

**IN THE BEST INTEREST OF THE CHILDREN?
ROMANIA'S BAN ON INTER-COUNTRY ADOPTION**

HEARING
BEFORE THE
**COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

SEPTEMBER 14, 2005

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September 14, 2005

COMMISSIONERS

	Page
Hon. Christopher H. Smith, Co-Chairman, Commission on Security and Cooperation in Europe	1
Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe	4
Hon. Joseph R. Pitts, Commissioner, Commission on Security and Cooperation in Europe	9
Hon. Richard Burr, Commissioner, Commission on Security and Cooperation in Europe	13

MEMBERS

Hon. Jeb Bradley, Member of Congress (NH-1)	6
Hon. Anne M. Northup, Member of Congress (KY-3)	7

WITNESSES

Hon. Maura Harty, Assistant Secretary for Consular Affairs, U.S. Department of State	10
His Excellency Sorin Ducaru, Ambassador of Romania to the United States	20
Elliot Forsyth, prospective adoptive parent	35
Debra Murphy-Scheumann, President, Board of Directors, Joint Council on International Children's Services	40
Dr. Dana Johnson, Director, International Adoption Clinic, University of Minnesota	44
Thomas Atwood, President and CEO, National Council for Adoption	46

APPENDICES

Prepared statement of Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe	54
Prepared statement of Hon. Joseph R. Pitts	56
Prepared statement of Hon. Maura Harty	58

IV

	Page
Prepared statement of His Excellency Sorin Ducaru	62
Prepared statement of Elliot Forsyth	68
Prepared statement of Debra Murphy-Scheumann	72
Prepared statement of Dr. Dana Johnson	93
Prepared statement of Thomas Atwood	98
Material submitted for the record by Hon. Christopher H. Smith	102
Statement submitted for the record by Hon. Dan Burton, Member of Congress (IN-5)	103
Statement submitted for the record by the House of Angels (Gaesti, Romania)	105
Letter submitted for the record by the Center for Adoption Policy	110
Statement submitted for the record by the Romanians Worldwide Group	118
Statement submitted for the record by For the Children- SOS	120
Letters submitted for the record from prospective adoptive parents	123

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COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The Commission met in room 2237, Rayburn House Office Building, Washington, DC, at 10 a.m., Hon. Christopher H. Smith, Co-Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Christopher H. Smith, Co-Chairman; Hon. Benjamin L. Cardin, Ranking Member; Hon. Joseph R. Pitts; and Hon. Richard M. Burr.

Members present: Hon. Jeb Bradley, Member of Congress (NH-1) and Hon. Anne M. Northup, Member of Congress (KY-3).

Witnesses present: Hon. Maura Harty, Assistant Secretary Consular Affairs, U.S. Department of State; His Excellency Sorin Ducaru, Ambassador of Romania to the United States; Elliot Forsyth, prospective adoptive parent; Debra Murphy-Scheumann, President Board of Directors, Joint Council on International Children's Services; Dr. Dana Johnson, Director, International Adoption Clinic, University of Minnesota; and Thomas Atwood, President and CEO, National Council for Adoption.

**STATEMENT OF HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. The hearing will come to order, and good morning, everybody. In 1989, the world watched in horror as images emerged from Romania of more than 100,000 underfed, neglected children living in hundreds of squalid and inhumane institutions throughout the country.

Six weeks after the end of the dictatorial regime of Nicolae Ceausescu, I and members of my staff, Dorothy Taft and Dennis Curry, who is working on my subcommittee staff, the Africa, Global Human Rights and International Operations Subcommittee, who was then working in Romania, actually went to those various orphanages throughout Bucharest. We saw children lined up by the dozens, who had been neglected. Hard-pressed workers were trying to help those children. The visions of that, and as the father of four myself, I was greatly moved to look at those little children who weren't even being turned with regularity, weren't having their

diapers changed, and weren't being nurtured in the way that a child should be helped.

They were the littlest victims of Ceausescu's policies, which undermined the family and fostered the belief that children were often better cared for in an institution rather than by their families.

American citizens responded to this humanitarian crisis with an outpouring of compassion. For years now Americans have opened their hearts, their checkbooks, and have committed their vacation days offering their own labor to help Romania improve conditions in these institutions.

Many families also opened their hearts to one or more of these children through adoption. Between 1990 and 2004, 8,213 Romanian children found permanent families in the United States, and thousands of others joined families in Western Europe.

The legacies of Ceausescu's rule continue to haunt Romania and, when coupled with widespread poverty, have led to a continued abandonment of Romanian children. According to a March 2005 report by UNICEF, "Child abandonment in 2003 and 2004 in Romania was no different from that occurring 10, 20, and 30 years ago."

UNICEF reports that more than 9,000 children a year are abandoned in Romania's maternity wards or pediatric hospitals. According to the European Union, 37,000 children remain in institutions. Nearly 49,000 more live in non-permanent settings in foster care or with extended families. An unknown number of children live on the streets.

As a participating State of the Organization for Security and Cooperation in Europe, the Romanian Government agreed in 1990 to the Copenhagen Document, that would "accord particular attention to the recognition of the rights of the child, his civil rights, and his individual freedom, his economic, social, and cultural rights, and his right to special protection against all forms of violence and exploitation."

Romania agreed further to "recognize in their domestic legislation the rights of the child as affirmed in the international agreements to which they are parties." Romania is a party to the Convention on the Rights of the Child, and, equally important, it is a party to the Hague Convention on Intercountry Adoption.

Our distinguished witnesses will provide their analyses of whether Romania is fulfilling its commitments under these conventions.

Sadly, the corruption which has plagued Romania's economy and governance has also seeped into its adoption system.

The corruption needed to be rooted out. By using corruption as the hook, the question of Romania's institutionalized children came under the scrutiny of an avowed foe of intercountry adoption, Baroness Emma Nicholson.

As a member of the European Parliament who, until recently, served as rapporteur for Romania's accession to the European Union, Lady Nicholson proudly asserts that she has "led the fight against the trade in children known as intercountry adoption."

I would just note here parenthetically that I am the prime sponsor of the Trafficking Victims Protection Act of 2000, as well as the 2003 reiteration of that act and expansion, and the legislation that likely will be marked up tomorrow, that will further expand U.S.

efforts to try to mitigate and end the human slavery known as human trafficking.

So I take a back seat to no one in trying to fight the scourge of trafficking of anyone—children, newborns, women, or anyone else. But adoption is not trafficking.

Let me continue. Lady Nicholson stated, “It was a mistake from the beginning to assume that for a child”—and I find this very odious, but this is her quote—“a foreign adoptive family is better than a family which cannot care for him or her,” and she says this is totally false.

Lady Nicholson has no facts to support her allegations as to the dire fate of children adopted internationally, and indeed her allegations have been refuted by UNICEF.

Lady Nicholson’s position as rapporteur allowed her to pressure the Romanian Government into declaring a moratorium on international adoptions in 2001 and in June 2004 to enact a law banning intercountry adoption except in the case of biological grandparents living outside the country.

Romania’s new law on adoptions, and others addressing child protection, create a hierarchy of placement for abandoned children, including domestic adoption, foster care, and institutionalization. This law is based upon the misguided proposition that a foster family or even an institution is preferable to an adoptive family outside the child’s country of birth.

Sadly, Romanian children are domestically adopted each year, the remaining 8,000 abandoned children yearly have been sentenced to a life in foster care, usually in large group homes, or in institutions.

Denial of a permanent family will fall hardest on the Roma children, who are least likely to be adopted in-country due to pervasive societal prejudice against the Roma minority.

Prior to enactment of the anti-adoption law, approximately 1,700 adoption cases were registered with the Romanian Government. Of these, 200 children have been matched with adoptive parents in the United States and the remainder with parents in Western Europe.

Dozens of these waiting parents are in this hearing room today. I welcome you and I thank you for traveling to be here with us today. They have come from across the United States to let the president, President Basescu, know that they are still waiting to adopt their children.

Many other prospective adoptive parents have contacted the Helsinki Commission. One couple, Peter and Julie Heisey, are Americans who live in Timisoara, Romania. They have cared for a little girl in their home since 2001, when she was 10 days old. The baby’s biological mother was not able to keep her, and the biological mother’s stepfather threatened to throw the baby out into the street.

The Heiseys began the process of adopting this child years ago. They have jumped through virtually every bureaucratic hoop, including several months of officials from the child protection service trying to get the birth mother to visit the child in their home, only to finally acknowledge that she had no interest at all in caring for the child.

This child has been in the Heiseys' home for virtually all of the 4-years of her life and knows no other parents. The Heiseys are devoted to her, want her to be their daughter forever, and now are told that because of the new law on adoption, this will never be.

The Tolleson family from Arkansas also wrote us about an 11-year-old girl named Andrea that they have been trying to adopt for 5 years. They talk to Andrea every Saturday. As any loving parent would do, they send letters and packages to her, and she sends them drawings that they display in their home. They have traveled to Romania twice to be with her.

Andrea spent the first 4 years of her life in the maternal hospital where she was abandoned at birth. When she was 4, the government sent her back to her biological family, who for a month left her alone in the dark in their shantytown, without adequate food and attention. Eventually, near death, Andrea was taken back to the hospital. At age 5 she was moved into her current orphanage.

This hearing today asks the question: How can it possibly be in the best interest of these children to deny them the chance to grow up in families who love them so much and want them? Within the next week I will introduce a resolution in Congress calling on the Romanian Government to process these pipeline cases and to reverse their anti-adoption law.

Who in the European Union will stand with Members of Congress to protect these defenseless children? All children deserve better than to spend their lives in group homes or warehoused in institutions where their physical, psychological, emotional, and spiritual well-being is critically endangered. It is indeed tragic if the price of admission to the European Union is the sacrifice of thousands of Romanian children.

I'd like to now yield to my good friend and colleague, Mr. Cardin, for any opening comments he might have.

**STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING
MEMBER, COMMISSION ON SECURITY AND COOPERATION
IN EUROPE**

Mr. CARDIN. Thank you very much, Chairman Smith.

This is exactly what the Helsinki Commission should be doing. The OSCE operates through a consensus process. Each of the countries that are part of the Helsinki process have agreed to certain commitments, and it gives any member state the right, indeed the obligation, to challenge actions in any country that we believe are inconsistent with the commitments and the spirit of the OSCE.

