



EUROPEAN COMMISSION
Enlargement Directorate-General

A - Acceding Countries

The Director

Brussels,
ELARG/A/TS/BW D(2006) 103379

In accordance with the rule of law the European Commission underlines that it expects the current member states and the acceding countries to apply the *acquis communautaire* in the area of child protection. The *acquis communautaire* in the domain consists of the UN Convention for the rights of the child. It was ratified by all member states of the European Union. There is no requirement to limit the number of international adoptions.

According to the UN Charter, the state is obliged to provide special protection for a child, if the he or she is deprived of the family environment. The state has to ensure alternative care for the child. This can be either foster placement, adoption or the placement into suitable institutions. When considering solutions, due regards shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background (Art.20 UN convention for the rights of a child).

Moreover, the UN Convention on the Rights of the Child (UN CRC) in its article 21b foresees that intercountry adoption may be considered **only** if the child cannot in any suitable manner be cared for in the child's country of origin.

The Hague "convention on protection of children and co-operation in respect of intercountry adoption", (concluded on 29 May 1993) establishes common provisions for the subsidiary case of intercountry adoptions, taking into account the principles set forth in international instruments, in particular the UN CRC, of 20 November 1989. Therefore the Hague Convention regulates intercountry adoption of children for whom **no** suitable manner of care is available in the country of origin. However, in the accession countries as Romania and Bulgaria sufficient care is generally available in the country. Therefore ratification of the Hague convention does not oblige these countries to make children available for intercountry adoptions.

In other words the placement in an institution or in foster care in a candidate or accession country is according to the *acquis communautaire an appropriate and lawful* way of child protection. This does not constitute any breach of the Hague convention.

We hope that these explications were useful for you.

Yours sincerely

Timo Summa

Mr Jacob N. Waage - Attaché
The Permanent Representation of Denmark
to the European Union
Rue d'Arlon, 73
B - 1040 Brussels