

European Commission  
DG JUST  
Ms. Françoise LE BAIL  
Director General  
Rue de la Loi 200  
B – 1049 BRUSSEL

Brussels, 8 November 2013

**Re :** *Acquis Communautaire*

Dear Ms. Le Bail,

I hereby would like to express my concern about the unclear position of DG JUST about the status of the UN Convention on the Rights of the Child (UNCRC) and the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption.

UN Convention on the Rights of the Child (UNCRC)

In 2004 DG JLS removed the UNCRC from the *acquis* list (Annex I), and after a request from DG Enlargement put it back on the list as it was considered “inseparable of the attainment of the objectives of the Union”. (Annex II)

Earlier this year I found online the “EU *acquis* and policy documents on the rights of the child”, which did not list the UNCRC<sup>i</sup>.

In order to verify whether this was a simple administrative omission, our organisation wrote to the Commission’s coordinator for the rights of the child requesting clarification. Her reply, of 3 July 2013, was the EU has not ratified the UNCRC so it could not be considered as EU *acquis*. (Annex III)

Puzzled by this reply, I requested under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, documents which contain a listing of the EU *acquis* for Justice (timeframe 2003 0 2013). As reply I received a new *acquis* list.<sup>ii</sup>

That *acquis* list does list the UNCRC under the chapter Fundamental Rights.

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Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption

The document "EU *acquis* and policy documents on the rights of the child", drafted by the Commission's child rights coordinator, also lists the Hague Convention as part of conventions and instruments to which new Member States must accede.

The latest *acquis* list, which I received under regulation 1040/2001, does not mention the Hague Convention.

As far as I understand, the 1993 Hague Convention on Adoption is not part of the *acquis*, as the Council's Working Party on Civil Law, on 10 November 2010, informed the US that the EU has no competence on matters related to intercountry adoption.

I would like to know when and how the decision was taken to put the Hague Convention on the *acquis* list.

Furthermore, I kindly request you to provide clarity on these issues and to ensure that the *acquis* list as published on DG JUST's website contains the correct information.

Looking forward to your reply,

Yours sincerely,

Arun DOHLE

Encl.: 3

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<sup>i</sup> [http://ec.europa.eu/justice/fundamental-rights/files/eu\\_acquis\\_2013\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/eu_acquis_2013_en.pdf)

<sup>ii</sup> [http://www.asktheeu.org/en/request/eu\\_acquis\\_justice\\_and\\_home\\_affai#outgoing-1928](http://www.asktheeu.org/en/request/eu_acquis_justice_and_home_affai#outgoing-1928)

M. P.J. KUIJPER



EUROPEAN COMMISSION

Directorate-General Enlargement

The Acting Director-General

05 OCT. 2004

Brussels,  
ELARG/BAR D(2004) 104459

NOTE FOR THE ATTENTION OF MR. JONATHAN FAULSTICH  
DIRECTOR GENERAL DG JAI

SERVICE JURIDIQUE	
ARR	
N°	2575

*Mr. Jonathan Faulstich*

Subject: JAI-Acquis – status of the UN Convention on the Rights of the Child (UNCRC)

The UN Convention on the Rights of the Child was placed on the JAI-Acquis list in 1998, as part of the Human Rights related instruments to which candidate countries must accede. This Convention, like other UN Conventions, was considered “inseparable from the attainment of the objectives of the Union”.

We have noted that the October 2003 and September 2004 JAI-Acquis-Updates no longer list the UNCRC among the conventions to which the candidate countries must accede. Since the UNCRC is one of the main human rights conventions, we would request to restore it on the JAI Acquis-list.

*The importance of this has been stressed by Commissioner Delors in his parliamentary hearing*

*Fabrizio Barbaso*  
Fabrizio Barbaso

cc. Mr. Michel PETITE (Legal Service)



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE AND HOME AFFAIRS

The Director-General

29 OCT. 2004

Brussels,  
JAI/A/2/WH-mc D (2004) 9972

2852

**NOTE FOR THE ATTENTION OF MR FABRIZIO BARBASO  
DIRECTOR-GENERAL F.F., DG ELARG**

**Subject:** JHA acquis – status of the UN Convention on the Rights of the Child

**Ref.:** Your note of 5 October ELARG/BAR D(2004) 104459

Thank you for your note concerning the inclusion of the above-mentioned Convention in the list of JHA acquis.

