

Spanish International Adoption Act (Law 54/2007, of December 28)

The International Adoption Act (Law 54/2007, of December 28), is the first special Private International Law act issued in Spain. It contains a heterogeneous, extensive (possibly the most comprehensive in Comparative Law, with 34 long articles) regulation of international adoption and other measures for protecting incapables. It revokes the previous legislation dating back to 1974, amended several times since 1987. Spanish former regulation generated different types of problems; some derived from its interpretation, which was not very clear and at some points confusing and dense. Others were due to the fact that all the Spanish Comunidades Autónomas have jurisdiction regarding the protection of minors and have issued their own rules, including administrative aspects and mediation in international adoptions.

The IAA has several goals; together with the wish to put an “end to the regulatory dispersion characteristic of the previous legislation”, providing full regulation of international adoption, we find the “interests of the minor” as a guide to all adoption processes.

As a matter of fact, the Act has already missed the first goal -which, to tell the truth was too difficult to accomplish, considering Spanish state legislator and the Autonomous Regions share responsibilities in matters concerning the protection of minors. As for the second goal (the interests of the adopted minor), it has given rise to a complex model where calls for cooperation between authorities coexist with conflict of laws for the establishment of adoption, its modification and its declaration of nullity. A queer mixture of unilateralism and bilateral conflict rules has been chosen for the conversion of adoption; as for recognition, the Spanish legislator has set up a difference between the recognition of simple adoption, through the national law of the child, and the recognition of other adoptions, which requires unilateral conditions calling to the conflict and international jurisdiction rules of the foreign authority. As some author has already said, a “truly strange methodological puzzle”...

The IAA has generated already a lot of doctrinal polemic in Spain, with very strong defenders and equally critical opponents. Opinions are mostly published in Spanish, in Spanish magazines; a short article in English will soon appear in the Yearbook of Private International Law. The law itself can be found in French at the *Revue Critique de Droit International Privé*, 2008.