

La adopción internacional tras la Ley 26/2015. By María Dolores Ortiz Vidal (Tirant lo Blanch, Valencia, 2020) 262 pp.

During many years Spain has been one of the countries with more demand of International children adoptions, the second one after USA. This fact led to a chain of legal reforms since the 80's searching the more appropriated regulation in this field and focusing on the protection of the child's best interest.

The Act 26/2015, of 28th of July, on the reform of the protection system of infancy and adolescence is the last effort of the Spanish legislator to end with all inconsistencies and mistakes of the former regime represented principally by the Act 54/2007, of 28th of December, on International adoption, that was elaborated to replace the old regime of previous Acts as well as the Civil code (article 9.5) but that it was born with many defects. The new Act aspires to give Spain finally the proper regulation on this ambit.

In the last years the phenomenon of International Adoption has drastically decreased in Spain as a consequence of several factors as the economic crisis. Having into account all the mentioned legal reforms and the new circumstances of the Spanish Society the book presented by Dr. Ortiz Vidal offers a comprehensive study of the International adoption in Spain with the Act 26/2015 as the cornerstone of this study. Together with the analysis of this Act the author refers to the RD 165/2019, 22 march, about the Regulation on international adoption as well as the rules of the 1993 Hague Convention, between others.

Definitely the work I am reviewing represents a very useful tool for the legal operators as well as the future parents who are interested in adopting a child. The book written by María Dolores Ortiz offers an accurate, stimulating and very useful book in a difficult and delicate institution as International adoption. The book has been written under a practical point of view having into consideration aspects that not always are well explained in this context.

The book is besides well written and has a logical structure that facilitates the comprehension of this complicated field in which many different interests are involved. The book has in particular four chapters, the main aspects of which are going to be addressed here. Maybe the author has not risked a lot having opted by a classical structure in this field but probably this is the best option thinking in the practical point of view.

Chapter 1, where the contents are presented, shows the relevancy of the best interest of the child principle as the key of the regulation of International adoption. In this sense, the author has concreted this principle in two important facts: 1) The familiar situation that becomes especially favorable to the child, in a phase that is crucial to his/her development

as a person. This situation connects with the fact that the institution of adoption gives answer to one circumstance: the existence of children who need protection. 2) The eviction of adoptions that might be valid in the State of origin of the adopting parents but not in the State of origin of the child. Having into account these facts the author makes an interesting reference to the development of the institution from a sociological and legal (national and international) point of view.

From the evolution of the adoption institution, Dr. Ortiz examines the new concept of international adoption given by the Act 26/2015 that differs from the previous one. In particular it is defined expressly regarding the Title I of the Act “General Dispositions” (scope of application and administrative phase of international adoption). The adoption will be possible only in relation to “minors” that are under the condition of “adoptable”, basically through a psico-medical and social study of the child and the biological family in order to determine if the adoption is the more appropriate mechanism to protect the minor and to construct his/her project of life (according to the Report rendered by the General Secretary of the International social service of the Children rights found in <http://www.iss-ssi.org/2009/assets/files/thematic-facts-sheet/esp/20.pdf>).

The analysis of the international Adoption phases begins in Part 2, which makes reference to the administrative phase previous to the process of adoption constitution. In this phase several organisms are involved with a complicated distribution of competences and tasks between the General Administration of the Spanish State and the public regional administration (*Comunidades autónomas*) including the so-called accredited bodies (*Organismos acreditados*). Notwithstanding the difficulties of this phase, Dr. Ortiz explains in a very clear way all the competences and functions of all the Authorities and organisms implicated.

In particular, the Autonomous Communities are competent to process a request of international adoption, to elaborate a previous proposal of adoption and to grant the certificate of suitability (*certificado de idoneidad*) needed to consider the future parents as suitable to adopt. But they are also competent to control the phases of supervision and post adoption. However, the Spanish State is principally competent for the judicial phase, determining the cases in which the Spanish authorities might constitute an international adoption, the applicable law and the requirements needed to recognize in Spain (through its inscription in the Spanish Civil Registry) an adoption that has been constituted out from our country.

The author accurately highlights the differences existing in States as Russia, Filipinas or China in relation to the functions of the Central authorities and the accredited organisms in the framework of the 1993 Hague Convention depending on the requirements demanded in that or other countries regarding the children who can be adoptable. Out from this framework the author perfectly describes the process of the adoption according to the Act 54/2007 on international adoption taking into account the functions of the accredited organisms.

Chapter 3 addresses the issue of the judicial phase of the International adoption. On the one hand, the author refers to the International jurisdiction of the Spanish courts to constitute the adoption including the possibility of declaring the nullity of an International adoption and that of converting a simple adoption into a full adoption. On the other hand, Dr. Ortiz examines the applicable law to the constitution of the adoption as well as the capacity of the adopted child and all the consents needed in this phase.

Finally, in the chapter 4 the author focuses her research on the recognition of effects in Spain of a child adoption constituted out from Spain and the inscription of the foreign resolution in the Spanish registry. This is the part I particularly consider more interesting and in this sense, it could have been done with more examples derived from comparative law to render the chapter more original and attractive. I remember years ago when I did an article – and later a book with other colleagues- about the effects of children adoptions done in countries as Nepal where the differences and peculiarities existing in this context were really amazing. In any case this chapter 4 is impeccable done and offers a comprehensive study of this fundamental phase.

Dr. Ortiz pays particular attention to the absence of rules of Private international law in the EU regarding the recognition of national resolutions on children adoptions. This absence has led to the European Parliament to publish the resolution on 2-2-2017 with recommendations regarding International effects of adoptions with a clear objective: the elaboration of a Regulation in this specific field that could help to render easier all this process. In this sense, the author examines the challenge that new regulation of International adoption poses to this field in Spain and other European countries

Waiting for the future Regulation, the solution in Spain to recognize effects to adoptions constituted abroad will go on depending on the origin of the resolution and the consequent application of the 1993 Hague Convention or the Ley 54/2007 (reformed by Ley 26/2015). In both cases, the Authority responsible of the Civil Registry will control the adequacy of several requirements needed to render effective in Spain the foreign resolution on International child adoption: the control of the jurisdiction of the foreign Court, the compatibility with the public order in Spain and the equitable effects between the adoption constituted by foreign authority and that regulated in Spain, between others.

In short, we are in front of a very interesting and useful book that surely will interest all legal operators and future parents who desire to adopt a child.

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