So, Chairman Smith, I thank you. You and I have talked about this, I think—what the effectiveness of the Helsinki Commission has been in bringing up specific cases that we think are inconsistent with the obligations under the Helsinki Accords.

If you would permit, I'll put my full statement in the record, and let me just summarize, if I might.

Ambassador Harty, I want to welcome you here and thank you for your work.

And I know that we have a distinguished panel of people who know firsthand what is happening in Romania, and we thank you all for being here.

As Chairman Smith has noted, it's been over 15 years since the fall of the Ceausescu regime in Romania, and none of us will ever forget the faces of the children that we saw when the regime came down. I want to thank the people in the international community for coming to the rescue of the children in Romania.

We had over 8,000 families here in America since 1990 that have adopted Romanian children, and that was the right response, to open up the families and hearts internationally to rescue children. It was in their best interest, and we did the right thing.

We are also very proud of the reforms that have taken place in Romania over that period of time. It hasn't been easy. Chairman Smith and I have both been to Romania, and we've seen firsthand the difficult challenges and the political challenges. But Romania has been on a course of reform that we think is the right way to reform their political and economic system and open up their system to review on human rights issues.

And we also understand concerns on international adoptions. We understand those concerns and, certainly, the right to protect children from being abused.

But I want to just underscore the point that Chris Smith has made.

This nation has been in the forefront of protecting children from trafficking. Chris Smith has been the leader in our nation on preventing children from being abused through trafficking. So we understand firsthand concerns and have been in the forefront and leadership.

But the bottom line on children who currently do not have permanent homes—and in Romania today, as I understand it, it's in excess of 80,000 children that we know of that are not in permanent homes—about half are in institutions, half are in what is here called foster care, and there's a dire need for permanent family placement.

We also understand that there are hundreds of pending cases where matches have been made, that are in the pipeline, in regards to adoptions here in the United States and thousands internationally.

So we have concern about this new law and the motivation of this new law. We believe it has a lot to do with the pressure within the European community, and we just think that's wrong.

We believe that Romania must adopt laws that protect children in adoption; we have no problem with that. But the question is whether the law is focused on what's in the best interests of the children or whether it's politically motivated and will harm children within Romania.

So that's the framework in which we're holding this hearing. I look forward to hearing what we're doing in the State Department, I look forward to hearing the experts, and I agree with Chairman Smith: I think it's important for our Commission to speak out as to what Romania should be doing in order to protect what's in the best interests of the children of their country.

Thank you, Mr. Chairman.

Mr. SMITH. Commissioner Cardin, thank you very much for your eloquent statement and for your leadership.

You know, this—and I say for all assembled: This is one of those issues—and there are several human rights issues like this—where Mr. Cardin and I, Democrat/Republican, there is no space between us, so we are speaking out for children. And he put it so well: We have zero tolerance when it comes to trafficking.

But adoption, intercountry adoptions, properly done, it is a scandal to suggest that that is trafficking. That is: building loving homes.

I'd like to yield to Mr. Bradley, Jeb Bradley, who has been speaking out very forcefully for some of his own constituents who have been marked by this anti-adoption law.

Mr. Bradley?

**STATEMENT OF HON. JEB BRADLEY,
MEMBER OF CONGRESS (NH-1)**

Mr. BRADLEY. Thank you very much, Mr. Chairman.

It's a pleasure to be able to call you "Mr. Chairman" again, and I thank both you and Congressman Cardin for your leadership on this issue and, obviously, for many, many years of hard work.

I have come to this issue much more recently, and I'd like to talk about a specific issue of pipeline cases. A family in my congressional district, we actually approached them after reading their story in the newspaper, about the bureaucracy that was involved. As we became more and more involved with it, I had the opportunity on many occasions to speak with Ambassador Ducaru and met with President Basescu and Prime Minister Nastase and talked about how we could resolve the 184 pending pipeline cases.

And those are cases where American families—as many of you in this room know because you're adoptive parents already of Romanian children, as the one family that we approached already had a Romanian child, a son—have had the paperwork through the approval process and but for the last stamp of being able to leave the country, once the law changed, those adoptions—the 184 cases, and it's about 1,000 overall in other different countries—have been put on hold.

And these families, as everybody in this room knows, have invested so much love, time, commitment, traveling to Romania in many instances, meeting their prospective children, and have invested as a family in these orphans that are in—as you so eloquently describe—group homes.

And when I had the opportunity to meet this one constituent—and, through her, several other families—I know firsthand that these are loving parents, ready to establish loving homes in our country, and there is a track record of having done so and done so wonderfully.

And none of us can tolerate trafficking, and once again I congratulate you for your leadership, Chairman Smith, in highlighting and doing something about this terrible issue. But as you so correctly note, these intercountry adoptions, with the track record that's been established, are not trafficking. It's a great, wonderful story for the families and the children who are so disaffected.

After having spoken with President Basescu in March, I received a commitment that the pending cases, the pipeline cases, would be dealt with expeditiously, as soon as the European Union vote had

happened. And so I am here again today to urge my friend, Ambassador Ducaru, to help us help you break that logjam.

Ambassador Ducaru took me aside for a few moments and spoke about what is currently happening in his country, and I hope that he'll talk about that when he is on the panel. If what is indicated to me happens, I think it would be a good step in trying to resolve these pipeline cases.

Beyond that, I wouldn't want to comment on the law, on the adoption law. My focus has been on the pipeline cases, those cases that have been previously approved and should be completed as expeditiously as possible. I look forward to Ambassador Ducaru's testimony and working with you, Mr. Chairman, with you, Mr. Ambassador, to resolve this very difficult issue, which has risen to a level that the House, at least, has taken action to make a very firm statement that the pipeline cases need to be resolved, and I look forward to helping to resolve them.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Bradley, thank you very much.

I'd like to now recognize Anne Northup, distinguished member of the Appropriations Committee, former member of this Commission, gentlelady from Kentucky.

**STATEMENT OF HON. ANNE M. NORTHUP, ANNE M. NORTHUP,
MEMBER OF CONGRESS (KY-3)**

Mrs. NORTHUP. Thank you very much.

I'm delighted to be here today to add my voice and concern to the current situation.

Mr. Chairman, as a Member of Congress and a former member of the Helsinki Commission, I am committed to embracing the humanitarian challenges that we face. As an adoptive parent myself, I know the joy that an adoptive child brings. As we consider the benefits of adoption to both adoptive families and adopted children, we must eliminate barriers and the stigma of adoption.

Hopefully this hearing will raise the level of awareness of the many children in the United States and Romania who lack loving homes and families. We must honestly confront the reasons why there are still families here in the U.S. waiting to finish adopting their children from Romania since 2001 and what we need to do to reestablish the relationship we had with Romania regarding intercountry adoption.

Let me first say to the Romanian Ambassador here today: It is a privilege and an honor to be able to adopt a child from Romania. I have a constituent here from Louisville, KY, who is named Karen Barrentine. Karen was in the process of adopting a child in 2001 when the moratorium began. She still visits her child regularly in Romania, making several trips a year, as the child remains in an orphanage today.

Her daughter, Beta, was 3 years old when she began the adoption process. That was in the year 2000. She will be turning eight this November. That is more than 4 years of the most important time in her life that she has spent in an institution instead of with the mother that loves her. That is four Christmases, four birthdays, four summer vacations—time that can never be replaced.

And let me tell you, there is no time that goes by quickly when you are waiting to take home an adoptive child. Every day you have to wait for the process to be completed is painful. I remember those days myself. I cannot imagine still waiting after all this time or what these 4 years must have been for these families and for these children.

Karen is now considering purchasing a home in Romania just to be closer to her daughter and has even started a foundation in Romania to provide education and other services to additional Romanian orphanages.

What is truly incredible is that Karen and many of the other pending adoptive parents refuse to give up on their efforts and the efforts of our two governments to work out the approximately 200 pipeline cases put on hold since 2001. They are counting on us. They don't want excuses, they don't want conversation; they want us to work out these problems.

I have written letters, with other Members of Congress, to President Basescu and written letters more recently to Secretary Condoleezza Rice, to some of the other E.U. Members of Parliament. We have asked questions, we have had meetings, and we have written these letters to government officials, but basically we are right where we were 5 years ago. It cannot go on.

All of us on this panel want what is in the best interests of children. As a party to the Hague Convention on Intercountry Adoption, placing a child with a permanent family is the priority. Domestic adoption is the first option, and then international adoption. But I do not understand the backward steps that Romania has taken recently to prevent this and all other options.

I have heard and seen from witnesses' testimony there has been pressure put on the Romanian Government by one woman, Baroness Emma Nicholson, a member of the European Parliament and former Romania rapporteur, who simply claims that intercountry adoption is totally akin to child trafficking.

That is breathtaking, that that sort of statement is allowed to stand. This is truly unfortunate, and these claims do not help either side in trying to make the process more safe and accessible for the child.

That's what this is about—it's for the child. I understand that as Romania is being considered for membership in the E.U., the government is trying to appease all the Members of the European Parliament, in particular their rapporteur. But in doing this, I would ask both the Romanian Government and the European Parliament to consider the implications of their actions in allowing the actions of this person on the children, the effect it is having on the children of Romania, especially the 200 who already technically have homes, that are waiting to be placed.

Mr. Chairman, thank you for the time. I want to also add that I am so pleased the Helsinki Commission is taking up this issue, this large portfolio of humanitarian security issues. I cannot imagine a greater way to make a difference in the lives of citizens here and in Europe than to facilitate the permanent placement of children in loving, safe homes.

Thank you.

Mr. SMITH. Thank you very much, Congresswoman Northup.

I now would like to recognize Commissioner Pitts, who has been a stalwart on human rights and, like myself and Mr. Cardin, has been to Romania on many occasions, has been to many of the homes where abandoned children have been helped, particularly by faith-based organizations, most recently in Timisoara, but I know that Mr. Pitts has been there many times.

I yield such time as he may wish.

**STATEMENT OF HON. JOSEPH R. PITTS, COMMISSIONER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. PITTS. Thank you, Mr. Chairman, for holding this important hearing.

I will submit my full statement for the record, but let me just make a few comments.

