



Ministry of Justice

## Directorate-General for Prevention, Youth and Sanctions

Youth and Crime Prevention Department

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Contact	H. Lenters
Extension no.	070 - 370 61 77
Date	May 14, 2003
Our reference	
Concerning	International petition

Please quote date of letter  
and our ref. when replying.  
Do not raise more than  
one subject per letter.

Dear Sir/Madam,

Thirteen organisations presented me with a petition on 12 March 2003. Your organisation was among them. In view of the contents of the petition, I felt that I had already provided a reply with my letter dated 11 March 2003 to the Dutch Association for Independent Adoption. There was apparently a misunderstanding. Please accept my apologies for this. I would like to reply to the petition as follows.

The petition discusses in particular the fact that, in the opinion of the thirteen said organisations, the attitude of the Ministry of Justice is too passive with respect to increasing the capacity for adoption. The matter is also raised of how parents and children who have found one another via private adoptions feel aggrieved and unjustly described in the statements concerning partial mediation ('deelbemiddeling') in KPMG Consulting's report. I would like to respond to this.

### *Adoptive capacity*

The petition proposes greater efforts from the Ministry of Justice in order to increase adoptive capacity. Inter-country adoption should be promoted, because this form of adoption is the last opportunity to a privileged existence for a substantial number of children.

I do not share this opinion. The starting point of my policy is that children

should be able to grow up in their country of origin. Inter-country adoption can only be considered where every other form of help to the child in its country of origin is lacking and thus cannot be found. In this connection, I must point out article 21, under b of the 1993 Hague Adoption Convention. Restraint and caution are befitting. With respect to adoptive capacity, I do not feel a “pro-active and promotional government policy” is desirable for the Ministry of Justice. However, there is no question of restrictive regulation. I am not opposed to increasing adoptive capacity. It is up to the private sector (the permit-holders) to investigate the possibilities for increasing adoptive capacity. I do consider it a task for the Central Authority to encompass adoption with the necessary guarantees in the interests of children. Guidelines for this are provided by the Hague Adoption Convention and article 21 of the International Convention on the Rights of Children.

1122 adoptive children came to the Netherlands in 2001. In 2002 the figure was 1129. In other words, there is no question of a drop in recent years.

On 26 March 2003 the BCA organised a discussion with the permit-holders in order to find out which permit-holders work in which country and, in a case where no permit-holder is working in a certain country, to find out the reasons why. These reasons included the following:

- faith (Islam does not recognise adoption);
- legislation forbids adoption or makes it difficult or impossible in practice;
- too much bureaucracy (there is no end to it; procedures take too long)
- payments needed, whilst it is not clear what the money is being used for or no receipt is received;
- the country has an unstable political situation or is at war;
- the culture is such that unmarried mothers are considered completely normal.

During the discussion it was clear that only one country still presented realistic possibilities, namely Russia; the foundation *Child and the Future* is busy establishing contact there.

#### *Partial mediation ('deelbemiddeling')*

The petition lets it be known that KPMG Consulting's report is negative about partial mediation. I would like to make the following comment on this. Obviously KPMG Consulting is not placing partial mediation in the same category as illegal adoption. This is not how I interpret it either and neither is this the picture I have of partial mediation. It is indeed the case that Dutch prospective adoptive parents have the right to organise part of the adoption themselves within the legislative framework. It is my opinion that, with shared

mediation, it is more difficult to check on the part of the adoption procedure that takes place in the country of origin.

These are the reasons why, with respect to partial mediation, I have had the 'Act containing rules concerning the placement in the Netherlands of foreign children with a view to adoption' (incl. the order in council) evaluated by an independent organisation.

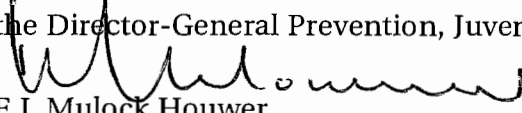
It is not the case that the Central Authority is particularly trying to thwart partial mediation. The Central Authority aims to check the best way possible, the scrupulousness and purity of action of the persons, organisation and authorities involved in adoption. This can take time and it may be viewed as a barrier by prospective adoptive parents, but it is not intended as such.

With respect to Cambodia I would like to say that after a contact had been approved there, the Central Authority received information about serious irregularities in the adoption procedures. This information is such that the Ministry of Foreign Affairs has been asked to have the Dutch embassy in Bangkok carry out an investigation in response to new requests for mediation in adoption. The Ministry of Foreign Affairs has informed me that I shall receive a report very soon. I therefore expect to be able to make a decision in the very near future.

I hope the above has informed you sufficiently.

Yours sincerely

On behalf of  
the Minister of Justice  
the Director-General Prevention, Juvenile and Sanctions



E.J. Mulock Houwer