

Adoption Law

In 2008, the Commission published a Report on [Aspects of Intercountry Adoption](#) (LRC 89-2008), following its Consultation Paper on [Aspects of Intercountry Adoption](#) (LRC CP 43-2007). This arose from a request to the Commission by the Attorney General, in accordance with the [Law Reform Commission Act 1975](#), to consider and recommend reforms concerning the status and rights of a child resident outside the State who is the subject of a foreign adoption order made in favour of an Irish citizen or citizens; and the most effective manner of securing the performance of the constitutional and legal duties of the adoptive parents – and of the State - in respect of such a child. The request from the Attorney General came against the immediate background of *Attorney General v Dowse* (2006), which concerned the adoption of an Indonesian child, and which was recognised and registered in Ireland under the *Adoption Act 1991*, but which the adoptive parents later applied to have revoked.

This was an unusual intercountry or foreign adoption because the adoptive parents did not live in Ireland and the child never set foot here. Such adoptions represent approximately 10% of all the intercountry or foreign adoptions recognised and registered by the Adoption Board in the Register of Foreign Adoptions. Around 75% of intercountry or foreign adoptions recognised and registered in Ireland involve adoptive parents who live in Ireland and have been assessed before they travel abroad and adopt a child. Once a foreign adoption is recognised and registered by the Adoption Board, the child is entitled to become an Irish citizen provided that at least one of the adoptive parents is an Irish citizen. This is what occurred in the Dowse case even though the adoptive parents and child were resident outside the State.

The Commission's research shows that this approach is accepted by a growing number of countries and its provisional recommendation is that this should remain the law on this point. The Commission highlighted the practical difficulties of ensuring the legal and constitutional rights of an Irish citizen child who is resident in another jurisdiction and notes that the Constitution of Ireland states that most rights are subject to a test of how "practicable" it is to protect them. The Commission recommended that if a situation like the Dowse case arises in future, the Attorney General, in his role as guardian of the public interest, and in conjunction with the diplomatic and consular services of the Government, is the most appropriate officer of the State to protect the rights of the child subject to relevant principles of international law. The Commission also reiterated a previous recommendation made in 1998 that the *1993 Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption* be ratified and incorporated in Irish law.