As you well know from your leadership on adoption issues, there are many wonderful families in the United States who are waiting to give Romanian children a loving home. It is deeply disturbing that the apparent biases of one or two individuals in the European Union are allowed to negatively affect the lives and futures of tens of thousands of children in Romania.

These individual biases that are holding hostage the lives of many children must be strongly addressed by the European Union and policies must be changed so that thousands and thousands of children in Romania have the opportunity for a better life.

I believe that not only are the limits of the new intercountry adoption law adverse to the spirit and tenets of both international child welfare treaties to which Romania is a signatory, it also does not provide a means by which the 200 cases previously processed under the Emergency Ordinance may be completed.

Unfortunately, these children have now waited an interminable period to be placed with a loving family. Therefore, it is my hope and the hope of all Members of the Congressional Coalition on Adoption that the Romanian Government will develop a transparent system for reviewing these cases and processing adoptions that were qualified under the Special Ordinance prior to its suspension.

In addition, I hope that we, as Members of Congress, who care deeply about children and about the country of Romania, can work together with the leadership of the country to reverse this law, that is so damaging to the children's health and welfare.

I look forward to the testimony.

Thank you, Mr. Chairman, for scheduling this hearing. I yield back.

Mr. SMITH. Thank you.

Before I introduce our first distinguished panelist, Ambassador Harty, let me just state for the record that the Commission extended invitations to three representatives from the European Union to testify today about the E.U.'s position on intercountry adoption. All three declined to come.

Yesterday the Commission received a letter from the Delegation of the European Commission to the United States, which I want to read in pertinent part:

"I regret that we will not be able to provide an expert.

However, the main elements of our position are well-estab-

lished. The European Commission welcomes the new Romanian legislation as paving the way for alternative care of children deprived of their families. This approach, focusing on the interests of the child, is in line with the EU-acquis and with Romania's obligation under the U.N. Convention on the Rights of the Child. It represents an efficient legislation to avoid trafficking children and other forms of abuse."

The entire letter will be submitted for the record, and this is the all-too-clear backdrop for our discussions.

Now I will go to Ambassador Harty.

Parenthetically, I was selected by President Bush, 41, to give the speech at the United Nations on behalf of the U.N. Convention on the Rights of the Child, which we have not ratified. It had some problems with it, but it by and large was, I think, a very good document.

I've read, from cover to cover, that convention—it was more than a decade in the making—and nowhere in that document did I see an anti-adoption bias in spirit or in letter.

So I find it a total misread, and I would hope that at a future hearing members of the European Commission—and that would include Lady Nicholson—would avail themselves of an opportunity to say how they read that into this document.

And added to that, as I said earlier, the Hague Convention on Intercountry Adoptions, also multiple years in the making, is a document, is a covenant, to which the European countries, many of which, have acceded to and agreed to, as has the United States in the year 2000. So it is baffling in the extreme and very disappointing.

Let me now introduce our witness from the Bush administration, Assistant Secretary Maura Harty, who has served as the assistant secretary of Consular Affairs since November 2002. Immediately prior to assuming this position she served as the executive secretary of the Department of State.

Ambassador Harty entered the Foreign Service in 1981. Among her many assignments, Ms. Harty has served as the U.S. Ambassador to Paraguay and as the Managing Director of the Directorate of Overseas Citizen Services, where she created the Office of Children's Issues.

The establishment of that office focused attention and resources for the first time on the tragic problem of international parental child abduction. She is a true expert and a great leader in this field.

Ambassador Harty, thank you for joining us today, and please proceed as you wish.

**STATEMENT OF HON. MAURA HARTY, ASSISTANT SECRETARY
FOR CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE**

Amb. HARTY. Thank you so much, Mr. Chairman. I appreciate very much the opportunity today to join in this conversation and to describe and discuss with you the efforts of the Department of State on behalf of American families and Romanian children in need, to urge the Government of Romania to live up to its international treaty commitments and to allow intercountry adoptions.

The Department of State is committed to fostering an international environment for intercountry adoptions that protects the interests of orphaned and abandoned children, their birth parents, and American families. Romania's child welfare and adoption systems are of continuing concern to the Department of State.

In 2001, the Government of Romania imposed a moratorium on intercountry adoptions. This action was taken in response to concerns in the U.S. Government and elsewhere about the Romanian adoption system as it existed prior to 2001.

Specifically, a joint USAID and U.S. Department of Health and Human Services report on intercountry adoption in Romania, published in January 2001, stated in part: "The nature of the child welfare services in Romania was susceptible to corrupt practices, and many of the financial resources generated for child protection programs through the intercountry adoption process were being misappropriated."

The report also stated that Romania had "virtually uncontrolled adoption activities that allowed prospective adoptive parents to fly to Romania and adopt directly from the birth parents or orphanage officials, and there was very little focus on the use of child-centered adoption procedures."

Clearly Romania's previous adoption laws failed to provide child welfare protection, and reform of the system was imperative. To that end, the United States, UNICEF, and other countries and organizations provided suggestions and guidance to the Government of Romania as it worked to craft a revised adoption law that would meet international standards.

Our objectives have been to restore transparency, improve the Romanian child welfare system so that it meets international standards, and lift the intercountry adoption moratorium as quickly as possible.

The department's efforts took on greater urgency and importance in June 2004 when the Government of Romania passed an adoption law that effectively bans intercountry adoptions in Romania by restricting such adoptions to the child's biological grandparents. This legislation went into effect on January 1 of 2005.

Because the current legislation failed to include a mechanism for processing cases that were registered by Romanian officials during the moratorium, its passage effectively froze action on such cases. Regrettably, this legislation is so restrictive that it has ended up harming the very children and families it ostensibly was designed to protect. Children continue to face long-term institutional care, the least desirable outcome.

Romania is a party to the Hague Convention on Intercountry Adoption and has therefore agreed to certain international standards and principles, one of which is that intercountry adoption is a legitimate option for children who cannot find permanent placement in their country of origin.

The Romanian Government's current adoption law, by effectively closing off this option, runs counter to this principle and to Romania's treaty commitment. Furthermore, the Romanian Government's handling of international adoption issues over the past 4 years has created an impasse for hundreds of children in need of families.

I think it important to describe to you in real terms the impact of the moratorium here in the United States. In fiscal year 2004, the Department of State issued almost 23,000 immigrant visas to adopted children worldwide. Almost 23,000. Our Embassy in Bucharest issued only 57 immigrant visas to Romanian children adopted by Americans.

Since January 1, 2005, our Embassy in Bucharest has issued precisely one immigrant visa to an adopted child. Since the moratorium began, the only immigrant visas we have been able to process have been on behalf of children who were registered for intercountry adoption before the moratorium was put in place.

As previously mentioned, while the moratorium was in effect between 2001 and 2004, until passage of the current adoption law, a court order required that the Government of Romania continue to register applications to adopt Romanian children from families outside Romania, including from the United States.

There are approximately, as we've heard this morning, 200 registered cases that involve U.S. families. Looking for a reasonable solution to these cases has been the primary focus of the department's most recent efforts.

The U.S. Government has repeatedly sought commitments from both the current and former Romanian Governments that they would process these pending cases to conclusion.

The matter was raised in a March 2005 meeting between President Bush and President Basescu. Secretary of State Rice discussed this matter with the Romanian foreign minister in May 2005. Past U.S. Ambassadors to Romania and other U.S. Embassy officials in Bucharest have repeatedly discussed this issue with Romanian officials.

At every opportunity, the U.S. Government has impressed upon the Government of Romania the importance we attach to processing the pending cases to conclusion in a legal, transparent, and expeditious manner.

Despite periodic commitments to establish a mechanism to resolve the pending cases, the Romanian Government has taken only tentative, intermittent steps. In fact, Romanian officials have offered many promises, but there has been little or no follow-through.

For example, in late 2004, then Prime Minister Nastase of Romania and Raffarin of France publicly suggested the creation of an international commission to review the pending cases. This did not happen under the former Romanian Government, and its successor similarly has not pursued it.

In March 2005, Romanian President Basescu, during a visit to Washington, met with a number of American families whose adoptions are still pending, and he committed to pursuing a solution to the pending U.S. cases immediately, but so far we have seen no such action.

I traveled to Romania 2 months later to followup on that meeting and met with President Basescu, his foreign minister, and other officials of the Government of Romania. My message was clear: We need to resolve the pending intercountry adoption cases just as soon as possible.

I received assurances from the Romanian officials that they are committed to resolving intercountry adoptions. I assured them that: Hope is not a policy, we need to get this done.

The Romanian Government has asserted that its adoption law and its failure to proceed with pending cases are being driven by concerns over Romanian accession to the European Union. It is the understanding of the Department of State, however, that there is no European Union law or regulation restricting intercountry adoptions to biological grandparents or requiring that restrictive laws be passed as a prerequisite for accession.

All current E.U. member states, with the exception of Ireland, have ratified the Hague Convention. The department has sought clarification from the European Union on its stance with regard to Romania and its adoption legislation.

I am hopeful that the European Union will be able to shed light on what are and are not the actual adoption-related requirements, if any such requirements exist for E.U. candidate countries. I will travel to Europe later this afternoon, where I will once again seek clarity on this issue.

The fact remains that there has been little real progress. This is a humanitarian issue, a child welfare issue. Hundreds of Romanian children are being denied the opportunity to live with families that are prepared to give them permanent, loving homes, and American families are being asked to suspend their lives in hopes of some future resolution.

I assure you that the Department of State will continue to press Romania to resolve the pending cases with concrete, transparent criteria so that Romanian orphans and abandoned children can have the future they deserve.

I thank the chairman and the members of the Commission for your attention to this important subject, and I'm pleased to answer any questions you might have.

Thank you.

Mr. SMITH. Thank you so much.

We are joined by Senator Burr.

Do you have any opening statement?

**STATEMENT OF HON. RICHARD M. BURR, COMMISSIONER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. BURR. Thank you, Mr. Chairman.

Ambassador, I know what you said about the European but there's some belief out there that the European Union in some way, shape, or form pressured for this policy. Why is that the case?

Amb. HARTY. Sir, it remains a mystery to me. We have demarched a number of capitals in this regard, and will continue to do it.

It seems inconsistent with the various countries' accessions to the Hague Convention. It simply seems inconsistent. But I don't have a satisfactory answer for you to that question, and it's one I continue to ask, myself.

Mr. BURR. From the standpoint of your request to the European Union, is this for written clarification of what their adoption policy is?

