

Major Milestone on Inter-Country Adoption for Foreign Nationals of Ethiopian Origin

Description

By Dagnachew Tesfaye, Founder and Partner at DMLO

Email: dagnachew@dmethiolawyers.com

The Federal Supreme Court Cassation Bench on Cassation File No 189201 on March 11, 2020 Volume 24 made a landmark decision in favor of allowing adoption by foreign nationals of Ethiopian origin.

The Revised Family Code Amendment Proclamation No 1070/2018 on its preamble and to some extent on its content held the idea of prohibition of adoption by foreign nationals. The term 'foreign nationals' was not defined. There was a question as to whether 'foreign nationals' include foreign nationals of Ethiopian origin that acquire yellow card.

The case decided by the Federal Supreme Court Cassation Bench on File No 189201 gave an interpretation to the question. The Cassation Decision state that Foreign Nationals of Ethiopian Origin are allowed to adopt Ethiopian children. The Revised Family Code Amendment Proclamation No 1070/2018 do not prohibit foreign nationals of Ethiopian origin from adopting Ethiopian children.

To reach the decision the Federal Supreme Court Cassation bench looked closely into the Ethiopian Children Policy document, the Diaspora Policy document, the best interest of the child and especially Article 36(5) of in the FDRE Constitution, Child Right Convention Article 20-21 and African Charter on the Rights and Welfare of the Child Article 24 , the Revised Family Code of Ethiopia Proclamation No 213/2000, Foreign National of Ethiopian Origin Proclamation No 270/2002, and Banking Amendment Proclamation No 1159/2019, that shows the trend of the government of Ethiopia in allowing economic participation of Foreigners of Ethiopian origin in the banking sector.

The Cassation Bench reached to the conclusion that foreign national of Ethiopian origin can adopt an Ethiopian child. The position of the Federal First Instance and Federal High Court, that a foreigner with Ethiopian origin cannot adopt an Ethiopian child is dismissed by the Federal Supreme Court Cassation Bench. The Interpretation of the law by the Federal Supreme Court Cassation Bench, as per Federal Courts Reamendment Proclamation No 454/2005, is binding on federal as well as regional courts of all levels.

To sum up, the Federal Supreme Court Cassation Bench by a legally binding interpretation has filled the legislative gap that happened on Proclamation no 1070/2018 and allowed foreigners of Ethiopian origin who has the valid yellow card, to adopt Ethiopian children.

Category

1. Latest Posts

Date Created

January 26, 2021

Author

dmethiol_admin

Dagnachew & Mahlet Law Firm LLP