

Short questionnaire

Therefore, States are respectfully requested to provide responses to the following questions which relate to the recognition in one State of a domestic adoption granted in another State:

Name of State:	Norway
<u>Information for follow-up purposes</u>	
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A. RECOGNITION IN YOUR STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN OTHER STATES

The law and procedure in your State

1. Please briefly outline the **law** (legislation or other rules) in your State concerning the recognition of a domestic adoption granted previously in another State.

Recognition of foreign adoption decisions are regulated in Section 19 of the Norwegian Adoption Act of 28 February 1986.

The first paragraph of Section 19 gives the general conditions for recognition, which are:

- it must be an decision with the legal effects of an adoption, e.g. not guardianship or foster care
- the adoption must be effected and valid in the state where the applicant was resident when the decision was made

If so, the foreign adoption is "automatically" valid in Norway.

The third paragraph of Section 19 says "The Ministry may recognize a foreign adoption that is not covered by the first paragraph."

This gives us a discretionary possibility to recognise adoptions that are not automatically valid according to the first paragraph, e.g. if adopters with habitual residence in Norway have adopted in another state without a prior consent, and procedures for intercountry adoptions have not been respected. Recognition is granted in most cases if a strong relation to the child is established and the adoption is in the best interests of the child. In most cases we also make an assessment if the adopters are suited and eligible to adopt, almost the same assessment as when PAPs apply for prior consent for intercountry adoption.

In particular, please specify whether your State applies different rules to the recognition of domestic adoptions made in certain States or regions and, if so, why.

No, the same rules of the Norwegian Adoption Act apply for all states.

2. Please briefly outline the **procedure** which must be followed in your State by persons seeking the recognition of a domestic adoption granted previously in another State.

They must apply for recognition to the Eastern regional office and enclose all relevant documents to prove the adoption.

In particular, please specify what legal or administrative steps are required for recognition.

We require the original adoption document, legalised or with apostille. If the document

does not show the reasons for the decision, we ask for additional documents which can prove that the adopters are found suited and eligible to adopt and that the adoption is in the best interest of the child. This can for example be the social report.

The adopters must also give additional information about the adoption process, their relation to the child, why the child was in need of adoption etc. If they were habitual resident in Norway at the time of the adoption, they must explain why they did not apply for a prior consent in Norway.

In the assessment of the adoption, we look into the legislation of the state where the adoption has taken place, in particular if it has the legal effects of an adoption, if the decision is made by the competent authority and if procedures according to the law of the said state are followed.

The processing of these cases may vary depending on which state the adoption has taken place.

3. What is the competent authority in your State for such matters?

The Regional Office for Children, Youth and Family Affairs, Eastern Norway.
The Central Authority (Bufdir) is appellate instance.

Cases which have arisen in your State

4. Has your State been asked to recognise domestic adoptions granted previously in other States? If so:

(a) How many such cases have arisen in the past year?

2016: 34 (20 granted - 14 denials)

Past three years?

2015: 35 (16 granted - 19 denials)

2014: 48 (26 granted - 22 denials)

2013: 40 (10 granted - 30 denials)

(b) In such cases, why was recognition of the domestic adoption sought?

The most common reasons are:

- a Norwegian citizen who is habitual resident of another state adopts the child of his/hers spouse (stepchild adoption)
- Norwegian citizen(s) adopt a child while residing temporarily abroad, either because they are childless or for other reasons
- habitual residents of Norway adopt domestically a member of the family from the country they originally came from (family adoptions)

(c) What type of document was presented for recognition?

Sometimes a Court order or an administrative decision, and sometimes it can be difficult to get the necessary documents to prove the adoption.

(d) Was recognition permitted?

See answer to question 4. (a) above.

(e) In cases where recognition was refused, what were the reasons?

- The document is a private agreement, a registration or not a decision made by the competent adoption authority.

- The decision has not the legal effects of an adoption
- The adoption is not in the best interests of the child or lack of attachment to the adopters

In particular, have there been any cases in which recognition was refused by your State on the basis that jurisdiction had been inappropriately assumed by the foreign authority?

If jurisdiction is inappropriately assumed by the foreign state, it is still possible for us to recognise the adoption according to Section 19 third paragraph, but only if the adoption is effected and is valid in the foreign state. An assessment is made in each individual case.

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

In general, no specific actions are taken with respect to the legal status of the child.

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) which granted the adoption(s) in these cases?

Yes, the need for co-operation is considered in each individual case.

5. In your State's experience, do (some or many) families with an adopted child move to your State without having the child's adoption formally recognised in your State?

Yes, we have experienced this in some cases.

Does this create any problems for the family?

This may create an uncertain situation for both the parents and the child, and put the child's rights at risk.

B. RECOGNITION IN ANOTHER STATE OF DOMESTIC ADOPTIONS GRANTED PREVIOUSLY IN YOUR STATE

The law and procedure in your State

6. In relation to the granting of domestic adoptions in your State:

- (a) Are any special rules or procedures followed when a case involving a domestic adoption has an international element (e.g., it involves a foreign national child and / or foreign national prospective adoptive parents, despite the fact that they are all habitually resident in your State)?

This situation occurs most often in stepchild adoptions. When needed, we ask the family for information about their attachment to the foreign state. We also ask our embassies for assistance to contact the adoption authorities, to have information about the legal effects of a Norwegian adoption in that state. If the child has ties to another country, it must be taken into consideration if non-recognition there will be a significant disadvantage for the child. This is according to the second paragraph of Section 18 in the Norwegian Adoption Act

- (b) What type of document is issued for domestic adoptions granted in your State?

An administrative adoption order.

7. Are there any special rules or procedures which are followed when your State is made aware that another State has been requested to recognise a domestic adoption originating from your State?

Please insert text here

Cases which have arisen involving your State

8. Are you aware of situations in which recognition has been sought in other States of domestic adoptions granted in your State?

No, we are not aware of any such situations regarding domestic adoptions granted in Norway. We have however been contacted a few times by other states in intercountry adoption cases.

If so:

- (a) How many such cases have arisen in the past year of which you are aware?

Please insert text here

Past three years?

Please insert text here

- (b) Which competent authorities were addressed in your State? And in the other State(s)?

Please insert text here

- (c) In such cases, why was recognition of the domestic adoption sought?

Please insert text here

- (d) Was recognition permitted by the other State(s)?

Please insert text here

- (e) In cases where recognition was refused, what were the reasons?

Please insert text here

Have you ever had a case where the grounds upon which your State assumed jurisdiction to grant the domestic adoption were challenged by the foreign State?

Please insert text here

- (f) Where recognition was refused, what actions, if any, were taken with respect to the status of the child?

Please insert text here

- (g) Has there been any cross-border co-operation / communication between your State and any State(s) being asked to recognise the adoption in these cases?

Please insert text here

C. PRACTICAL PROBLEMS REQUIRING ACTION

9. In light of the information you have provided in both sections above, overall, are there, in your State's experience, practical problems in this area that need resolving at the international level?

Please insert text here

