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## **Cross-border aspects of adoptions**

### **European Parliament resolution of 2 February 2017 with recommendations to the Commission on cross border aspects of adoptions (2015/2086(INL))**

(2018/C 252/02)

*The European Parliament,*

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
- having regard to Articles 67(4) and 81(3) of the Treaty on the Functioning of the European Union,
- having regard to the United Nations Convention on the Rights of the Child of 20 November 1989, and in particular Articles 7, 21 and 35 thereof,
- having regard to Article 2 of the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000,
- having regard to the Vienna Convention on Consular Relations of 24 April 1963,
- having regard to the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption,
- having regard to the Issue Paper of the Commissioner for Human Rights on Adoption and Children: a Human Rights Perspective, published on 28 April 2011,
- having regard to Rules 46 and 52 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Petitions (A8-0370/2016),

### ***Common minimum standards for adoptions***

- A. whereas in the area of adoption, it is essential that any decision should be taken in accordance with the principle of the best interests of the child, non-discrimination, and with respect for his or her fundamental rights;
- B. whereas the purpose of adoption is not to give adults the right to a child, but to give the child a stable, loving and caring environment to grow up and develop in harmoniously;
- C. whereas the adoption procedure concerns children who, at the time adoption is applied for, have not yet attained 18 years of age or the age of majority in their country of origin;
- D. whereas a good balance needs to be struck between the right of the adopted child to know its true identity and the right of the biological parents to protect theirs;
- E. whereas the relevant authorities should not consider the economic circumstances of the biological parents as the only basis and justification for the withdrawal of parental authority and giving a child up for adoption;
- F. whereas adoption proceedings should not commence before any decision withdrawing parental authority from the biological parents is final, and the latter have been given the opportunity to exhaust all legal avenues of appeal against that decision; whereas the recognition of an adoption order taken in the absence of such procedural guarantees can be refused by other Member States;

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- G. whereas greater efficiency and transparency will enable improvements to be made to domestic adoption procedures and could make international adoptions easier, which could increase the number of children being adopted; whereas, in this respect, compliance with Article 21 of the UN Convention on the Rights of the Child, which all Member States have ratified, should be the primary benchmark for all procedures, measures and strategies regarding adoptions in a cross-border context, while respecting the best interests of the child;
- H. whereas more work should be done in a determined manner in order to prevent prospective parents interested in adoption from being exploited by unscrupulous intermediary organisations, and whereas cooperation in combating crime and corruption within the EU therefore needs to be stepped up in this area as well;
- I. whereas the placement of siblings in the same adoptive family should be encouraged as far as possible, in order to spare them further trauma arising from their separation;

#### ***Intercountry adoptions under the 1993 Hague Convention***

- J. whereas the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention), which all Member States have ratified, provides a system of administrative cooperation and recognition for intercountry adoptions, i.e. adoptions where the adopters and the child or children do not have their habitual residence in the same country;
- K. whereas the Hague Convention stipulates that recognition of intercountry adoptions is automatic in all signatory states, without the need for any specific procedure for recognition to be effective;
- L. whereas, under the Hague Convention, recognition may be refused only if the adoption is manifestly contrary to the public policy of the state concerned, taking into account the best interests of the child;

#### ***Civil justice cooperation in the field of adoption***

- M. whereas judicial training in the widest sense is key to mutual trust in all areas of law, including that of adoption; whereas existing EU programmes covering judicial training and support for the European judicial network therefore need to include a stronger focus on specialised courts, such as family courts and juvenile courts;
- N. whereas citizens should be given better access to comprehensive information on the legal and procedural aspects of domestic adoption in Member States; whereas the e-Justice portal could be expanded in this connection;
- O. whereas cooperation within the European Network of Ombudspersons for Children was established in 1997, and Europe's ombudspersons on children's matters should be encouraged to cooperate and coordinate more closely in that forum; whereas efforts to do so could include involving them in existing EU-funded judicial training schemes;
- P. whereas an in-depth analysis should be conducted, as more needs to be done to prevent and combat the cross-border trafficking of children for the purpose of adoption and to improve the proper and efficient implementation of existing rules and guidelines to combat child trafficking; whereas cooperation in combating crime and corruption within the EU therefore needs to be stepped up in this area to prevent the abduction, sale, or trafficking of children;

