

Rwanda

Ministerial Order determining Conditions to be considered in Intercountry Adoption and the Procedure Thereof

Ministerial Order 1 of 2017

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Commenced on 16 January 2017

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Minister of Gender and Family Promotion;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 121, 122 and 176;

Pursuant to Law n° 32/2016 of 28/08/2016 governing persons and family, especially in Article 318;

After consideration and approval by the Cabinet, in its session of 11/11/2016;

HEREBY ORDERS:

Article One – Purpose of this Order

This Order determines conditions that are additional to those provided by Article 318 of the Law n° 32/2016 of 28/08/2016 governing persons and family, which are to be considered in intercountry adoption and the procedure thereof.

Article 2 – Right to a stable family

A person intending to be an adoptive parent in intercountry adoption must fulfil the following requirements:

- 1° to provide the child with the right to grow up in stable family and to assure his/her appropriate growth on a permanent basis;
- 2° to provide the child with basic living needs including food, education, healthcare and accommodation.

Article 3 – Preferential right on adoption

The intercountry adoption only occurs when it is the only way possible to adopt the child after determining that there is no other family in Rwanda wishing to adopt the child.

A person intending intercountry adoption of a child with special problems is granted the preferential right.

The national organ in charge of child protection called ‘Organ’ in this Order approves that the person intending to adopt the child fulfils the requirements.

Article 4 – Confidentiality of documents

The adoptive family and adopted child’s family have the right in relation to confidential conservation of documents relating to adoption. The delivery of any information in relation with adoption documents must be in accordance with relevant laws.

Article 5 – Prohibitions in relation to adoption

The adoption shall not be aimed at personal benefits of the adoptive parent or any other interest.

Any act of visiting or entering into an orphanage by intending adoptive parents must be done after written approval of the Organ.

Article 6 – Non eligible person to intercountry adoption

The following persons are not eligible to be adoptive parents in intercountry adoption:

- 1° a person definitely sentenced by the courts for violation of the rights of children, rape to a minor, minors trafficking, domestic violation, genocide, war crimes, crimes against humanity and other serious crimes;
- 2° a person with a sickness which may compromise the welfare of the child;
- 3° a person deprived of parental authority.

Article 7 – Submission of the application file

The application for adoption is submitted to the Organ through the authority in charge of implementation of Treaties and International agreements related to child adoption and collaboration in adoption matters of the host country.

Article 8 – Required documents

The adoption applicant's file comprises the following documents:

- 1° a letter stating the grounds for the request for adoption, his/her full names, date, place of birth, nationality and permanent address as well as sex, age and living conditions of the child to be adopted;
- 2° a document stating full names, age and sex of persons with whom he/she shares the residence if any and his/her relationship with these people;
- 3° a copy of his/her identification document;
- 4° documents certifying the consent of the spouse and each child aged eighteen (18) years if any;
- 5° a letter from the representative of Rwanda in the applicant's country of domicile recommending the approval of the application for adoption;
- 6° a copy of marriage record if any;
- 7° a copy of the birth record of the applicant;
- 8° a criminal record certificate;
- 9° medical certificate of each applicant parent and each child sharing the same residence, issued within a maximum period of three (3) months by a licensed physician;
- 10° documents certifying the consent of the child's guardian in case of failure by the adoptive parents to support the child;
- 11° backgrounder on the home living conditions certified by the Organ in charge of implementation of Treaties and International agreements related to child adoption and collaboration in adoption matters in the applicant's country of domicile;
- 12° Documents certifying his/her property.

All documents cited in this Article must be certified by an authorized notary in the applicant's country of domicile.

Article 9 – Time to respond to the application

After receiving the application file, the Organ analyses all documents submitted by the applicant and gives within thirty (30) days through the organ in charge of implementation of Treaties and International agreements related to child adoption and collaboration in adoption matters in the applicant's country of domicile, a response notifying him/her that the file is complete, additions to complete the file or rejection of the application.

Article 10 – Getting child's contact with the adoptive applicant

Where the Organ approves the application for adoption, it goes in search of desired child within six (6) months and notifies the applicant that the child is found.

The Organ asks the applicant to come to the country to complete the procedures provided for by law, gives him a certificate of approval of his application and puts him/her in contact with the child to be adopted.

When the required child is not found, the Organ notifies the applicant within six (6) months through the organ in charge of implementation of Treaties and International agreements related to child adoption and collaboration in adoption matters in the applicant's country of domicile and the case is closed.

Article 11 – Adoption record

The adoption record is within the jurisdiction of the civil registrar of the child's domicile. It is done in presence of the adoptive parents with at least two (2) witnesses aged at least eighteen (18) years.

The civil registrar makes the adoption record based on the certificate issued by the Organ referred to in Article 10 of this Order and submits it to the competent court for approval.

Article 12 – Decision of the court

The application for approval of the adoption record is settled by the relevant court by summary proceedings, after examining whether it was done in the child's interest and if all prerequisites regarding age and consent were fulfilled.

The death of an intended adoptive parent after filing the application but before the ruling of the court halts the proceedings.

Article 13 – Registration of an adoption judgment

The inter-country adoption judgment is registered in the register of adoption records and mentioned in margins of the birth record of the adopted child.

The adoptive parent having been granted the adoption by the court must register that judgment in the civil register within two (2) months from the date on which the judgment became final.

Adoption takes effect from the date on which the judgment on adoption became final.

The Chief Registrar of the Court which decided on adoption in the last instance informs the civil registrar on adoption.

Article 14 – Document issued by the Organ

The adoptive parent submits a copy of the adoption record issued by the civil registrar and a copy of the decision of the court approving the adoption to the Organ which issues him/her a document certifying that all procedures required for intercountry adoption have been met.

Article 15 – Report of the adoptive parent

The intercountry adoptive parent must provide a report on the health conditions of the adoptive child throughout the national organ in charge of implementation of Treaties and International Agreements relating to child protection and collaboration in adoption matters of his country, which submits it in turn, to the Organ and provides a copy to the Embassy of Rwanda in that country.

The report on the life conditions of the child is provided on annual basis until the adopted child attains the age of eighteen (18) and is comprised of the following:

- 1° how the adopted child is cared;
- 2° the education of the adopted child;
- 3° medical conditions of the adopted child;
- 4° if there are no acts of violence against the adopted child.

Article 16 – Collaboration of organs in follow up of child's health conditions

Throughout the Ministry in charge of foreign affairs, annually and any time considered necessary, the Organ submits to all Embassies of Rwanda the list of intercountry adopted children and their respective countries of location for follow up on their health conditions.

Article 17 – Repealing provision

All prior provisions contrary to this Order are repealed.

Article 18 – Commencement

This Order comes into force on the date of its publication in the Official *Gazette* of the Republic of Rwanda.