# *Is Adoption a* ***Child Protection Measure?***

**Art 20.3 UN Convention on the Rights of the Child reads as:**

*"Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."*

**Comment**

Art. 20.3 often gets misinterpreted as "adoption" is mentioned. Adoption can be erroneously described as a child protection measure and be included in the range of care options. However, it is not a child protection measure. In a rights-based system, the child is the rights holder and the state the duty bearer. This means that the state must create suitable institutional and foster care systems for children in need of care and protection.

Child Protection measures are governed by public law. Public law is the law of relations between individuals and the state. [1]

Adoption is private law. Private law is a branch of the law that deals with the relations between individuals or institutions, rather than relations between these and the state. [2]

Adoption, similar to a marriage, creates a new legal relationship between persons. Therefore it falls under private law, or family law. Adoption is a very drastic measure that permanently cuts all legal family ties and alters the identity of a child. Intercountry adoption is even more extreme, as children lose their citizenship, religion, language, and culture.

**1** Oxford dictionary

**2** Oxford dictionary
For further reading: Independent Panel of Family Law Experts of EU Member States, Summary of opinion on the matter of adoptions. Page 6ff; https://www.asktheeu.org/en/request/762/response/2971/attach/2/DG%20ELARG%20BDT%2088%202007%201341.pdf. Last accessed 22.08.2024