#### ***Cross-border recognition of domestic adoption orders***

- Q. whereas the principle of mutual trust between the Member States is of fundamental importance in Union law as it allows an area without internal borders to be created and maintained; whereas the principle of mutual recognition, which is based on mutual trust, obliges Member States to give effect to a judgment or decision originating in another Member State;

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- R. whereas, despite the international rules that exist in this field, opinions still differ in the Member States as regards the principles that should govern the adoption process, just as differences exist in respect of adoption procedures and the legal effects of the adoption process;
- S. whereas the European Union has competence to take measures aimed at enhancing judicial cooperation between the Member States without affecting national family law, including in the field of adoptions;
- T. whereas public policy exemptions serve to safeguard the identity of the Member States, which is reflected in the substantive family law of the Member States;
- U. whereas there is currently no European provision for the recognition — whether automatic or otherwise — of domestic adoption orders, i.e. concerning adoptions which are carried out within a single Member State;
- V. whereas the absence of such provisions causes significant problems for European families who move to another Member State after adopting a child, as the adoption may not be recognised, meaning that the parents may have trouble legally exercising their parental authority, and may encounter financial difficulties regarding the different fees applicable in this field;
- W. whereas the lack of such provisions thus puts at risk the rights of children to a stable and permanent family;
- X. whereas currently, when moving to another Member State, parents may be obliged to go through specific national recognition procedures, or even re-adopt the child, creating significant legal uncertainty;
- Y. whereas the current situation can cause serious problems and prevent families from fully exercising free movement;
- Z. whereas there may be a need to review and assess the overall situation through consultation among Member States' competent authorities;
- AA. whereas the Brussels II Regulation does not address the question of the recognition of adoption orders, as it exclusively covers parental responsibility;
- AB. whereas it is therefore of the utmost importance to adopt legislation providing for the automatic recognition in a Member State of a domestic adoption order granted in another Member State, on condition that full respect for national provisions on public policy and for the principles of subsidiarity and proportionality is ensured;
- AC. whereas such legislation would complement Council Regulation (EC) No 2201/2003<sup>(1)</sup> (Brussels IIa) on issues of jurisdiction and parental responsibility and fill the existing gap on recognition of adoptions as provided under international law (the Hague Convention);

***Common minimum standards for adoptions***

1. Calls on the authorities of the Member States to take all decisions in adoption matters with the best interests of the child in mind and with respect for his or her fundamental rights, while always taking into account the specific circumstances of the particular case;
2. Stresses that children who have been put up for adoption should not be seen as the property of a state, but as individuals with internationally recognised fundamental rights;
3. Underlines that each adoption case is different and must be assessed on its individual merits;

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<sup>(1)</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

