



## EUROPEAN COMMISSION

DIRECTORATE GÉNÉRAL JUSTICE, FREEDOM AND SECURITY

Directorate E : Justice  
Unit E2 : Civil Justice

Brussels, 3 June 2010  
JLS.E.2/PD/mb D(2010) 8759

### Meeting report

**Object: Inter-service meeting on EU policy on international adoption issues – Brussels, 20 May 2010**

On 20 May 2010, an Inter-service meeting concerning international adoption was held in DG JLS premises as agreed between JLS and the Secretariat General.

Chair: Ms Salla Saastamoinen, Head of Unit JLS/E2 (Civil Justice).

Participants: Ms Vivian Loonela (SG); RELEX family: Mr André Debongnie AIDCO/E4; (LS/Ms Anne-Marie Rouchaud was excused); JLS: Ms Patrizia De Luca, Team leader for external relations JLS/E2; Ms Anna Zito, Coordinator for Child's rights JLS/D1; Mr Daniel Woehl JLS/D2 (Citizenship).

#### Agenda point 1 EU position on international adoption in general

The Chair explained that the IS meeting had been organised on suggestion of SG to exchange views on international adoptions, in particular concerning the Romanian case that is often subject of EP questions and petitions, letters from citizens and NGOs. DG JLS wished to use the opportunity to inform the participants about topical issues relating to international adoptions, like the forthcoming Special Commission dealing with the application of the 1993 Hague Convention on Inter-country Adoptions and the recently adopted Stockholm Programme and Action Plan.

Ms De Luca explained the basic principles governing international adoption, as endorsed by the UN Convention on the Rights of the Child, by UNICEF and by the 1993 Hague Convention, namely the principles of the best interest of the child, the right to a family for the child and of subsidiarity. In practice, the principles amount to a case by case approach to deal with the specific situation of an individual child.

#### Agenda point 2 The role of the EU in the correct implementation of the 1993 Hague Convention on Inter-country Adoption

Ms Saastamoinen explained the objectives of the 1993 Convention: its aim is to correctly implement Article 21 to the UN Convention on the Rights of the Child (dealing with International Adoption). All EU Member States are Parties to the Convention (except Ireland where ratification is expected by end 2010). DG JLS follows closely the implementation of the Convention and will participate in the meeting of the Special Commission on the practical operation of the Convention in The Hague from 17 June to 25 June 2010. The EU, as member of the Hague Conference, promotes, in respect to

third countries, the accession to the 1993 Hague Convention and its proper implementation. Ms Saastamoinen pointed out that the proper implementation requires well functioning child protection mechanisms in the countries of origin of children.

USA has recently (May 2010) proposed to the Commission, the Council SG and the ES Presidency to discuss about like-minded positions vis à vis third countries which have not yet acceded to the 1993 Hague Convention or are facing serious problems in implementing it. For instance, capacity-building activities could be carried-out in these countries.

Ms Loonela/SG stated that, in the opinion of SG, a very cautious approach with regard to international adoption should be taken and the "status quo" has to be maintained because of the risks of child trafficking in international adoption. Ms Saastamoinen replied that the aim of the Hague Convention is precisely to avoid these risks by regulating strictly any inter-country adoptions; therefore DG JLS is promoting its ratification widely (already 81 states are Parties to the Convention, including USA and China; Russia has signed but not yet ratified it).

JLS informed the participants that some EU Member States are planning a common demarche by Haiti Authorities in order to press them to develop a proper child protection system which could allow the accession to the Hague Convention.

The issue of financing the capacity building activities was addressed; Mr Debongnie/AIDCO was not aware of specific activities related to adoption in the RELEX family, but certainly child protection projects are carried out. This topic has to be further explored.

### **Agenda point 3 Romania and international adoptions**

Ms Loonela/SG underlined a very cautious approach and the sensitive nature of the matter. Ms Zito/JLS.D.1 supported, stressing that it is under the Romanian competence to decide about the international adoptions. Ms Saastamoinen agreed, while recalling the developments in the recent years, namely that, in June 2009, UN Committee on the Rights of the Child has pointed out that an international adoption may in certain situations be in the best interest of a child. For this reason, the UN Committee recommended that Romania "*withdraws the existing moratorium (on inter-country adoptions) as a barrier to the full implementation of Art. 21 of the Convention*".

SG and JLS/D1 consider that the Commission can not to show publicly support for the UN Committee position, saying that adoption is still in the competence of Member States and the Commission should avoid taking a stand on this.

On the other hand, it was clarified that for JLS.E.2, after the pronouncement of the UN Committee, it is not appropriate to endorse the current Romanian law. Participants concluded that, it can be stated that the Commission is aware of the UN Committee views but the policy of having banned international adoption is the solely responsibility of Romania.

### **Agenda points 4 Recognition of adoptions and 5 EU future actions**

The Stockholm Programme and Action Plan do not foresee any explicit measures e.g. to develop European instruments regulating international adoptions. However, the adoptions may be linked with certain actions announced by these policy documents.

The issue of the lack of recognition between Member States of national adoption decisions may be an obstacle to the freedom of movement of the adoptive parents and of the child. The issue will be raised in the context of the Green Paper on the free circulation of civil status documents foreseen in September 2010. Depending of the results of the

public consultation, a legislative proposal may follow but is not expected before 2013. The promotion of the accession of Member States to the revised 2008 Council of Europe Convention on Adoption (dealing with substantive law) was also recalled as part of a process of harmonisation between Member States which will have, in the long term, also a positive impact on the question of the lack of recognition of adoption decisions between EU Member States.

Mr Debongnie/AIDCO inquired if there is a common policy concerning right to adoption of the same-sex couples. Ms Saastamoinen replied that because adoptions fall under the national competence it is currently for them to decide about the matter and the situation varies between Member States. Also the CoE Convention leaves it to the Contracting Parties to decide. When considering the issues of recognition of national adoptions also this aspect has to be taken into account, with reference to Article 21 of the EU Charter of Fundamental Rights.

Finally, the participants were informed that the issue of international adoption will be discussed in the JLS also with the Cabinet of VP Reding.

*(signed)*  
Patrizia De Luca