To prepare for the accession of the new Member States, DG ELARG compiled in 2003, in close cooperation with concerned line DGs and the Legal Service, a list of international conventions that new Member States should accept upon accession. After discussions with the Legal Service, it was agreed not to include on the list the UN Convention on the Rights of the Child as no direct obligations for Member States could be clearly derived from EU legislation in this area.

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.

Jonathan Faull

Cc : ~~Mr Petite~~ (Legal Service)  
Mr Jung Olsen (TAIEX)



Roelie Post &lt;roelie.post@gmail.com&gt;

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## UN Convention on the Rights of the Child

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**Margaret.Tuite@ec.europa.eu** <Margaret.Tuite@ec.europa.eu>

3 July 2013 09:48

To: roelie.post@gmail.com

Cc: Salla.Saastamoinen@ec.europa.eu, Agatte-Patricia.RECIL@ec.europa.eu, JUST-CHILDREN-RIGHTS@ec.europa.eu

Dear Roelie,

At present, only countries may be parties to the UNCRC. The EU has not ratified the UNCRC so it cannot be considered as EU acquis. As you probably know, DG JUSTICE has an overall coordination role for the rights of the child, within the European Commission, as set out in the 2006 Communication. I attach a link to a list of EU acquis and policy documents on the rights of the child that you may find of interest. In the introduction, you will see some references to how we use the UNCRC in our work.

[http://ec.europa.eu/justice/fundamental-rights/files/eu\\_acquis\\_2013\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/eu_acquis_2013_en.pdf)

Best regards,

### **Margaret Tuite**

Commission coordinator for the rights of the child

### **European Commission**

DG JUSTICE - Unit C1 Fundamental rights and rights of the child

M059 5/80

B- 1049 Brussels/Belgium

+32 2 2953567

[margaret.tuite@ec.europa.eu](mailto:margaret.tuite@ec.europa.eu)

7<sup>th</sup> European Forum on the rights of the child: [http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/seventh-meeting/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/seventh-meeting/index_en.htm)

EU children's rights website: <http://ec.europa.eu/0-18/>

Children's Rights on Europa: [http://ec.europa.eu/justice/fundamental-rights/rights-child/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm)

MS Fundamental Right pages: [https://e-justice.europa.eu/content\\_fundamental\\_rights-176-en.do](https://e-justice.europa.eu/content_fundamental_rights-176-en.do)

DG Justice calls for proposals (grants): [http://ec.europa.eu/justice/newsroom/grants/index\\_en.htm](http://ec.europa.eu/justice/newsroom/grants/index_en.htm)

**From:** RECIL Agatte Patricia (JUST)  
**Sent:** Wednesday, July 03, 2013 9:07 AM  
**To:** TUIITE Margaret (JUST)  
**Subject:** FW: UN Convention on the Rights of the Child

Dear Margaret,

Can you please give info on this? Thanks.

Agatte

**From:** Roelie Post [<mailto:roelie.post@gmail.com>]  
**Sent:** Monday, July 01, 2013 9:45 PM  
**To:** RECIL Agatte Patricia (JUST)  
**Subject:** Re: UN Convention on the Rights of the Child

Dear Ms. Recil,

I kindly ask you to acknowledge receipt of my mail, as well as letting me know to whom it was forwarded for reply.

Thanks in advance,

Roelie Post

On 26 June 2013 14:49, Roelie Post <[roelie.post@gmail.com](mailto:roelie.post@gmail.com)> wrote:

Dear Ms. Recil,

I received an automatic reply that Ms. Saastamoinen is on leave.

May I ask you to forward this to someone else in your unit?

Thanks in advance,

Roelie Post

----- Forwarded message -----

From: **Roelie Post** <[roelie.post@gmail.com](mailto:roelie.post@gmail.com)>

Date: 26 June 2013 14:21

Subject: UN Convention on the Rights of the Child

To: [Salla.Saastamoinen@ec.europa.eu](mailto:Salla.Saastamoinen@ec.europa.eu)

Dear Ms. Saastamoinen,

I am interested to know the status of the UNCRC. Is it part of the acquis list of DG JUST, or another DG?

If so, can you please provide me a link where I can find that info, as I could not find it online.

Thanks in advance,

Roelie Post

<http://againstchildtrafficking.org>

<http://www.romania-forexportonly.eu>

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We are entirely grateful for donations so that we can continue and expand our work

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