Amb. HARTY. I'll certainly take your question with me to Europe today and try that, sir, as well.

Mr. BURR. Thank you.

How much foreign aid and technical assistance has the United States provided to Romania toward its efforts to reform the child welfare and adoption system in that country?

Amb. HARTY. I'm so sorry, sir, I'm going to have to take that question—and I don't have a figure for you. I don't know, but I'll—

Mr. BURR. Is it safe to say we have supplied—

Amb. HARTY. Romania is a recipient—

Mr. BURR [continuing]. Foreign aid specifically for that?

Amb. HARTY. Romania is a recipient of foreign aid, sir. I'll have to get the breakdown for you.

Amb. HARTY. All right.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you.

Let me, Ambassador Harty, ask you a couple of questions, if I could.

Baroness Nicholson has publicly alleged that intercountry adoption is an "international trade in children, controlled by criminals, not only for pedophilia, child prostitution, or domestic servitude, but for organ transplantation as well"—which are very highly inflammatory and, if true, would be an absolute indictment against intercountry adoption.

While there's no doubt that Romania has a problem with human trafficking, and I have spoken to this issue myself on numerous occasions, both in-country, in Bucharest, as well as here, the issue of intercountry adoption as a means by which those nefarious and evil practices are committed ought to be prosecuted absolutely and those who commit those crimes get life imprisonment.

Has Baroness Nicholson provided any proof, especially as it relates to the Americans—who have, I think, so lovingly and so effectively, provided homes in the past?

Like I said, I've been going to Romania since the beginning of my career in Congress, and when many people, even in the State Department, thought that Romania was somehow different from other countries that make up Eastern Europe and the Soviet Union, because of the infamous Securitate and their crackdown on religious believers, including Father Calciu and others, saw that that regime was evil to the core.

But in 1989, when the December Revolution occurred, many of us thought that a new day had begun, and Americans and others in Western Europe opened their arms and their homes in a loving way to these children.

While there may have been some abuses—and where there's an abuse in any system, you need to crack down on it and tighten and restrict and hold to account those who commit abuses—those kinds of statements—you know, organ transplantation, pedophilia, child prostitution—where is their proof?

Amb. HARTY. Sir, I agree with you completely. I think this country, everyone in this room and everyone in this country, finds all of those abhorrent crimes, absolutely abhorrent and unacceptable. They have nothing to do with intercountry adoption. I have never

seen any such proof, or I certainly haven't seen any such proof provided by the baroness.

Mr. SMITH. What precisely does the United States want Romania to do? You did allude to much of this in your testimony, but encapsulate "what we want."

Amb. HARTY. In a nutshell, sir, in the very first instance, we want to take care of those 200 pipeline cases. We're working very hard with the other affected countries. A member of the commission earlier noted that there are several other countries.

There are approximately 1,000 children in the pipeline, and as much as we care about the 200 American children, we care about all of those children, and we'd like this pipeline situation addressed as expeditiously as we possibly can, to get those children—who have in some cases for so many years now been sitting in unacceptable situations—matched up and brought into the loving families of American citizens who are doing nothing but opening their hearts to kids who need a place to call home.

Mr. SMITH. Do you think Baroness Nicholson is aware that we do a very vigorous process here in this country, with home studies and all kinds of other safeguards, to ensure that the families are able and willing—willingly, no, but able to accommodate and to love that child?

Amb. HARTY. Sir, I am certain that she is aware of our procedures. I am not certain that she is persuaded. Quite the opposite, given what she has said.

Mr. SMITH. I mean, one can only wonder why she is obsessed with trying to end adoption.

You pointed out that nearly all E.U. members except for Ireland are parties to the Hague Convention. Can you elaborate on whether a citizen of an E.U. country could be legally adopted by someone from another country.

Amb. HARTY. Yes. That's in fact what the Hague is talking about.

Mr. SMITH. So, in other words, Romania's adoption law is more restrictive than the laws of the countries that are imposing as a precondition of accession into the E.U.?

Amb. HARTY. It goes much farther than the Hague Convention, sir, absolutely.

Mr. SMITH. Let me just ask you, finally: Are other countries—like Bulgaria—facing E.U. pressure to ban intercountry adoptions?

Amb. HARTY. I'm not entirely sure, sir. But Americans adopted 110 Bulgarian children last year. So you can rest assured that we will watch this issue very, very carefully.

Mr. SMITH. Because I'm trying to discern whether or not this is one person's obsession—

Amb. HARTY. Right.

Mr. SMITH [continuing]. Or an E.U. move in the direction against. Which is bizarre, when we finally have an intercountry process, the Hague Convention—as you note so well, was hammered out over the course of a decade—

Amb. HARTY. Yes, sir.

Mr. SMITH [continuing]. And I attended myself many of those meetings and talked to people at the United Nations, there were a lot of contentious meetings, but they finally come up with a con-

sensus document that really does protect children the best interest of the child was preserved.

It is bizarre and baffling as to why, now that we have those international safeguards, Baroness Nicholson would say she knows better.

Amb. HARTY. And inconsistent. Bizarre, baffling, and inconsistent.

Mr. SMITH. And let me just say for the record, and I will put these statements into the record: A number of people have written to the Commission, from the United States, who want to adopt a child, including five from my own State of New Jersey, and, like Mr. Bradley and so many others here, we've heard and seen the tears on the part of these families who know these children, who desperately want to make them a part of their family, and, in an act of what I would say is cruelty, are being denied that opportunity.

This is cruelty against children, and if Baroness Nicholson has proof otherwise, bring it forward; and then I would call on the Romanian Government to prosecute those individuals, wherever they may be and put them behind bars. [Applause.]

I yield to Commissioner Cardin.

Mr. CARDIN. Ambassador, thank you for your testimony.

Let me just observe: When Romania enacted its moratorium in 2001, many of us understood that. In fact, some of us were calling for review of the Romanian adoption laws because of the concern of the inability to properly do the studies that are necessary and that there was a lot of corruption in the process and that we wanted to make sure that their adoption process was in the best interests of the children, knowing full well that international adoption should be part of their law.

I think we were extremely disappointed by the delay in dealing with these issues, and as we visited and talked with Romania after 2001, we expressed that on numerous occasions.

And I certainly understand the State Department's priority to deal with the pending cases, because they're faces and families, and we need to resolve that. And it's tragic that parents have to visit their children and not be able to take their family home. That's totally unacceptable.

But I want and hope that you'll put an additional priority on the change of this law, because it's not just children who are being denied permanent placement, it's Europe dictating to other countries what is the right law for that country, and if Europe gets away with it with Romania, it may well affect the climate for international adoption generally, to the detriment of the welfare of children.

So I think many of us understand the Hague Convention, understand the other laws and conventions that have been passed in order to protect children, and we don't want the view of one person or the leveraging that Europe might have on accession to affect the welfare of children.

So I would just urge you to place a high priority on getting this law changed.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you.

Ms. Northup?

Mrs. NORTHUP. Yes.

Thank you very much for your appearance here today and giving us a chance to have this dialog.

You know, let me just go a step further and ask you to redouble your efforts to have these very important conversations. I'd like to draw a parallel, if you will, with the situation with the adoptions of children from China, and there are very many similarities.

One is: In both countries there is an enormous number of children that are institutionalized, and this is because of domestic programs. But for whatever reason, there are many, many children in China, over 1 million children, in orphanages; in Romania, in 1989, I think, 100,000 children.

So this means that the opportunity for adoption is much greater than you might find in some of the other E.U. countries, that have—you know, you're not going to find the children available in Bulgaria and so forth, but in Romania it's unique for that reason, and in China it's unique.

In about 2001, China was thinking about not taking any additional applications for people that were interested in adopting, and Senator Mary Landrieu and I went over and had just extensive conversations, and it was very eye-opening.

When you have a culture that both has many, many children in facilities and you have not a culture of domestic adoption being widespread, what happens is there's not a real understanding among the people in those countries why anybody would adopt a child.

And I remember that not only in the course of the conversations with everybody from the adoption minister to our meeting with the President of China, Jiang Zemin, the questions were very astounding, because they were more along the line of "Why would a parent adopt?"

And I remember finally at a lunch one very high-ranking Chinese official turned to me and said, you know, "So what do American families do? I mean, do they want these children to work in their businesses or clean their houses?" Like that might be OK, you know. And I said: "As children leave China, Chinese children with American families, leaving an institution, you see Chinese pat the child on the head and say, 'Lucky child,' but when those parents are in the supermarket of an American city, it's the other people in the supermarket that pat the parent and say, 'Lucky family.'"

And adoption is very much a part of our family building ways. Later, they, at our request, sent a delegation over, who met with many of the families, they traveled this country, and in a meeting here, the head of adoption affairs told me that it was that meeting that really changed their mind about adoption.

I feel like you have a lot of these E.U. countries who do not have many children that are available for international adoption. It's not part of the need that they have. And so they're trying to give advice to Romania, when they have no idea sort of why cultures and families, American families, have such an interest in adopting children or the fact there's an enormous—out of proportion—number of children that are available for adoption.

By stepping up, I think they're now quite proud of the fact that they had over 1,000 domestic adoptions in Romania, and at that rate, in 39 years, the current orphans will have a home, and of course that doesn't even begin to calculate the new ones that come into the system.

I don't mean to be critical, but after my visit to China, I thought: "Somebody in the State Department could do a much better job of not ever having let this come to a crisis." And I know you all have arms control needs and so many challenges.

But I do believe there needs to be a new focus in the State Department on reassuring people, E.U. countries, who don't understand this, and Romanians—sometimes you have to go around, one person that's speaking out, invite baroness over here and let her meet with the families, try to reach out to her, but then you have to end-run her too.

And at the right level of priority, I'm convinced you could do that, and I ask you to do that.

Amb. HARTY. Thank you for your comments.

If I might respond: Clearly your visits and the efforts of many people have borne fruit. Americans adopted close to 8,000 children from China last year. I was there several months ago and actually administered the oath to a group of about 40 parents and their kids. It was—

Mrs. NORTHUP. Very moving, wasn't it.

Ms. HARTY [continuing]. A very moving moment for me, and I loved it. And it's part and parcel of our efforts to in fact make sure that adoption is a very viable option for American citizens.

