

Order of the Minister for Legal Protection of 18 April 2019, no. 2569840, establishing the Committee Investigating Intercountry Adoption in the past (Committee Investigating Intercountry Adoption Establishment Order)

The Minister for Legal Protection,

Having regard to section 2, subsection 1, opening words and (a) of the Advisory Bodies and Committees (Allowances) Act;

Orders:

Article 1 Definitions

The following definitions are used in this Order:

- a. The Minister: The Minister for Legal Protection;
- b. The Committee: the committee referred to in article 2.

Article 2 Establishment and task

1. There is a Committee Investigating Intercountry Adoption in the past.
2. The Committee is tasked with investigating:
 - a. the role and responsibility of the Dutch government with respect to the intercountry adoption of children in, at a minimum, the period between 1967 and 1998;
 - b. the existence of possible abuses relating to the intercountry adoption of children in, at a minimum, the period between 1967 and 1998, starting in any event with an investigation focusing on Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka;
 - c. the Dutch government's knowledge of possible abuses as referred to under b;
 - d. the Dutch government's involvement in possible abuses as referred to under b;
 - e. knowledge of possible abuses as referred to under b among Dutch mediating parties or other organisations or individuals;
 - f. involvement in possible abuses as referred to under b by Dutch mediating parties or other organisations or individuals;
 - g. the extent to which the nature of the possible involvement as referred to under d and f was incidental or systematic;
 - h. the manner in which the Dutch government responded to indications of possible abuses as referred to under b; and
 - i. whether the response was appropriate and adequate in light of the Dutch government's role and responsibility as referred to under a.
3. The Committee is authorised to formulate, investigate and answer additional questions during the investigation if it deems this useful for the purposes of the task laid down in paragraph 2.

Article 3 Composition, appointment and dismissal

1. The Committee consists of a chair and two other members.
2. The chair and the members sit on the committee in their personal capacity and must discharge their duties independently and without being bound by instructions.
3. The chair is appointed by the Minister. The other members are appointed by the Minister on the recommendation of the chair.
4. The chair and members are appointed for the Committee's duration.
5. If a member leaves before the Committee completes its task, the Minister may appoint a new member or a new chair on the recommendation of the chair or the other members.
6. The chair and the other members may be suspended and dismissed by the Minister at their own request or on the grounds of unsuitability or incompetence or for other compelling reasons.

Article 4 Duration

1. The Committee is established with effect from 1 May 2019 and will be disbanded on 1 October 2020.
2. The Minister will decide on any extension of the term referred to in paragraph 1 and inform the Committee of that decision in writing.

Article 5 Members

1. The following individuals are appointed as members of the Committee with effect from 1 May

2019 to 30 September 2020:

- a. Mr T.H.J. (Tjibbe) Joustra, chair;
- b. Professor B.A. (Beatrice) de Graaf;
- c. Mr G.H.J (Bert-Jan) Houtzagers.

Article 6 Secretariat

1. The Committee is assisted by a secretariat.
2. The Committee operates its own secretariat.
3. If so requested by the chair, the Minister will provide the necessary facilities for the Committee to carry out its activities.
4. The secretariat is accountable solely to the chair of the Committee for the performance of its duties.
5. Additional staff members may be appointed to the secretariat.
6. The executive secretary and staff of the secretariat are not members of the committee.

Article 7 Working methods

1. The Committee and the Minister will lay down in a protocol how information will be shared and the confidentiality of that information guaranteed, the manner in which people will be interviewed and reports of those interviews drawn up, and how, in view of the principle that both sides must be heard, findings will be presented to individuals or organisations who may be affected by or have objections concerning those findings.
2. The chair of the Committee will sign the protocol on behalf of the Committee.
3. The Committee will provide an account of its working methods in its final report.
4. The Committee may arrange to be assisted by others in so far as this is necessary for the performance of its task.

Article 8 Gathering information

1. With a view to gathering information the Committee is authorised to contact individuals and organisations directly and ask them to cooperate in so far as is reasonably necessary for the Committee to conduct its investigation.
2. The Ministry of Justice and Security will cooperate as requested and give the Committee access to all the information it needs, in accordance with the protocol referred to in article 7.
3. Civil servants at the Ministry of Justice and Security are required to cooperate with the members of the Committee as requested, in so far as such cooperation relates to their official duties.
4. The Committee will provide an account of the cooperation it received in its final report.

Article 9 Allowance

The chair and the other members, in so far as the exception referred to in section 2, subsection 3 of the Advisory Bodies and Committees (Allowances) Act does not apply to them, will receive a fixed monthly allowance, based on pay scale 18 in appendix B to the Civil Servants' Pay Decree 1984. The working hours factor is 12/36 for the chair and 8/36 for the other members.