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4. Considers that in cases of adoption with cross-border aspects the cultural and linguistic traditions of the child should be taken into consideration and be respected as much as possible;
5. Considers that in the context of adoption proceedings, the child should always be given the opportunity to be heard without pressure, and express his or her view on the adoption process, taking into account his or her age and maturity; considers, therefore, that it is of the utmost importance that, whenever possible and regardless of age, the child's consent to the adoption should be sought; in this respect, calls for special attention towards young children and babies, who cannot be heard;
6. Considers that no decision on adoption should be taken before the biological parents have been heard and, where applicable, exhausted all legal remedies concerning their parental authority, and the withdrawal of parental authority from the biological parents is final; calls, therefore, on the authorities in the Member States to take all necessary measures for the well-being of the child while legal remedies are being exhausted, and throughout the entire legal proceedings relating to the adoption, whilst providing the child with the protection and care needed for his or her harmonious development;
7. Calls on the Commission to consider a comparative study to analyse complaints regarding non-consensual adoptions with cross-border aspects;
8. Stresses that the relevant authorities should always first consider the possibility of placing the child with relatives, even when those relatives live in another country, if the child has established a relationship with those members of the family and following an individual assessment of the child's needs, before giving the child up for adoption by strangers; considers that the habitual residence of family members who wish to take over responsibility for a child should not be considered to be a deciding factor;
9. Calls for equal treatment of parents of different nationalities during procedures relating to parental responsibility and adoption; calls on Member States to ensure the equality of procedural rights of the relatives involved in adoption procedures and who are nationals of other Member States, including by the provision of legal assistance and timely information about hearings, the right to an interpreter, and the provision of all documents relevant to the case in their native language;
10. Stresses that where a child being considered for adoption is the citizen of another Member State, the consular authorities of that Member State and the child's family residing in that Member State should be informed and consulted prior to any decision being taken;
11. Calls, moreover, on the Member States to pay very particular attention to unaccompanied minors who have applied for or have refugee status, ensuring they receive the protection, assistance and care that Member States are required to furnish by virtue of their international obligations, preferably by placing them in foster families in the interim period;
12. Stresses the importance of providing social workers with adequate working conditions to properly perform their assessment of individual cases, without any kind of financial or legal pressure and fully taking into account the best interests of the child with the short-, mid- and long-term perspectives all considered;

#### ***Intercountry adoptions under the 1993 Hague Convention***

13. Notes the successes of, and the importance of applying, the Hague Convention, and encourages all countries to sign, ratify or accede to it;
14. Deplores the fact that problems often occur concerning the issuance of adoption certificates; calls, therefore, on the authorities of the Member States to ensure that the procedures and safeguards established by the Hague Convention are always followed in order to ensure that recognition is automatic; calls on the Member States not to create unnecessary bureaucratic impediments to the recognition of adoptions within the scope of the Hague Convention that might lengthen the procedure and make it more expensive;
15. Points out that further efforts could be made in order to respect and scrupulously enforce the provisions of the Hague Convention, as some Member States require additional administrative procedures or charge disproportionate fees in connection with the recognition of adoptions, for example in order to establish or amend civil status records or to obtain nationality, although this is contrary to the provisions of the Hague Convention;
16. Calls on Member States to respect the procedures concerning the counselling and consent requirements set out in Article 4 of the Hague Convention;

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***Civil justice cooperation in the field of adoption***

17. Calls on the Member States to intensify their cooperation in the field of adoption, including both legal and social aspects, and calls for greater cooperation between the responsible authorities for follow-up assessments where necessary; in this respect, calls also for the EU to maintain a consistent approach to children's rights across all of its major internal and external policies;

18. Calls on the Commission to establish an effective European network of judges and authorities specialised in adoption in order to facilitate the exchange of information and good practice, which is particularly useful when adoption involves a foreign element; believes it to be extremely important to facilitate coordination and the exchange of good practice with the current European judicial training network, in order to achieve the greatest possible degree of consistency with the schemes already being funded by the EU; in this respect, calls on the Commission to provide funding for the specialised training of judges working in the field of cross-border adoptions;

19. Believes that training and meeting opportunities for judges working in the field of cross-border adoption can assist to precisely identify expected and required legal solutions in the field of the recognition of domestic adoptions; calls, therefore, on the Commission to provide funding for such training and meeting opportunities at the stage of drafting the proposal for the regulation;

20. Calls on the Commission to publish on the European e-Justice Portal relevant legal and procedural information on adoption law and practice in all the Member States;

21. Takes note of the activities of the European Network of Ombudspersons for Children and considers that this cooperation should be further developed and strengthened;

22. Stresses the need to cooperate closely, including through European authorities such as Europol, to prevent the cross-border abduction, sale and trafficking of children for adoption purposes; notes that reliable national birth registration systems may prevent child trafficking for adoption purposes; calls, in this respect, for improved coordination in the sensitive area of adoption of children from third countries;

***Cross-border recognition of domestic adoption orders***

23. States that there is a clear need for European legislation to provide for the automatic cross-border recognition of domestic adoption orders;

24. Requests the Commission to submit, by 31 July 2017, on the basis of Articles 67 and 81 of the Treaty on the Functioning of the European Union, a proposal for an act on the cross-border recognition of adoption orders, following the recommendations set out in the Annex hereto, and in line with existing international law in this area;

25. Confirms that the recommendations annexed to this motion for a resolution respect fundamental rights and the principles of subsidiarity and proportionality;

26. Considers that the requested proposal does not have negative financial implications, as the ultimate goal, the automatic recognition of adoption orders, will bring about a reduction in costs;

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27. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council, and to the parliaments and governments of the Member States.

