the certificate to be confirmed.