Article 10 Costs of the Committee

1. The costs incurred by the Committee, in so far as they are based on an approved cost estimate, will be borne by the Minister. The term 'costs' is understood to include at least the following:
 - a. the costs of facilities for meetings, office space and secretarial support;
 - b. the costs of obtaining external expertise and having investigative activities carried out; and
 - c. the costs of producing the report.
2. The Committee will present a budget to the Minister as soon as possible after its establishment.
3. The Committee will manage its own financial accounts and deliver a financial overview.
4. The Committee will have its financial overview audited.

Article 11 Accommodation

The Committee will carry out its activities at a location outside the Ministry of Justice and Security.

Article 12 Report

1. The Committee will present its final report to the Minister no later than 30 September 2020.
2. The Committee will provide an interim report to the Minister if it believes this is warranted by the findings of the investigation.
3. If unforeseen circumstances arise which in the Committee's view prevent it from presenting

its report on time, the Committee will inform the Minister immediately.

4. The Minister will decide on the possible extension of the term referred to in paragraph 1 and inform the Committee of his decision in writing.

Article 13 Public disclosure

Reports, notes, recommendations and other products drawn up or gathered by or on behalf of the Committee, may not be made public by the Committee, but may be presented or transferred exclusively to the Minister.

Article 14 Records

1. When the investigation is completed, the Committee's records will be transferred to the archive of the Ministry of Justice and Security.

2. The records will be managed in accordance with agreements on confidentiality laid down in the protocol by the Committee, about which the Committee will make further agreements with the Ministry of Justice and Security.

Article 15 Entry into force

1. This Order enters into force on 1 May 2019.

2. This Order will lapse on 1 October 2020.

Article 16 Short title

This Order may be cited as the Order establishing the Committee Investigating Intercountry Adoption in the past.

This Order and the explanatory notes will be published in the Government Gazette and copies will be sent to the parties concerned.

Sander Dekker

Minister for Legal Protection

Explanatory notes

In recent years there has been much concern in society about suspected abuses relating to the adoption of children from other countries in the past. On 6 December 2018 I announced that an external committee would be established to investigate intercountry adoption of children in the past. The fact that the Dutch government may possibly have known about and been involved in these abuses was a key consideration in the decision to establish an external committee. The committee will investigate the actual course of events at the time and examine what the Dutch government's role was. An external committee is in a position to interpret its findings independently.

The investigation will focus on the illegal placement of children during, at any rate, the period between 1967, the year in which the first Guidelines for the placement of foreign foster children were published, and 1998, the year in which The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption entered into force. In 1998 the Central Authority was established and intercountry procedures were subjected to stricter supervision.

The investigation will take as its starting point the countries about which indications of abuses have come to light, namely Bangladesh, Brazil, Colombia, Indonesia and Sri Lanka. However, the committee is free to expand its investigation to other countries and to a wider time frame if it deems this necessary for the investigation.

The committee will first examine the Dutch government's role and responsibility in the period indicated. It will then investigate the existence of possible abuses relating to the intercountry adoption of children in the period in question, as well as whether the Dutch government knew about or was involved in these possible abuses. In this connection it is important to establish whether there was either active involvement on the part of government officials or concrete knowledge on the part of the government, and whether the nature of this involvement was incidental or systematic.

The committee will also investigate whether Dutch mediating parties or other organisations or individuals were aware of or involved in possible abuses. Lastly the committee will look at the manner in which the Dutch government responded to indications of possible abuses and whether, taking into account the Dutch government's role and responsibility, this response was adequate and appropriate.

The subject of the investigation is the archives of the then Ministry of Justice, including the Child Protection Board, the Public Prosecution Service, the Immigration and Naturalisation Service and the police, as well as the archives of the Ministry of Foreign Affairs and the National Archives. It is possible that persons involved will be interviewed.

The provision on allowances was drawn up in accordance with section 2, subsection 1 of the Advisory Bodies and Committees (Allowances) Act in conjunction with article 4 of the Advisory Bodies and Committees (Allowances) Decree. Given the gravity and scale of the committee's tasks, it has been decided that the compensation of the chair and the members will be set at pay scale 18, pay number 10 in appendix B to the 1984 Civil Servants' Pay Decree. Considering, among other things, the duration of the investigation, it is estimated that the chair will spend an average of 12 hours per week and the other members will spend eight hours per week carrying out activities for the committee. It should be emphasised that these are average figures. The working hours factors stated in this article are based on these figures. In this context reference is also made to the provisions on maximum allowances in article 6 of the Advisory Bodies (Allowances) Decree.

Sander Dekker

Minister for Legal Protection