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## ANNEX TO THE RESOLUTION

## DETAILED RECOMMENDATIONS FOR A REGULATION OF THE COUNCIL ON THE CROSS-BORDER RECOGNITION OF ADOPTION ORDERS

## A. PRINCIPLES AND AIMS OF THE PROPOSAL REQUESTED

1. Exercising their right to free movement, an increasing number of Union citizens decide each year to move to another Member State of the Union. This creates a number of difficulties regarding the recognition and the legal resolution of the personal and family law situation of mobile individuals. The Union has made a start on addressing these problem situations, for example by adopting Regulation (EU) No 650/2012 of the European Parliament and of the Council<sup>(1)</sup>, and by putting in place enhanced cooperation regarding the recognition of certain aspects of matrimonial property regimes and the property effects of registered partnerships.

2. The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention) is in effect in all Member States. It concerns the procedure for adoptions across borders, and mandates the automatic recognition of such adoptions. However, the Hague Convention does not cover the situation of a family with a child adopted under a purely national procedure which then moves to another Member State. This can lead to significant legal difficulties if the legal relationship between the parent(s) and the adopted child is not automatically recognised. Additional administrative or judicial procedures may be required, and in extreme cases recognition may be refused altogether.

3. It is therefore necessary, in order to protect the fundamental rights and freedoms of such Union citizens, to adopt a regulation providing for the automatic cross-border recognition of adoption orders. The proper legal basis for such a proposal is Article 67(4) of the Treaty on the Functioning of the European Union, which concerns the mutual recognition of judgments and decisions, and Article 81(3) of the Treaty, which concerns measures in the field of family law. The regulation is to be adopted by the Council after consulting the European Parliament.

4. The proposed regulation provides for the automatic recognition of adoption orders made in a Member State under any procedure other than under the framework of the Hague Convention. As European families may also have connections with or have lived in a third country in the past, the regulation also provides that, once one Member State has recognised an adoption order made in a third country under its relevant national procedural rules, that adoption order shall be recognised in all other Member States.

5. However, in order to avoid forum shopping or the application of inappropriate national laws, that automatic recognition is subject, firstly, to the condition that recognition must not be manifestly contrary to the public order of the recognising Member State, while emphasising that such refusals may never lead *de facto* to discrimination prohibited by Article 21 of the Charter of Fundamental Rights of the European Union, and, secondly, that the Member State which took the adoption decision had jurisdiction under Article 4 of the proposal requested in Part B (the proposal). Only the Member State of the habitual residence of the parent or parents or of the child can have that jurisdiction. However, where the adoption decision was taken in a third country, jurisdiction for the initial recognition within the Union of that adoption can also lie with the Member State of nationality of the parents or child. This is in order to ensure access to justice for European families resident overseas.

6. Specific procedures are required for deciding on any objections to recognition in specific cases. These provisions are similar to those encountered in other Union acts in the area of civil justice.

7. A European Certificate of Adoption should be created in order to speed up any administrative query over automatic recognition. The model for the certificate is to be adopted as a Commission delegated act.

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<sup>(1)</sup> Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession (OJ L 201, 27.7.2012, p. 107).

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8. The proposal only concerns the individual parent-child relationship. It does not oblige the Member States to recognise any particular legal relationship between parents of an adopted child, as the national laws relating to couples differ considerably.

9. Finally, the proposal contains the usual final and transitional provisions encountered in civil justice instruments. The automatic recognition of adoptions only applies to adoption decisions taken from the date of application of the regulation, and, as from that date also, to any earlier adoption orders if the child is still a minor.

