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Is the UN Convention on the Rights of the Child part of European Law?

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This is a strange issue.

And a very important issue, because where would we be without the UN Convention on the Rights of the Child being part of European Law, the so-called Acquis Communautaire (https://en.wikipedia.org/wiki/Community_acquis). What would be the legal basis, binding, for deciding and implementing policies?

During last week's European Parliament's Petition Committee, while discussing forced adoptions, we were puzzled that the European Commission made no reference whatsoever to the UN Convention on the Rights of the Child (UNCRC).

In 2004, the European Commission wrongly deleted the UNCRC (because obviously it was bothering the adoption lobby, who prefers the Hague Convention).

From Roelie's book: Romania for Export Only (<http://www.roeliepost.com/buy-the-book/>):

Monday, 20 September 2004

Recently several people had again said the UNCRC was not EU acquis. I had ignored it at the beginning, thinking this discussion had long been resolved. But when some days ago again someone expressed doubts, I sent an e-mail to one of my DG Justice contacts. Half jokingly I told her 'To be or not to be acquis, that seems still to be the question for some'. She had replied instantly. To be on the safe side she had checked the acquis list and the UNCRC was no longer there!

She had given me the contact details of one of her colleagues who dealt with the acquis list and after some twisting and turning he admitted the UNCRC had been taken off. It had been DG Enlargement who had wanted an updated acquis list, and during an internal meeting where also the Legal Service was present, the Convention on the Rights of the Child had been taken off the list, as it held no direct obligations for Member States related to their EU Membership. I had called the Legal Service person who had been at that meeting: no reply. I had sent e-mails: no reply.

Of course I went to see the DG Enlargement colleague who had initiated the meeting. The young man told me he had organised the meeting at Landaburu's request. I told him I was quite upset about striking the UNCRC from the acquis, as we had had internal discussions before about this. It was important for my work that the UNCRC was acquis, as otherwise there was no legal basis for the Commission's involvement nor clear benchmarks for the Commission's monitoring of children's rights. His defence was as simple as shocking: children's rights are a grey area... Speechless I left his office, but not without telling him that his position did not seem very European to me.

I had informed some of my colleagues and the hierarchy. They were all of the opinion that this needed formal dealing with. I prepared a note for DG Barbaso's signature addressed to the Director General of DG Justice.

Some weeks later, the UNCRC was put back on the acquis list.

Recently we discovered asktheeu.org (<http://asktheeu.org/>). Through this public website one can ask the EU to disclose documents.

We made a request, and now that internal correspondence about the acquis is now public, read the reply of the Director General of DG Justice – 2004:

“However, at the time Commission services were not aware of a Council document from 1998 on the JHA acquis (JAI 7 ELARG 51) which listed the Convention as being inseparable from the attainment of the objectives of the Treaty on European Union and the Treaty of Amsterdam. As we have now ascertained, this document was approved by Coreper on 3 June 1998 and then went as an “A” item to the Council.

In these circumstances, we will, as you requested in your note, restore the UN-Convention on the Rights of the Child to the list of JHA acquis and inform TAIEX accordingly.”

FULL CORRESPONDENCE: [LINK](#)

(<http://www.asktheeu.org/en/request/580/response/1988/attach/html/2/exchange%20of%20notes%20Barbaso%20Faull%20October%202004.pdf.html>).

ISSUE SOLVED! At least for a while.

Because curiously, last year, we could hardly believe our eyes seeing the UNCRC had again disappeared! Replaced by... indeed, the Hague Convention on Inter-country adoption.

So, ACT wrote a letter to the European Commission. [LINK \(https://www.againstchildtrafficking.org/wp-content/uploads/FINAL-VERSION-Letter-Le-Bail-incl-Annex.pdf\)](https://www.againstchildtrafficking.org/wp-content/uploads/FINAL-VERSION-Letter-Le-Bail-incl-Annex.pdf).

And got a reply [LINK \(https://www.againstchildtrafficking.org/wp-content/uploads/DG-JUST-to-ACT-11-12-2013.pdf\)](https://www.againstchildtrafficking.org/wp-content/uploads/DG-JUST-to-ACT-11-12-2013.pdf): Because of ACT's letter, the Hague Convention was taken off the acquis list because it should not have been there at all!

“But the letter, signed by Finnish Salla Saastamoinen – Head of the Fundamental Rights and Rights of the Child Team of DG Justice, was not so clear about the UNCRC: “

We do not consider the UN Convention on the rights of the child as EU acquis in legal terms because the EU has not ratified it

Not part of the EU *acquis* in legal terms???! But in what terms then?

We are beyond puzzled.

According to the European Commission's Child Rights Coordinator, Margaret Tuite, she included the Hague Adoption Convention 'by mistake' into her list of 'acquis'/legal basis:

European Commission included Hague Adoption Conventi...



Letter ACT to European Commission 8 November 2013 (<https://www.againstchildtrafficking.org/wp-content/uploads/FINAL-VERSION-Letter-Le-Bail-incl-Annex-14.pdf>).

Reply European Commission to ACT 11 December 2013 (<https://www.againstchildtrafficking.org/wp-content/uploads/DG-JUST-to-ACT-11-12-2013.pdf>).

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