I've spent the better part of the last 2 years working with the Government of Vietnam, which also had a moratorium in place, and just 2 months ago we finally signed a Memorandum of Understanding so that Americans can adopt again from Vietnam.

That was a very high-priority item for us because of the desire in this country and the need in this country, and the Vietnamese officials with whom I met repeatedly actually said some of the very same things you are saying that "We wanted to get this done because the hearts of the American people are so very large." And we do have a culture of wanting to adopt kids.

So it was a tremendously uplifting and celebratory moment when we got that done. And in part, to get that done, we urged the officials in the government of Vietnam to look at what we had done in China so that they could see that the establishment of a transparent process—that had logical steps and a beginning point and an end point—that resulted in the happy placement of children in America was in fact a good way to go, and that did push us down that road very far together.

So I couldn't be more in agreement with you. But I'd like to assure you that this is a very high priority for me personally as well as professionally. We started an Office of Children's Issues under my direction in 1994 because this is a priority issue for us.

And so we will certainly take every and all suggestions and pursue them with energy and fervor, because we believe very strongly in what you just articulated.

Thank you.

Mrs. NORTHUP. Well, I ask you to—again—redouble your efforts. I think sometimes, when you're looking at legislation, you know, you get very used to—as the months go by, the years go by, you work on the same issues, but working on malpractice reform and things like that is an entirely different thing than a child that is never going to get to be 4 years old again—

Amb. HARTY. I couldn't agree with you more.

Mrs. NORTHUP [continuing]. Never going to get to be 5 years old again—

Amb. HARTY. Right.

Mrs. NORTHUP [continuing]. And nobody that knows that they are scared of the dark, that math is hard, that they like their teddy bear. I mean, to go through life without those things is just—it ought to make us all stay awake at night.

Amb. HARTY. I couldn't agree with you more.

Mrs. NORTHUP. Thank you.

Mr. SMITH. Thank you.

Commissioner Pitts?

Mr. PITTS. Thank you.

And, Anne, the big thing in my family: Our 4-year-old grandson just learned to whistle. You know, they're big events—

Mrs. NORTHUP. Yes.

Mr. PITTS [continuing]. In their lives, and when you talk about the ramifications, it's huge.

Madam Ambassador, UNICEF estimates that more than 60 percent of the abandoned children in Romania are ethnic Roma. How does the pervasive societal discrimination against Romania's Roma population affect the prospects for a Roma child to be domestically adopted or placed with a foster family? If you can address that.

And then I had one other question about what Congressman Northup was talking about, institutionalization. What is your understanding of the effects of institutionalization on these children, the thousands of children that are locked into institutions, and the allegations that you may have—we've heard, we've all heard, the ramifications of the abuse, even from older institutionalized children, those settings?

If you could elaborate on that, please.

Amb. HARTY. Certainly, sir.

I think that everybody in this room agrees that institutionalization of a child, warehousing of a child, should not even be an option. It is just an unacceptable way for a child to be raised.

You know, I think you can tell a lot about a society, we say in our Office of Children's Issues, by how it treats its most vulnerable members, which is why in fact we are so adamantly interested in getting to solutions to these problems, because institutionalization is no way for a child to be raised.

With respect to your reference to Roma, I have to say, sir, I'm not equipped to answer that question. I can certainly take that question and try to look into that for you, but I don't have any specific information on whether or not Roma children are treated differently, with respect to adoptions, by the Romanian officials. I just don't know. So—

Mr. PITTS. Thank you. I'd appreciate if you'd provide that to us.

Amb. HARTY. OK.

Mr. PITTS. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much.

Ambassador Harty, thank you so much, and good luck on your trip as you leave this afternoon.

Amb. HARTY. Thank you.

Mr. SMITH. And, you know, so many of these families are counting on you, and all of us, but I think especially you, are walking point over there.

I have great confidence, and I know you are dogged in your determination to resolve this.

So thank you so much.

Amb. HARTY. Thank you so much, sir.

Mr. SMITH. Appreciate it. [Applause.]

Let me now introduce our second panel.

Ambassador Sorin Ducaru, who has served as Ambassador of Romania to the United States since 2001. He was previously Romania's Ambassador to the United Nations from 2000 to 2001 and has held various other posts since becoming a diplomat in Romania's Ministry of Foreign Affairs in 1993.

Ambassador Ducaru earned a Master of Sciences in Applied Electronics and a Ph.D. in Economics from universities in Romania and a Masters of Arts in International Relations from the University of Amsterdam.

Mr. Ambassador, you're welcomed, and thank you for being here. Please proceed as you would like.

**STATEMENT OF HIS EXCELLENCY SORIN DUCARU,
AMBASSADOR OF ROMANIA TO THE UNITED STATES**

Amb. DUCARU. Mr. Chairman, distinguished Members of Congress, distinguished families, ladies and gentlemen, it is a great honor and opportunity for me to appear before you and present my country's framework in the field of child protection and adoption and also the recent measures for the implementation of these new provisions.

As you well mentioned, when the Communist regime fell in 1989, Romanians had a very difficult situation of abandoned children, a system of overburdened institutionalized children.

In the following years, efforts have been started toward creating a comprehensive and functioning child protection system. At the same time, thousands of domestic and international adoptions were concluded, many of them by U.S. families.

We appreciate those U.S. adoptive families that offered a loving home to many Romanian children in need, in a moment of lack of substantive legislative and administrative framework in the field of child protection.

However, the abuses of the system of intercountry adoption in place in Romania became the subject of international criticism, and the government decided to introduce a moratorium on international adoptions, which came into effect in 2001.

The criticism referred to the ambiguous nature of some legal provisions regarding adoptions, lack of transparency regarding the procedural stages of an international adoption, including the financial aspect of these procedures, elements that led to widespread corruption in the system.

The flagrant inconsistency between certain provisions in the Romanian law and stipulations of the U.N. Conventions of Child Rights and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption was also invoked. In spring 2001, ABC's "20/20" broadcast a story called "Children For Sale"—and I remember that late Peter Jennings was the producer—which clearly depicted how special interests and money were generating and even encouraging new situations of child abandonment instead of finding families already waiting in state institutions.

Indeed I remember this was my first month as Ambassador in Washington, and it was an absolutely moving story, which could prove that a child could be actually ordered to be conceived and then, you know, born—9 or 10 months in advance.

But we have started to be, unfortunately, viewed as a market for international adoptions, where financial considerations prevail over humanitarian dimension which were assuring the best interest of the child. This is why the Romanian Government had decided to institute a clear policy of finding a national solution for children and to impose a moratorium on international adoption.

The purpose of the moratorium on international adoptions was to provide the time needed to develop appropriate new legislation and administrative capacity to ensure that intercountry adoptions would be restored exclusively in the best interests of the child if no other suitable form of care was available in Romania.

During October 2001 and December 2004, while the moratorium was in force, Romania had no legal framework to support the registration and support the processing of the new cases of international adoption.

Between December 2001 and February 2004, the government has approved international adoptions for the cases registered before the moratorium, the so-called pipeline cases, and all U.S. cases—according to our information and statistics—of international adoptions submitted before the moratorium were finalized.

Nonetheless, foreign families continue to file requests to adopt Romanian children based on expectations that the ban on international adoptions would be lifted after the approval of the new Romanian law, and indeed it was a decision, as Ambassador Harty mentioned, of Romanian courts to register such adoption, but there was no legal framework to process them.

The United States pending cases omit the above-mentioned, but it's essential to emphasize that none of these around 200 cases that currently await approval for adopting Romanian children had filed requests prior to October 2001.

And also it is important to stress that the registration of the petition for international adoption during the moratorium presents an administrative act and not specifically signifying the approval of the request, and I want to point this out because there was a sense of—reports that these were approved cases, that were actually registered cases.

Irregularities involving international adoptions registered during the moratorium were observed—I'm quoting some of the results of the inquiry—that many of the requests for adoptions were referring to children who did not have adoptable status. All efforts focus on

declaring the child adoptable without any previous effort to integrate him or her into the biological or extended families, thus diluting the provision of the Hague Convention.

Many of the files were incomplete, many files failed to even identify a child, and there were also situations where the families were nominating several children for adoption or where the same child was nominated by several adoptive families.

The majority of American families have submitted application for children younger than 3 years old. Those children could not be adopted internationally, even according to the formal methodology, through the government ordinance issued during the moratorium.

So all these shortcomings basically led to the conclusion that the system failed to act in the best interest of the child, and the quality of the conclusion was that it was prior identification of a child for a family and not a family for a child.

The new legislative framework that regulates the current status of adoption in Romania came into effect on January 1, 2005, and is based on the principle of promoting the best interest of the child. It was drafted together with a group of European and international partners, and it was drafted taking into consideration the U.N. Convention on Child's Rights, the Hague Convention of Protection of Children, and the European practices in the field.

The final version of the new legislative framework included recommendation of the Council of Europe as well.

The U.N. Convention on Child's Rights states that the best interest of the child shall be the most important reasoning in the field of adoption. This implies that no other interest—economical, political, state safety, or adoptive persons—will have priority and will be considered equal to the interest of the child, the rights of the child being primordial compared to the rights of the adults.

Thus, it is necessary to emphasize that the new Romanian legislation in the field of adoption provides as a final goal even identification of family for the child and not the other way around. The existing legislation approaches a child in the context of all his or her rights, basically the context of his/her biological family, trying to raise awareness of the primordial nature of parental role and responsibility toward one's own child.

The new legislation regulates the following aspects that were not regulated by the previous legislation. First, procedure and situations in which a child can be adopted.

The individualized protection plan identifies domestic adoptions as the final solution for the child's welfare, provided that all the efforts to integrate the child within the biological family and to integrate the child within the extended family have failed.

International adoption is considered as an option of last resort, and only for the biological grandparents who are living abroad. According to the previous legislation, the activities meant to reintegrate the child in the biological family were not stimulating, thus giving priority to the adoption and not reintegration of the child into his or her family, this being in contradiction with the U.N. Convention of Child's Rights.

Second, only the court decides the initiation of a domestic adoption process after rigorously checking that all means of reinte-

grating the child in the biological family or integrating in the extended family have been exhausted.

Under the previous procedure, the previous legislation encouraged the identification of a child for a family willing to adopt and not reunification of a family function of the specific case of each child, after exhausting the means of reintegrating the child into family.