10. The proposal complies with the principles of subsidiarity and proportionality, as the Member States cannot act alone to set up a legal framework for the cross-border recognition of adoption orders, and the proposal goes no further than absolutely necessary to ensure the stability of the legal situation of adopted children. It does not affect the family law of the Member States.

## B. TEXT OF THE PROPOSAL REQUESTED

### Regulation of the Council on the cross-border recognition of adoption orders

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 67(4) and 81(3) thereof,

Having regard to the European Parliament's request to the European Commission,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is assured. For the gradual establishment of such an area, it is necessary that the Union adopt measures relating to judicial cooperation in civil matters having cross-border implications, including in the area of family law.
- (2) Pursuant to Articles 67 and 81 of the Treaty on the Functioning of the European Union (TFEU), those measures are to include measures aimed at ensuring the mutual recognition of decisions in judicial and extrajudicial cases.
- (3) In order to ensure free movement for families which have adopted a child, it is necessary and appropriate that the rules governing jurisdiction and the recognition of adoption orders be governed by a legal instrument of the Union which is binding and directly applicable.
- (4) This Regulation should create a clear, comprehensive legal framework in the area of the cross-border recognition of adoption orders, provide families with appropriate outcomes in terms of legal certainty, predictability and flexibility, and prevent a situation from arising where an adoption order legally made in one Member State is not recognised in another.
- (5) This Regulation should cover the recognition of adoption orders made or recognised in a Member State. However, it should not cover the recognition of intercountry adoptions performed in accordance with the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, as that Convention already provides for the automatic recognition of such adoptions. This Regulation should therefore apply only to the recognition of domestic adoptions, and to international adoptions not performed under that Convention.
- (6) There must be a connection between an adoption and the territory of the Member State which made the adoption order, or recognised it. Accordingly, recognition should be subject to compliance with common rules of jurisdiction.

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- (7) The rules of jurisdiction should be highly predictable and founded on the principle that jurisdiction is generally based on the adopting parents' habitual residence, or the habitual residence of one of those parents or of the child. Jurisdiction should be limited to this ground, save in situations involving third countries, where the Member State of nationality may be a connecting factor.
- (8) As adoption generally concerns minors, it is not appropriate to give parents or the child any flexibility in choosing the authorities which will decide on the adoption.
- (9) Mutual trust in the administration of justice in the Union justifies the principle that adoption orders made in, or recognised by, a Member State should be recognised in all other Member States without the need for any special procedure. As a result, an adoption order made by a Member State should be treated as if it had been made in the Member State addressed.
- (10) The automatic recognition in the Member State addressed of an adoption order made in another Member State should not jeopardise respect for the rights of the defence. Therefore, any interested party should be able to apply for refusal of the recognition of an adoption order if he or she considers one of the grounds for refusal of recognition to be present.
- (11) The recognition of domestic adoption orders should be automatic unless the Member State where the adoption took place did not have jurisdiction or if such recognition would be manifestly contrary to the public policy of the recognising Member State, as interpreted in accordance with Article 21 of the Charter of Fundamental Rights of the European Union.
- (12) This Regulation should not affect the substantive family law, including the law on adoption, of the Member States. Furthermore, any recognition of an adoption order under this Regulation should not imply the recognition of any legal relationship between adopting parents as a consequence of the recognition of an adoption order without, however, preconditioning the possible decision on the recognition of an adoption order.
- (13) Any procedural questions not addressed by this Regulation should be dealt with in accordance with national law.
- (14) Where an adoption order implies a legal relationship which is not known in the law of the Member State addressed, that legal relationship, including any ensuing right or obligation, should, to the extent possible, be adapted to one which, under the law of that Member State, has equivalent effects attached to it and pursues similar aims. How, and by whom, the adaptation is to be carried out should be determined by each Member State.
- (15) In order to facilitate the automatic recognition provided for by this Regulation, a model for the transmission of adoption orders, the European Certificate of Adoption, should be drawn up. For that purpose, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the establishment and amendment of that model certificate. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (17) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to TEU and to TFEU, [the United Kingdom and Ireland have given notice of their wish to take part in the adoption and application of this Regulation]/[without prejudice to Article 4 of the Protocol, the United Kingdom and Ireland will not participate in the adoption of this Regulation and will not be bound by it or be subject to its application].
- (18) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark will not participate in the adoption of this Regulation and is not therefore bound by it or required to apply it,

