

RP

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To : Mrs Gabriela Coman
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From : Hans van Loon, Secretary General
William Duncan, Deputy Secretary General

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Dear Mrs Coman,

As you know, the Secretariat of the Hague Conference has over many years taken a strong interest in the development of the child protection system in Romania, including in particular the development of regulations and controls in the context of the *Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption*. We have also at various times provided assistance, including the organisation in The Hague of two meetings to enable the Romanian Central Authority to discuss matters of mutual concern with certain other Central Authorities appointed under the 1993 Convention. We remain at your disposal to provide whatever advice and assistance we can in the context of the 1993 Convention. The offer to facilitate a further meeting between the Romanian Central Authority and other Central Authorities remains on the table.

In the context of our role in assisting Parties to the 1993 Convention, we are seeking clarification of one aspect of the Draft Law, which we understand is currently being considered by the Romanian Parliament.

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- If our understanding of the Draft Law which is now circulating is correct, the adoption abroad of a child resident in Romania will be permitted only where the adopter or one of the spouses in the adopting family is a grandparent of the child concerned.

Can you confirm that it is the intention of the Romanian Government that intercountry adoption, including intercountry adoptions covered by the Hague Convention of 1993, will be limited to this extremely narrow range of cases?

If so, we must voice concern, both in the light of the spirit of the 1993 Convention, which itself is inspired by the UN Convention of 1989 on the Rights of the Child, and in view of our knowledge, accumulated during years of co-operation with you, of the situation of children in need of a family in Romania. As you know, the 1993 Convention does not impose any obligation on Contracting States to engage in intercountry adoption. It is also based on a subsidiarity principle according to which intercountry adoption may be considered as an option only after the possibilities of placement of the child within the country of origin have been considered. At the same time, the Convention follows the UNCRC in recognising that the child, for the full and harmonious development of his or her personality should if possible grow up in a family environment. It recognises that intercountry adoption may offer this possibility to a child, and in particular it may offer the chance of family life to children for whom the only alternative would be institutional care in the country of origin. To the best of our knowledge there are still in Romania many children who are deprived of family life and, despite the great efforts to promote and support alternative family care within Romania, there remain some children for whom intercountry adoption, properly regulated under the Hague Convention, offers the only prospect of growing up in a family environment.

If this is the case then it is difficult to understand why there is in the Draft Law the limitation - unique in the legislation with which we are familiar - to grandparent adoptions. Very few children in need of an adoptive home will have a grandparent living abroad, and in such rare cases there can be no guarantee that the grandparent will be willing or able to provide a home for the child. We wonder why it is proposed to limit the range of possible adopters in a way that appears to run counter to the interests of a particularly disadvantaged group of children.

Your comments on this would be appreciated.

We would also like to draw to your attention the preparations we are making for the next general review meeting on the operation of the 1993 Convention, which is due to take place in the Spring of 2005. One of the items under preparation is a Guide to Good Practice on implementation of the 1993 Convention. Work has begun on a draft and, we intend to have the draft discussed by a small group of Central Authority and other experts at a meeting to be convened in The Hague probably in September 2004. The draft would then go forward for further discussion at the Spring 2005 meeting. Given your own experience in developing implementing measures, we hope very much that you will agree to take part in this expert group. We will send you more details in due course.

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Yours sincerely,

Hans van Loon
Secretary General

William Duncan
Deputy Secretary General

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