In practice, many families met the children before those children had the status of “adoptable,” thus violating the regulations of the Hague Convention.

Third, the maintenance of the right of the parents to withdraw, parents withdrawn of its parental rights, for whom the punishment to forbid parental rights was applied to consent to the adoption of the child. This provision results from the temporary reversible nature of the measure of withdrawing parental rights and from the permanent and irreversible nature of adopting regarding the natural descendent.

Even in the mentioned conditions, the previous law did not emphasize the right and the responsibility of the parents toward their own children.

Fourth, the obligation to counsel the biological parents or their legal representative previously to their consent of adoption, provision of the Hague Convention. The court has the certitude that the parents freely consent to the adoption and no payment or advantage intervened in order to obtain the consent.

The previous legislation did not stipulate this provision, and the child would be declared abandoned ex officio if the family had not maintained a relationship with the child for more than 6 months.

Regarding the results registered in the field of child protection during March 1998 and 2000, based upon the information indicated in the attached annexes—and the statement with the annexes are provided to the Helsinki Commission and also will be available on the Web site of the Embassy—the following observations can be noted:

The number of national adoptions increased simultaneously, with diminution of the number of international adoptions every year after 2001. Since the moratorium on international adoptions entered into force, the efforts focus on identifying Romanian families for children declared adoptable have increased.

Romania’s domestic capability to protect its own children by reintegrating them in their natural family, extended family, or national adoption has improved. For example, during January/March 2005, 1,312 children were reintegrated in their biological family. The number of children protected in substitutive families, extended foster families, has increased, but the number of children protected in placement centers decreased starting with 2000.

The number of alternative services increased during 2002–2004, and with this I mean services to prevent child separation from his/her family as well as support services for the integration of the child within the family. As the result of development of these services, the number of children protected in the system has substantially decreased.

The alternative services have also a positive impact on addressing the problem of child abandonment in the country. During 2004,

out of 4,614 children left in maternity hospitals—and I want to really stress this figure, this was the number in 2004 of abandoned children, 4,614, in maternity hospitals and pediatric sections—a number of—2,389 children were reintegrated within their biological family; 940 children were placed within foster families—I have a chart, here is the Annex No. 3, which is focused on the year 2004, Annex No. 4—and the number of children who are in private centers are the difference, which is 768.

And I wanted to stress these signals, because they are showing a new trend in the reduction of abandonment, or option of abandonment, reintegrating in a family, due to the efforts of making the families aware about their responsibilities and the importance to keep children within their families.

Regarding the age of the children protected in the residential systems, starting with 2002, the number of under-a-year-old children has decreased significantly, from 1,028 children in 2002 to 436 children in 2004, meaning that a number of children who entered during the initial system has decreased significantly in this period.

At the end of 2004, under-10-year-old children protected in the residential system represented 22 percent of the total of the children in the residential system. The number of children who entered during the initial system also shows the tendency of significant decrease.

At the beginning of 2005, 1,047 families soliciting the adoption of a child have been registered in the national register for adoption. 688 domestic adoptions have been approved by now and, of course, initiated domestic adoption for 192 children. And there are also 217 pending cases in view of initiating the adoption procedure.

The general conclusion of these analyses is the following: The number of children that entered in a residential care system decreased following the development of the services to prevent child separations from his/her family; also the number of children protected in the family care system increased compared to the number of children in the residential system; and, third, the number of national adoptions increased, while the international adoptions decreased.

The mentioned results indicate the progress obtained in this respect, progress noted also by the European Commission in their periodical reports that monitor evolution registered in Romania in view of joining the European Union.

Also, according to the European Parliament's report of December 2004, "The E.U. Parliament congratulates Romania on responding to international appeals and Parliament's request by introducing national child protection standards and strict rules to govern inter-country adoptions. It is considered that this new legislation framework should serve to protect children's rights even more effectively and must be properly enforced."

Also, in May 2005, the E.U. Commission for Enlargement, Olli Rhen, wrote the Romanian Government as a response to the many requests of the government to really continue to look into the adoption issue and to—I quote:

"I take note of and appreciate your willingness to explore any possible solutions to respond to the various con-

cerns expressed, as long as such solutions are not contradicting the current legislation in force in Romania. I am convinced that your position should be solely based on the best interest of the child. We also, naturally, expect you to fully implement the new Romanian legislation, which is in line with the international standards. To deviate from this principle would require amendments to your new legislation, which would reopen the debate and whose results could become worse than the initial objective.”

Taking into consideration the fact that foreign citizens applied for the adoption of Romanian children during the period when the moratorium on international adoption was in force, the Romanian Office for Adoptions decided to clarify the situation of those cases by analyzing each file, with the aim of ensuring that in each case respect of the rights of the child is beyond any doubt.

This analysis is in due course and is performed by a national working group established in June 2005. It is composed of Romanian specialists with qualifications and responsibilities in the field of child protection, employed in several ministries and other central institutions.

They are currently analyzing the existing files at the Romanian Office for Adoptions, as well as the information regarding the situation of each child considered in those files.

The audit report will be finalized by the working group within 4 months from its setting up, probably in October 2005. Based on the results of this audit, suitable means will be identified, with the aim of finding the appropriate solutions for these cases.

And I want to make a very brief comment of the importance of analyzing these files. The interim results—and we will probably have a full report, transparent report, of the final result, but the interim results show that while there are cases with strong bonds with families, some of them which I personally know here, there are also cases where children have been only viewed by photographs or videotapes, there were a number of children who were really requested, and there are even a number of cases where children returned to their national families. But, again, this is an audit that will be finalized in a couple of weeks, by next month.

The Romanian Office for Adoptions will share the results of this domestic effort and consult with the European Union and other partners in compliance with Romania’s—and we’d consult with the European Union—compliance with Romania’s accession commitments, as well with American and other partners in a transparent manner.

Romanians are engaged to address the issue of abandoned children within the framework of the present legislative framework, creating the premises for the prevention of abuse and corruption that may occur in the adoption system.

All the institutions and public authorities involved in adoption procedures, as well as those with an important role in preventing child separation from his/her family, shall improve the functioning mechanism according to the new legislation, in view of respecting and guaranteeing the rights of the child.

Mr. Chairman, in Romanian culture and tradition, such as in the cultures of many other nations, children represent the supreme

treasure and value and the best hope for a better tomorrow. It is a matter of national pride and responsibility to prove to ourselves and to the international community that we indeed can take care of our own children and overcome an unflattering past of abuse and corruption.

Mr. SMITH. Mr. Ambassador, thank you very much for your statement.

Just let me say, on that final summary statement you made, that I would respectfully submit that the demands of national pride are undermined significantly when the children themselves become the victims, and whatever the intentions are that "We can take care of our own children"—I remember when a group of French rode into Bucharest, claiming that they were going to help solve the problem. There was backlash against that, the sense that "Romania can take care of itself."

That's not the question. This isn't a question of—I mean, any one of us can find ourselves, as parents, as fathers and mothers, as Americans, unable to care for a child at a given time, and if that child is adopted by somebody in Romania and finds a good home there, from my point of view, that's a very successful outcome.

National pride should never be, in my humble opinion, brought to the fore as "We can take care of our own." That's not what the question is. The question is that there are kids, by the thousands, who are abandoned, who can find loving homes immediately, in a situation that will not lead to abuse, will not be abusive at all, and every safeguard is in place to try to assure that, and yet they are not finding homes.

As a matter of fact, under Romania's new law on child welfare, abandoned children under the age of two, as you know, may not be placed in residential settings but rather, in theory, must be placed in foster care.

Reportedly, because there are not enough foster parents, these infants are living in maternity and children's hospitals for years, and I would suggest to you: Doesn't this illustrate that Romania's new laws do not provide a realistic response to the problem of child abandonment?

And there have been a growing number of stories about this very thing happening.

Amb. DUCARU. Mr. Chairman, first, child abandonment is decreasing, not increasing, in Romania, and the figures are, you know, transparent to each and everyone.

You have recently visited my country, Romania, and you and other Members of Congress, or anyone else, can and should visit it.

I was mentioning the exact figures of 2004, and I have them in my annex, of 4,614 abandoned children in maternities and pediatric units, and also like to stress that 2,389 of them have returned after that to their families.

The other thing I wanted to mention, and Congressman Northup mentioned about Romania or China being unique from this point of view: I want to stress that—and, again, the situation of 1989 is not the situation of today, and it's a kind of uniqueness, Romania is proactively moving toward changing. It is not a uniqueness that we are proud of. We have not been proud of the situation inherited after 1989.

There's a lot of phenomenon that's happening. A very great number of families who have abandoned temporarily children, for material reasons or personal reasons or even family reasons, did not or do not deny the right to have the children back after the period, so that suggests they are——

Mr. SMITH. So, with all due respect——

Amb. DUCARU [continuing]. Are not adoptable——

Mr. SMITH [continuing]. An adoption law should be responsive to that, that if due to circumstances a family is not to the point where they want to make unalterably an abandonment, then they don't do it.

But where a parent—I mean, we have reports that there are mothers who attempt to abandon their children in maternity hospitals, are being forced to leave the hospital with the child despite the mother's stated desire not to care for the child.

I mean, what safeguards—I mean, you could drive down the numbers and come up with what you call a transparent number of abandonments going down. That's because the durable option, the loving option, of adoption has been taken off the table in many instances.

There are not enough parents willing and able in Romania to care for all of these children, and when you just shut down international adoptions, the mother is faced with: "What do I do? I'm now being compelled to take a child that I, under another situation, would have gladly, but with great anguish, given up for adoption."

I mean, you are also driving the numbers down because there are more likely to be outcomes of abortion, where the mother feels she has no out other than to have the child killed, as opposed to, again, a durable solution of an international adoption.

You know, governments, in my view, with all due respect, are all about providing and facilitating humane options. I don't see how, in anything you've said and anything I have read so far, Romania's adoption law in any way comports with the Hague Intercountry Adoption Convention, which I have read from cover to cover. I worked with Bill Pierce, who was one of the leaders in working on that important document.

There are safeguards in there to ensure transparency, to ensure that home studies are done properly, so that there's some uniformity from country to country, so that there's a standard, so that we don't have baby selling or any of those other abuses.