HAS ADOPTED THIS REGULATION:



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#### Article 1

##### *Scope*

1. This Regulation shall apply to the recognition of adoption orders.
2. This Regulation does not apply to or affect:
  - (a) the laws of the Member States on the entitlement to adopt or on other family law matters;
  - (b) intercountry adoptions under the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Hague Convention).
3. Nothing in this Regulation requires a Member State to:
  - (a) recognise the existence of any legal relationship between parents of an adopted child as a consequence of the recognition of an adoption order;
  - (b) make adoption orders in circumstances in which the relevant national law does not so allow.

#### Article 2

##### *Definition*

For the purposes of this Regulation, 'adoption order' means the judgment or decision creating or recognising a permanent, legal parent-child relationship between a child who has not yet reached the age of majority and a new parent or parents who are not biological parents of that child, howsoever that legal relationship is named in national law.

#### Article 3

##### *Automatic recognition of adoption orders*

1. An adoption order made in a Member State shall be recognised in the other Member States without any special procedure being required, provided that the Member State making the order has jurisdiction in accordance with Article 4.
2. Any interested party may, in accordance with the procedure provided for in Article 7, apply for a decision that there are no grounds for refusal of recognition as referred to in Article 6.
3. If the outcome of proceedings in a court of a Member State depends on the determination of an incidental question of refusal of recognition, that court shall have jurisdiction over that question.

#### Article 4

##### *Jurisdiction for adoption orders*

1. The authorities of a Member State may only make an adoption order if the adopting parent or parents or the adopted child are habitually resident in that Member State.
2. Where an adoption order has been made in respect of a child by the authorities of a third country, the authorities of a Member State may also make such an order, or decide on the recognition of the third country order in accordance with the procedures established by national law, if the adopting parent or parents or the adopted child are not habitually resident in that Member State, but are citizens of the same.

#### Article 5

##### *Documentation required for recognition*

A party wishing to invoke, in one Member State, an adoption order which was made in another Member State shall produce:

- (a) a copy of the adoption order which satisfies the conditions necessary to establish its authenticity; and
- (b) the European Certificate of Adoption issued pursuant to Article 11.

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*Article 6**Refusal of recognition*

On the application of any interested party, the recognition of an adoption order made in a Member State may only be refused:

- (a) if such recognition is manifestly contrary to public policy (*ordre public*) in the Member State addressed;
- (b) if the originating Member State did not have jurisdiction under Article 4.

*Article 7**Application for refusal of recognition*

1. On application by any interested party as defined by national law, the recognition of an adoption order shall be refused where one of the grounds referred to in Article 6 is found to exist.
2. The application for refusal of recognition shall be submitted to the court which the Member State concerned has communicated to the Commission pursuant to point (a) of Article 13 as the court to which the application is to be submitted.
3. The procedure for refusal of recognition shall, in so far as it is not covered by this Regulation, be governed by the law of the Member State addressed.
4. The applicant shall provide the court with a copy of the order and, where necessary, a translation or transliteration of it.
5. The court may dispense with the production of the documents referred to in paragraph 4 if it already possesses them or if it considers it unreasonable to require the applicant to provide them. In the latter case, the court may require the other party to provide those documents.
6. The party seeking the refusal of recognition of an adoption order taken in another Member State shall not be required to have a postal address in the Member State addressed. Nor shall that party be required to have an authorised representative in the Member State addressed unless such a representative is mandatory irrespective of the nationality or the domicile of the parties.
7. The court shall decide on the application for refusal of recognition without delay.

