



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Directorate A: Civil and commercial justice  
Unit A.1 : Civil justice

Brussels, 30 March 2021  
JUST.A.1/PDL/cw 2271401  
A/Ares(2021)1800564

Mr Arun Dohle

e-mail: arundohle@gmail.com

Dear Mr Dohle,

Thank you for your e-mail of 12 March addressed to Mr Didier Reynders, Commissioner for Justice and Consumers, which was forwarded to my office for response.

You mention the activities of some EU Member States, which are investigating the circumstances of alleged illegal adoptions carried out in the past. You refer also to the issue of the so-called “adoptions without consent” in the EU Member States.

I have to inform you that these matters are not regulated by EU law. Substantive laws in the matter of adoption are the competence of the Member States, and reflect their own values and traditions. Common minimum standards for adoptions are also dealt with by the 2008 European Convention on the Adoption of Children<sup>1</sup>. This Convention revises an earlier 1967 Convention and introduces a number of new provisions to take into account legal and societal developments. Please note that the 2008 European Convention on the Adoption of Children has been adopted by the Council of Europe, an international organisation which is not part of the European Union legal framework.

As far as the cross-border aspects of adoption are concerned, the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Inter-country Adoption applies. To date this Convention has 103 Contracting Parties including all the Member States of the European Union. The Union is not a Party to the 1993 Hague Convention, which does not allow an international organisation to join. In addition, in the absence of EU legislation on judicial cooperation in relation to adoption the EU has no external competence to become active in this field in the international arena.

Nonetheless, I can highlight that the protection of the best interests of the child is the overriding principle in the 1993 Hague Convention. One of the main objectives of this Convention is to establish safeguards to protect children from abduction, sale and trafficking in the context of inter-country adoption. Moreover, since 2016, the Hague

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<sup>1</sup>Adopted by the Council of Europe in Strasbourg on 27.11.2008

Conference on Private International Law has established a Working Group on preventing and addressing illicit practices in intercountry adoption.

However, it has to be taken into consideration that only around 50% of international adoptions are carried out within the legal framework of the 1993 Convention. Private adoptions, meaning adoptions arranged directly between birth parents and adoptive parents, still permitted in some countries, often lack the safeguards provided by the Hague system to protect the interests of the adopted child.

I hope that this information is of some assistance to you.

Yours sincerely,

(e-signed)  
Andreas STEIN  
Head of Unit