You know, you mentioned it in passing, but, frankly, from our point of view, we see this as not only a false manifestation of national pride but, even more ominously, a pandering to the European Union—and Lady Nicholson in particular.

As I said earlier, I'm not sure what her obsession against adoption is, and I would love to have her right here, and I hope at some point to have a face-off with her.

But to deny these children, frankly, the opportunity to be adopted, when there are loving families—what do you say to a family—here's a letter I got from, not a constituent, but a New Jerseyan:

"Dear Sir, we are a waiting family for a little boy named Robert Balan. We were first introduced to Robert in October 2002. He at 6 months old was abandoned, living with a foster family, and was available for adoption. We happily

agreed to give this sweet little boy a permanent home. At that time we were told by our adoption agency, the New Hope Christian Services in Concord, New Hampshire, that there was a moratorium on adoptions but that it would be settled soon. We began our wait for Robert, falling more in love with him with videos and pictures. At this point, what happened next is well-known. We still consider ourselves waiting parents because we have to love this little boy so very much. Still, we have not had any word about him for over 2 years. We wanted to visit him and sponsor him, meaning supporting him with clothes and toys and necessities, but were told by our agency that would not be possible. We have held onto our hope that the pending cases will 1 day be resolved and that Robert would be able to join us and have a permanent home. We still hope the Romanian Government will find a way to resolve this, for all the children who have been left behind.”

This is all about leaving behind children. And, again, read the Hague Convention: The best interest of the child is to find a loving home.

Frankly, it appears to those who have been looking at this—and I’ve been on this Commission for 23 of my 25 years in Congress, and Romania, as you know so well, has been a prime concern of this Commission, and I have led the effort on that. I care about human rights. That’s what I live for. That’s why I’m in Congress.

And to see one and then a lot of followers in the European Union following Baroness Nicholson’s lead on this is perplexing at best, and our hope, our sincere hope, is that you will go back and revisit this—minimally, solve these pipeline cases—because this will grow, not diminish, in its intensity.

These kids are losing—you know, when you’re two, when you’re one, when you’re a newborn, those early years are absolutely important to the family bonding and for that child’s welfare. The studies are very clear that a family, an adoptive family or birth parents who raise their children, is always preferable—providing there’s a loving home there, and there are loving homes there—to institutionalized care, especially right from the start.

So, you know, “best interest of the child” is served by facilitating these adoptions. And if you could tell us—you know, Baroness Nicholson, again, has raised all—and I’ve read some of her quotes earlier, equating—and, I think, slandering the people who adopt children—trafficking and pedophilia and all these other things with intercountry adoption.

Did she provide proof of that? And in providing proof, what did your government do to prosecute those who have committed these offenses and, if they are already in another country, to put a pressure on that country, through Interpol and others, to grab those individuals who have committed these crimes and get them before a magistrate and to get them judged and put into prison?

What was done? What proof did she provide?

Amb. DUCARU. Mr. Chairman, your points are very well-taken, and I’m one of those who receives such letters and one of those who keeps contact, close contact, with the families that have adopted

children from Romania. We call them Romania's American families.

We meet sometimes and visit a group at least once per year at the Embassy and once per year somewhere in the United States, and me personally and my family are always part of it, and we, as persons, as human beings, and as officials, are extremely grateful for what they have done for the children, in a business where actually there was no other solution. This is my first point.

The second one: You might be—and I'm coming to the proof thing; I'm not eluding it. You might be—one might be saying that we moved from one extreme, where had the situation of corruption and abuse of the system, which was proven, this was what led us to take strong-hand measures, to another extreme, where, you know, you're extremely—and their voices about—and in the sense that it's very restrictive, the law is. And, again, I'm voicing—I'm just mentioning that these are these voices. But, on the other hand, it is the fact that the other extreme existed, that pointed in this direction, and the fact is that this legislative framework had been adopted by the Romanian Parliament.

And there's another thing that I want to point out also, of personal experience. As much as I'm so close to the American families that have adopted children from Romania and know cases and stories, going back home over these last years—and I've been at least two, three times per year home in Romania, spending sometimes a couple of weeks—I could see an absolutely—and this is not, you know, national pride. I didn't want to be interpreted in terms of slogan and so on. I'm speaking about a sense of—put it this way—human feeling, human responsibility, at the basic level, not just—even among my own friends or relatives, of really doing something about our children.

And, again, not a slogan. There are families who are volunteering to adopt the system in Romania, and of course, with the new law, bureaucracy might start at the beginning too harsh while the system in place.

But there are also families who are donating money, resources, and open their homes for foster care, and they want to help those who abandon their children get them back in a matter of months, not years, and so on.

So this is the mood, and, honestly, maybe living far away at the beginning, I didn't feel this mood back home. Going to Romania, I felt it, and I was able to explain this also to the American families at several meetings that I had.

The last point, on the baroness and the statement, I don't recall, maybe I don't have the information of really going into a trial on such issues like trafficking of child's organs and so on, I have to check on this, to be frank.

And, again, I had the chance to meet in Washington Baroness Emma Nicholson and also to talk with her. She's a very strong personality, has her strong convictions. I was also able to tell her about the American families that have adopted children from Romania.

But, again, it is also a changing trend in Romania, as such, that is not to be neglected. Maybe there are different things, I don't know if they're influence, to be very, very frank, but there is a

sense, after 15 years, you know, the economy has been starting to grow over the last 5 years, institutions have started to work differently.

We had three elections, three, you know, democratic changes of power. It is high time that we view and back and put the effort at the issue of child abandonment, the approach and the results are different.

But, again, your initial point of really “This has to be monitored closely and watched closely,” I definitely agree. And, again, the country is open, you know, to visit and witness and to see what is to be done in the future.

On the issue of those cases who have this—you know, the 200 or so cases that have been registered during the international moratorium, and indeed there probably have been more than 1,000 from all the countries, we are not—we have definitely thought many ways to address it without actually, I don’t know, dismissing a law 6 months after, you know, approving it in parliament.

This is part of a constant battle between our officials and also E.U. officials, and actually the letter that I was mentioning from Olli Rhen was as a result to our demarches, when you, you know, acknowledged the interest and the, you know, positive energy and actions to find a solution.

We established the working group, and the national working group did not wait for an international commission to analyze all the cases. We thought it’s too long, it’s too cumbersome. We established our own working group of experts in the field of child protection to screen them, have a result in a matter of—by the end of next month, have a report, and then to have the action forward.

So this is the, let’s say, snapshot of the moment in addressing this issue, and, again, also the perspective and the background that I wanted to stress.

Mr. SMITH. Mr. Ambassador, just one thing about the economy improving.

The United States, sir—and I could be a little bit off on the numbers, but approximately 50,000 non-related adoptions per year domestically. This is in a country that is relatively prosperous, the United States. For whatever reason, sometimes a mother, a birth mother, just isn’t in a position to raise a child, and she makes a very selfless decision that the child is better off with an adoptive parent.

It’s a very loving option, a very difficult one for her, but—having worked in the adoption movement for so many years—she knows that her child is better off, and that is a selfless act. It may be predicated on an economic situation, it may not, but it doesn’t necessarily mean that an improving economy means that the number of abandonments diminishes.

It may even go the other way, as some women feel that it may hamper their ability for employment, or whatever the situation may be, and that is her decision. But I would just say that there are 50,000 or so in the United States.

So, you know, the fact that there are so many abandonments still doesn’t necessarily reflect—and I think there is a pressure not to abandon now, so you get a false read as to what the woman’s or the birth mother’s intentions really are.

Let me also say that—maybe ask this other question, because it looks to us that if accession into the European Union was not pending and was not hanging like the “sword of Damocles” over Romania, that this and other policies would never have been enacted into law.

It would seem that Emma Nicholson, for example, has undue influence, and, you know, she’s not the prime minister of Romania, she’s not the president of Romania, she’s not the head of your parliament, and yet she has a disproportionate power to influence it.

I’ve read her report. I’ve gone online and read everything that she’s—practically—written, although I’m sure I missed a few. She makes demands and admonishes and does this as the rapporteur, and unfortunately it puts Romania in a straitjacket, and I think that kind of influence is kind of coercive—“You want to be in the E.U.? Well, this is what you have to do.”

And certainly banning intercountry adoptions, when her own country, the U.K., does not do that, begs the question about hypocrisy here.

But wittingly or unwittingly, you know, the bottom line is, it looks to us like Romania’s trying to curry favor with her in particular when she was rapporteur and in that very important position, and that’s how it looks to us, and it’s hard to see how you don’t come to that conclusion.

A moratorium to fix something at times can be a good idea. I know in the 1990’s many of us said, “Get it right,” you know, “get rid of the abuses.” You know, like I said at the outset, I take second to none on trying to get rid of abuses, but don’t get rid of adoption.

And that’s what seems to be the flaw. You mentioned, you know, “the other extreme.” Well, this is the other extreme. Get it right.

And, you know, for the 200-plus people in the pipeline, whatever the number may be internationally, what has happened to those kids? You know, your government had promised to establish a commission on international adoptions. Where is it?

You know, limbo—“Without hope, the people perish,” it says in the Bible. These loving parents are dying on the vine, and hurting, and it could be resolved by this government. And I think, with all due respect, Romania needs the backbone to say to the E.U.: “We care more about our children than we do accession.” [Applause.]

If you could respond to that, you know, whether or not there was pressure brought to bear by Emma Nicholson.

Amb. DUCARU. Mr. Chairman, this—and also I want to make a point on the international commission. We could have tried to establish an international commission. I think it would have taken us probably 1 year, not a couple of months, as we had with the Romanian commission, Romanian working group.

So we are open to share every result of this working group, that has started to work. It’s midway and will finish the work in the next month.

On the E.U. pressure, the way I—it should be—let’s say the subject should be seen is the following. Romania wants to prove that we—we wanted to prove during this whole process of, you know, democratization and institution-building that we are able to learn to—and to stick to what we learn, to put it this way.

There has been, over these 15 years, lots of criticism on many issues, from AIDS children to, you know, religious freedom and so on and so forth, and we tried to learn from this criticism and to improve.

And you, Mr. Chairman, are witness of these incremental steps that have been made. Maybe, you know, it should have happened faster. People in my generation would have wanted it to happen like, you know, much faster, probably every Romanian, but this was the tempo.