*Article 8**Appeals against the decision on the application for refusal of recognition*

1. The decision on the application for refusal of recognition may be appealed against by either party.
2. The appeal is to be lodged with the court which the Member State concerned has communicated to the Commission pursuant to point (b) of Article 13 as the court with which such an appeal is to be lodged.
3. The decision given on the appeal may only be contested by an appeal where the courts with which any further appeal is to be lodged have been communicated by the Member State concerned to the Commission pursuant to point (c) of Article 13.

*Article 9**Appeals in the Member State of origin of the adoption order*

The court to which an application for refusal of recognition is submitted or the court which hears an appeal lodged under Article 8(2) or (3) may stay the proceedings if an ordinary appeal has been lodged against the adoption order in the Member State of origin or if the time for such an appeal has not yet expired. In the latter case, the court may specify the time within which such an appeal is to be lodged.

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*Article 10*

*No review as to substance*

Under no circumstances may an adoption order made, or judgment given, in a Member State be reviewed as to its substance in the Member State addressed.

*Article 11*

*European Certificate of Adoption*

The authorities of the Member State which has made the adoption order shall, at the request of any interested party, issue a multilingual European Certificate of Adoption conforming to the model established in accordance with Article 15.

*Article 12*

*Adaptation of adoption order*

1. If a decision or judgment contains a measure or an order which is not known in the law of the Member State addressed, that measure or order shall, to the extent possible, be adapted to a measure or an order known in the law of that Member State which has equivalent effects attached to it and which pursues similar aims and interests. Such adaptation shall not result in effects going beyond those provided for in the law of the Member State of origin.
2. Any interested party may challenge the adaptation of the measure or order before a court.

*Article 13*

*Information to be provided by Member States*

1. By 1 July 2018, the Member States shall communicate to the Commission their national provisions, if any, concerning:
  - (a) the courts to which the application for refusal of recognition is to be submitted pursuant to Article 7(2);
  - (b) the courts with which an appeal against the decision on the application for refusal of recognition is to be lodged pursuant to Article 8(2); and
  - (c) the courts with which any further appeal is to be lodged pursuant to Article 8(3).
2. The Commission shall make the information referred to in paragraph 1, as well as any other relevant information on adoption procedures and the recognition thereof in the Member States, publicly available through any appropriate means, in particular through the European e-Justice Portal.

*Article 14*

*Legalisation and similar formality*

No legalisation or other similar formality shall be required for documents issued in a Member State under this Regulation.

*Article 15*

*Power to adopt delegated acts*

The Commission is empowered to adopt delegated acts in accordance with Article 16 concerning the establishment and amendment of the model for the multilingual European Certificate of Adoption referred to in Article 11.

*Article 16*

*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 15 shall be conferred on the Commission for an indeterminate period of time from 1 July 2018.

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3. The delegation of power referred to in Article 15 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. A delegated act adopted pursuant to Article 15 shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

5. The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, or of the revocation of the delegation of powers by the Council.

#### Article 17

##### *Transitional provisions*

This Regulation shall apply only to adoption orders made on or after 1 January 2019.

However, adoption orders made before 1 January 2019 shall also be recognised from the date where the child in question has not yet reached the age of majority on that date.

#### Article 18

##### *Relationship with existing international conventions*

1. This Regulation shall not apply to adoption orders made in application of the Hague Convention.

2. Without prejudice to the obligations of the Member States pursuant to Article 351 of the Treaty on the Functioning of the European Union, this Regulation shall not affect the application of international conventions to which one or more Member States are party at the time when this Regulation enters into force which lay down rules relating to the recognition of adoptions.

3. However, this Regulation shall, as between Member States, take precedence over conventions concluded exclusively between two or more of them in so far as such conventions concern matters governed by this Regulation.

#### Article 19

##### *Review clause*

1. By 31 December 2024, and every five years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Regulation. The report shall be accompanied, where appropriate, by proposals to adapt this Regulation.

2. To that end, Member States shall communicate to the Commission the relevant information on the application of this Regulation by their courts.

#### Article 20

##### *Entry into force and date of application*

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2019, with the exception of Articles 13, 15 and 16, which shall apply from 1 July 2018.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, ...

*For the Council*

*The President*

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