



EUROPEAN COMMISSION

Directorate-General Enlargement

Directorate C - Bulgaria, Cyprus, Malta, Romania, Turkey
Romania Team

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NOTE FOR THE FILE

Subject: non-paper US “Romania’s adoption policy”

Below my comments on the above-mentioned US non-paper:

- **Romanian Government is continuing to review “pipeline” adoption cases, specifically, those that had proceeded to advanced stages before the adoption moratorium was announced.**

This is correct – following EO 121/2001. This concerns some 200 children of which the adoption case was in court. Furthermore the EO allows exceptional cases.

- **In parallel, a draft new adoption law has been prepared, and has been reviewed by EU, UNICEF, USAID, and other experts. If implemented correctly, the new law may significantly reduce costs for prospective adoptive parents as well as the risk of corruption in the adoption process.**

The law is a very general framework, and needs to be supplemented with secondary legislation. This secondary legislation still needs to be developed and approved by Government. The main issue is “the best interest of the child” and intercountry adoption should be subsidiary (meaning after having explored any other suitable manner of care for the child in Romania). This condition can only be fulfilled if proper child protection legislation has been developed.

- **We have urged the GOR to identify resources required to implement the law now and apprise us if assistance is needed.**

Development of administrative capacity is not a “quick fix”. To develop the necessary structures and capacity, which covers all the professional responsibilities involved in the entire adoption process, will require time. The joint position of the donors of 17 December states that “ intercountry adoption should resume only after appropriate administrative procedures are in place with adequately trained staff to ensure the best interests of the child are protected”.

- **We know that many families in the US as well as in the EU are ready to provide loving homes for children who otherwise have no hope. In the interest of these children, we believe the law should be enacted and implemented as quickly as possible, and the moratorium on adoptions should be lifted.**

Indeed, for every “adoptable child” there are world-wide about 50 waiting families. This number is growing rapidly, due to lower fertility, less children available for national adoptions in the “richer” countries, increased focus on parenting by single persons and homosexual couples. In the meantime, intercountry adoptions have become a multi-million business, often corrupted.

Especially over the last four years, during the Reform period, intercountry adoptions have largely replaced national adoptions, for reasons of financial gain. Constant pressure for intercountry adoption has hindered the development of a solid child protection system. With the development of child protection services and social protection, most, if not all, of the children will be able to be either re-integrated into their natural families or be placed in other forms of family type care in Romania.

- **The GOR appears to believe that the EU Commission (and perhaps the member states) does not want the law to be moved forward or international adoptions resumed until broader child welfare reform legislation is adopted.**

The Reform in Child Protection was based on law 25/97 and 26/97. The result of the reform has been a reduction of the number of children re-integrated into their natural family, while more children were placed into foster homes (often pre-adoption) and for adoption (mainly intercountry adoption). Law 25/97 on adoptions now has been abolished and will be replaced by new legislation. This should go together with replacing law 26/97 and put the whole issue into a Children Act (which should ideally deal with issues such as children’s’ rights, parental rights, guardianship, etc.). Without such legislation, the new adoption legislation will still leave children (and their parents) rather unprotected and lead to more intercountry adoptions than appropriate (Romania is the third biggest “supplier” after China and Russia).

- **We would appreciate a clarification of the EU Commission’s position.**

The Commission’s position is stated in the Regular Report 2001, Reform of legislation on international adoptions should be accompanied by development of the appropriate administrative structures and capacity. This should be done prior to international adoptions being resumed.

- **We and the EU are working together with GOR on child Welfare issues and agree there’s a critical need; USG has provided \$15 million to that end.**

The \$ 15 million provided by the US Government is a grant scheme to support the National Strategy on Child Protection and will be implemented by NGOs (Romanian and US).

- **A complete reform of the child welfare system would take years, it would be wrong to have children identified for adoption to suffer in the interim. A continued moratorium would also create potential problems in our Congress at the time of Congressional debates on Romania’s candidacy for NATO accession.**

Reform on child protection is in many judets well underway. With clearer child protection legislation, international support for child protection projects and without

the pressure of intercountry adoptions, child protection can be rapidly redirected to re-integration of children, fostering and national adoption.

- **We believe the new adoption law should be moved forward rapidly, the moratorium for pipeline and other cases lifted, and that our experts should be working with GOR now to define training and other needs to allow the law to be implemented as quickly as possible.**

The US definition of pipeline cases is rather large. They see the start of the adoption process when prospective adoptive parents “subscribe” to adopt a Romanian child. However, an intercountry adoption starts under the Hague Convention only if the child has been repartitioned and matched with the prospective adoptive parents.

The US is a special case, as it is one of the two countries¹ of the world did not sign the Convention on the Rights of the Child. Also, it did not yet ratify the Hague Convention. The US has not yet developed the administrative capacity to implement the Hague Convention (for example to have a Central Authority, which maintains contact with other Central Authorities in countries of origin, instead of individual adoption foundations). Therefore, US experts may not be the appropriate advisors for Romania on this matter.

- **Our contacts with individual EU country embassies in Bucharest leave us convinced that there are many would-be adoptive families in EU countries who share the same anxieties and concerns held by American families who have had their adoption hopes stymied. We therefore urge that you work with us to move the adoption law forward quickly and to expeditiously resolve those pending cases adversely affected by the moratorium. At the same time, we should continue to work together to promote reform of the child welfare system in Romania.**

As mentioned before, the number of prospective adoptive parents is exponentially bigger than the number of children in need of intercountry adoption. The goal has to be to provide families for children and not the other way around.

Pending adoption cases will have to be resolved in a careful way, case by case, in order to respect the Convention on the Rights of the Child and the Hague Convention.

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¹ The other country being Somalia