

## Summary

The research department of the Ministry of Justice (WODC) asked Adviesbureau van Montfoort to evaluate the Dutch adoption law (1) (Wobka), the regulations that are based on the 'Wobka' and the policy of the government concerning adoption, five years after introduction of the 'Wobka'. The research was focused on the clearness of the law, the demarcation of tasks and responsibilities of chain partners, competences of chain partners in adoption and on possibilities for sanctioning. Specific attention has been devoted to:

- The procedure of private adoption
- The scientific underpinning and the view of society on the current maximum and minimum age of adoptive parents and adoptive children.

In order to give an overview of the adoption practice in the Netherlands, 13 group interviews were held involving chain partners, scientists and persons involved in adoption. Statistics have been collected to picture the nature, content and quantity of intercountry adoption in the Netherlands. Information on the topic of private adoption was gathered by means of an inquiry and analysis of a substantial number of files. For the questions on age limits for adoptive parents and children scientific literature was studied, amongst other methods.

Two core questions formed the frame of this research:

1. Does the 'Wobka' promote an adoption procedure and practice that guaranties the child's best interest?
2. Does the 'Wobka' facilitate her executing organs in careful handling of persons involved in aadoption procedure?

The researchers come to the conclusion that the Dutch adoption law mostly gives sufficient guarantees to put the best interests of the child first and for careful handling with persons involved in a adoption procedure.

We recommend the law should result in a clear policy to give chain partners a clear idea of what to expect from each other, what handling space they have and what the Ministry requires from them. This is important in all facets of the adoption procedure, but it's specifically important in the relation between the Ministry and the permit holders.

The researchers recommend to change the 'Wobka' in that way, that adoptive parents have direct access to a complaints commission (L- KVIA), to which they can turn for complaints about permit holders.

Concerning possibilities for sanctioning a closed chain of policy, superintendence and maintenance is required. The policy should be determined by all partners involved, supervised and where necessary maintained.

The Wobka offers the legal instruments required, so a fundamental change of law on this point is not necessary. A clear policy and good tuning is required.

According to the aspect of private adoption, the researchers could not determine completely if the rules related to private adoption are sufficiently accomplished. The reason for this is that private adoption, by its nature, partly abstracts itself from control.

An important bottleneck is that the permit holders, who have the task to check the foreign contacts in private adoptions, do not always seem to have sufficient and adequate instruments and financial compensation to perform their controlling task properly.

This can be a risk for putting the child's best interest in the first place. The researchers state that more research on this topic is necessary: Will the controlling task be more efficient and of higher quality, when there will be only one permit holder? This permit holder should specialize in private adoption and possess the right instruments and financial compensation.

To the aspect of the age limit for parents, the researchers recommend to maintain the age limits which are set in the 'Wobka'. There's a need to come to an agreement on age limits that have a good chance on average on a successful adoption.

No scientific or experimental results are available to promote one optimal limit of age.

The present maximum of 46 years of age is a sufficient basis, compared with the current

developments in society in relation to parenthood.

The researchers propose to give parents the possibility to request for a permission in principle until the age of 42. This will give the aspirant-adoptive parents more time and space (4 years) to proceed their adoption procedure, which offers more opportunities for a successful matching.

In case of adoption by two persons, the current maximum age of 42 for the submitting of the permission in principle and of 46 years at the moment of receiving the child, will be maintained. Also the application of the age limit to the elder of the adoptive parents will be maintained. The age limit also applies to the partner of the adoptive parent, when one adoptive parent requests for an adoption and he/she has a permanently common household with a partner, because it can be expected this partner will function as the social parent for the child.

In these cases the age limit will apply to the elder of the two persons, so either to the applicant or to the partner.

Furthermore the researchers recommend withdrawal from matching over-42-year-olds with a handicapped child. It's not in the child's best interest to promote the adoption of handicapped children in this way, according to the researchers.

The maximum age difference between the adoptive parent and the child should remain as it is, according to the recommendation of this research. An exception could be made in case of a placement of a younger child, whom is a second or a next child in the family.

**(1)** Act of 8 December 1988 (bulletin of Acts and Decrees 1988, no 566), containing rules concerning the placement in the Netherlands of foreign children with a view to adoption, as amended by the act of 14 May 1998 (Bulletin of Acts and Decrees 1998, no. 302).