

European Court of Human Rights  
Council of Europe  
F-67075 Strasbourg Cedex

Application no. 17949/07  
By Luciana Santos HANSEN against Denmark

Adoption & Samfund (Adoption & Society), which is the Danish national organization for adopters and adoptees, hereby wishes to declare the wholehearted support of the organization to the appeal of the adopter Inge Hansen (on behalf of the daughter Luciana) against the decision of the Danish courts (Østre Landsret (the High Court of Eastern Denmark) – and Højesteret (the Supreme Court)) in a case on the right of adoptees to the special child subsidy.

Adoption & Samfund finds that the decision undermines the legal status of Danish adoptees and adoptive families compared to that of others in a similar situation. At the same time Adoption & Samfund sees the decision as a disregard of the Danish Adoption Act.

According to the Danish Adoption Act § 16 the legal status which is established between adopter and adopted child at the time of adoption is similar to the one between parents and their child, and at the same time the legal status between the adopted child and its original relatives no longer applies.

When it comes to rank or value the Adoption Act does not distinguish between different kinds of adoption. All adoptions have the same legal status regardless of the parties' relationship prior to the adoption.

The decisions of both the High Court and the Supreme Court in the case on special child subsidy put adoptees with no prior relationship between adopter and adoptee in a less favourable position than adoptees with a prior relationship to their adoptive parents.

Compared to other adoptions this means de facto that anonymous foreign adoption is turned into a second-rate adoption – and inherently this affects in practice all international adoptees in Denmark.

Adoption & Samfund considers this a most serious attack on the idea of adoption itself of which the very fundamental rationale is that by the adoption a valid family relation is established, just as if the child was bred by the parents themselves.

Adoption & Samfund looks with the utmost gravity and concern upon the setback for the legal status of adoptions in Denmark as expressed in the decision.

If this in-principle decision that anonymous foreign adoption is inferior is maintained what then will become the next area in which adoptees in Denmark must settle for fewer rights than other citizens?

In general the understanding of the Adoption Act § 16 has always been that all legislation applying for children, parents and families should apply also for adoptees, adopters and adoptive families.

If this was not the case the legislator would have to decide explicitly in each individual case whether a law should apply for adoptees as well. This is the case first of all in connection with laws and regulations concerning children and families, e.g. on school attendance, child care etc. – but also in connection with legislation to a wider extent: are adopted men e.g. liable for military service in Denmark if they are not valid members of their Danish family and of the Danish society?

For practical reasons alone everything speaks in favour of a total equality of status between all kinds of adoptees and non-adoptees.

Adoption & Samfund finds that the Danish practice in the area of special child subsidy and The Supreme Court's decision in the case are in contravention of The European Court of Human Rights' article 14 in conjunction with article 8.

Furthermore, Adoption & Samfund finds that the Danish practice in the area of special child subsidy is in contravention of Denmark's obligations in connection with The Haag Convention. According to this Danish adopters and the Danish society commit themselves to treating internationally adopted children on line with children born in Denmark.

Apart from the principle problem that Denmark acts in contravention of the international conventions which we have ratified Adoption & Samfund is of the opinion that it is also a most unfortunate conduct in relation to future adoptions to Denmark.

If the donor countries become aware that Denmark discriminates adoptees from abroad they will of course decide against Denmark as a recipient country. An area of vital importance when it comes to promoting Denmark as a recipient country is our high ethical adoption standards. But this corresponds very badly with the Danish practice of treating adoptees with no prior relationship to the adopters different from other adoptees and different from children born into their family.

Adoption & Samfund therefore strongly calls on The European Court of Human Rights to see this case in the light of the intention of the Danish Adoption Act to give the adoptees equal legal status and in the light of the international conventions endorsed by Denmark.

Yours sincerely

f. Michael Paaske  
National President of Adoption & Samfund