The way we feel, while—and we want to act, and this is also what we did in our road to NATO's accession, this is what we're doing on the road to E.U. accession, is to show that we respond to the criticism, we enact, and then we stick to it, not actually do arbitrary things on the way.

Now, sometimes the views are different from different angles, to be very frank. And, again, having a law and then really changing it in a matter of months or having a whole—it is true there are a whole number of requirements under European Union accession. Some are very explicit. Some are implicit, as of, you know, keep continuity and stick to a stable legal framework.

So it is from this perspective that my government and the authorities, you know, try to and—to act in order to really show a sense of, I would say, continuous and stable evolution.

So this is what I can tell you. Here in Washington, I didn't feel any pressure, personally, and so on, but this is the kind of modus operandi that we tried to really impose on ourselves in order to really get a stable institution, predictable, to be a predictable and stable institutional type of—pretty stable institutional framework.

Mr. SMITH. Just let me finally say—and then I would like to yield to Maureen Walsh, General Counsel [for the U.S. Helsinki Commission], for a couple of questions.

But constructive criticism is one thing. I mean, when Nicolae Ceausescu was torturing religious believers, Pastor Buni Cocar, Father Calciu, and a host of others, Richard Wurmbrand, who wrote that great book, "Tortured for Christ," which got me into the religious freedom movement in 1981, you know, clearly that was a violation of fundamental human rights, but all the criticism was constructive: to stop the abuse of people.

I in no way could see making this U-turn about humanitarian interests of children, the best interest of the child, as being in that same vein—that is destructive criticism, I would respectfully submit.

Maureen Walsh?

Ms. WALSH. Thank you, Mr. Chairman.

Ambassador, just a couple of particularly specific questions for you.

I'd like to understand clearly if the review of the Romanian working group, which is reviewing the pending cases—is there a possible outcome of that review that those pending cases would be allowed to join—the children would be allowed to join adoptive families in foreign countries?

Amb. DUCARU. You know, my presentation was extremely carefully drafted and also, you know, represents the position of the government, so that on the one hand it shows that, really, action is

taken in addressing these cases with the view of getting the appropriate solutions, as it is written.

On the other hand, I don't want—I don't have the immediate outcome at this moment. What is bottom line, we do have a working group which will finish a review by the end of October.

I can even mention that the head of the Romanian Adoptions Office, who was invited to come but could not come today because of a previous engagement, has a commitment to visit the United States when it finishes its review and present and enter into dialog and discussion.

And the whole perspective is to find resolution to these cases, but on an exceptional basis and temporary basis such as it would not really mean changing the law as such, and that is the approach.

But more than this, entering into the practical step, I think we can discuss and we can address them after finishing the review. As I was saying, the interim results show that out of the 1,000 or so total cases and 200 American cases, there are some either where children have returned to their own families or some where, you know, the requests have been dropped.

I don't have the figures. I don't have the results. They will be available in the future. And from that result, we are looking forward to get resolutions for these cases.

Ms. WALSH. One of the concerns that I think many people have is that in fact the pending cases are going to be cherry-picked for domestic adoption and that, in fact, that will be the resolution, or the perceived resolution, is to simply make those children no longer available for adoption.

I would simply submit that there are many other children who could be adopted in Romania, and those children already in the pending cases have loving families who have committed their hearts to those children. That would truly not be a solution that most would find satisfactory.

Amb. DUCARU. I understand the point, and I want to emphatically stress that there's no intention whatsoever to cherry-pick the children for national adoptions, and what I mentioned is one or two or three cases that I was told might be returning to the initial families, so not, you know, pushing them toward national adoptions.

And, again, if there weren't concern and responsiveness of these cases, which, you know, there's a face, there are faces on the subject, so to say, we will not be putting the effort into it, so to say.

Ms. WALSH. May I ask one other specific question?

It is well known, I think, within the adoption community that children are less adoptable as they become older and in fact they're less likely to become adopted as they become older.

How many of the children who have been domestically adopted in Romania in 2003, 2004, or this year have been above the age of 2 or, say, above the age of 4?

And, in addition, UNICEF statistics indicate that perhaps as many as 60 percent of the children who have been abandoned in Romania are Roma children. It is widely known that there is a great pervasive societal prejudice against the Roma minority in Romania. This is something that the Helsinki Commission has worked on for many years to try and address.

How many of the children who are being domestically adopted are Roma children?

Amb. DUCARU. I have to check into it and come back with the exact figures. I don't have them right now.

Ms. WALSH. Appreciate that.

Thank you.

Mr. SMITH. Thank you.

Just to conclude: We've received, as a Commission—and I have it here, and we could share it with you—information of sexual abuse of young children occurring in state institutions, often at the hands of older institutionalized children. Child welfare authorities have allegedly turned a blind eye to this abuse.

Has your government heard of these allegations, and what have you done to respond?

Amb. DUCARU. Child molestation?

Mr. SMITH. Yes, in institutions, probably older children, sexual molestation in particular.

Amb. DUCARU. No, not—I didn't—I don't have any information about this. But I will—

Mr. SMITH. OK.

Amb. DUCARU [continuing]. Definitely take it as one of the questions to be responded.

Mr. SMITH. OK. We'll give you the additional information on that.

Let me also say that if it could be worked out with your government, the adoption official you mentioned who was coming in October, we plan a series of followup hearings in the Commission. This is the first. It was followed by a number of, as you know, interventions that we made by way of letter, as well as my trip there in the spring.

This is like the opening round on this, or the ongoing round, if you would, but if that individual—who was that, the person you mentioned, the adoption official?

Amb. DUCARU. Mrs. Bertzi. She is the state secretary who's heading the Romanian Adoptions Office.

Mr. SMITH. That would be great. If she could—

Amb. DUCARU. I spoke personally to her. She could not come today, but we came to an agreement that the end of October, the beginning of November, she will be able to visit Washington and also have some results to report.

Mr. SMITH. We'd love to have her come and testify. I think that would be very helpful. So if you could convey that to her—

Amb. DUCARU. OK.

Mr. SMITH [continuing]. The invitation is offered.

OK, thank you.

Anything else?

Thank you very much, Mr. Ducaru.

Amb. DUCARU. Thank you.

Mr. SMITH. We look forward to working with you.

I'd like to now ask our third panel to make their way to the witness table, if they would, beginning with Debra Murphy-Scheumann—I'm sorry. Let me first begin with Elliot Forsyth.

Mr. Forsyth and his wife, Whitney, have volunteered for 2 weeks every summer since 1994 with the Romanian Evangelistic Medical

Mission. Their organization is involved in medical work and helping those in need, including abandoned children, widows, and poor families.

Mr. Forsyth is the adoptive father of a daughter from Romania and is one of the parents whose adoption was pending with the Romanian Government when the new law on adoption was enacted.

Mr. Forsyth has been actively working with an organization of parents, called For the Children-SOS, to urge the Romanian Government to process all pending cases and revise the current legislation which essentially bans intercountry adoption. Mr. Forsyth and his family live in Tulsa, OK.

Our next witness will be Debra Murphy-Scheumann. She has been associated with the Joint Council on International Children's Services since 1997 and was elected president of its board of directors for the past 2 years.

Ms. Murphy-Scheumann holds degrees in education, social work, and practical nursing and is the founder and president of an international aid and adoption agency in Kansas.

In 2001 she received an Angel in Adoption award from the Congressional Coalition on Adoption. In the past 25 years, she has been a foster parent to 65 children, both short-term and long-term. She is also the parent of 10 children who have joined her family through birth, adoption, and guardianship.

Our next witness will be Dr. Dana Johnson, who is a professor in the Department of Pediatrics and director of the International Adoption Clinic and the director of the Division of Neonatology at the University of Minnesota Children's Hospital.

Dr. Johnson's research focuses on the effects of early childhood institutionalization on child health and early development. As part of this research, Dr. Johnson directs the largest adoption-related medical program in the world.

Dr. Johnson holds a medical degree and a Ph.D. in anatomy from the University of Minnesota.

Our final witness will be Thomas Atwood, who serves as president and chief executive officer of the National Council for Adoption, which is an adoption research, education, and advocacy non-profit whose mission is to promote the well-being of children, birth parents, and adoptive families by advocating for adoption.

Mr. Atwood previously spent 11 years at the Heritage Foundation and also worked as vice president of policy and programs for the Family Research Council. Mr. Atwood and his wife of 25 years, Eileen, are the adoptive parents of their 15-year-old son, Christopher.

Mr. Forsyth, if you could begin.

STATEMENT OF ELLIOT FORSYTH, PROSPECTIVE ADOPTIVE PARENT

Mr. FORSYTH. Thank you.

Chairman Smith, members of the Commission, my name is Elliot Forsyth, and I first want to express my sincere gratitude to you and to the Commission on behalf of my wife, Whitney, our daughter, Simona, and on behalf of over 200 American families and thousands of families around the world that currently await Romania's decision on their pending intercountry adoption cases.

We are thankful for the Commission and its leaders, who, despite your overwhelming responsibilities to domestic and international issues, show concern for the rights and welfare of abandoned children in Romania. Thank you for hosting this hearing.

I was requested by the Commission to provide testimony today in this hearing to bring you a perspective from my personal experiences on the ground in Romania, as an adoptive parent of a Romanian child, and as 1 of over 200 American families with a current pending adoption case from Romania, whose final approval has been delayed for years due to Romania's moratorium and subsequent legislation essentially banning intercountry adoption.

I'm greatly honored to testify today, though I fear it is not without a risk, a risk that exposing my name and speaking out publicly for the Romanian children could somehow jeopardize our own pending adoption case, as has happened to some families we know.

However, we are committed to being a voice for abandoned children in Romania and pray that their rights to a permanent, loving family will be honored as a result of this hearing.

For 2 weeks each summer for the past 11 years Whitney and I have taken time away from our jobs as a university professor and an engineer to serve as volunteers for a private Romanian non-profit. Our first trip to Romania was in June 1994, and it was only 4 years after the revolution in Romania. The experience deeply impacted our lives. We fell in love with Romania's beautiful landscape and its warm and loving people.

But we also saw the brutal effects of the former communist government, people stripped of all they had, and tens of thousands of children left abandoned. We worked in one state-run institution housing over 300 children in cramped, horrible conditions, and where the environment had developed into a survival of the fittest. We saw a disproportionate number of abandoned children of Roma descent and witnessed unfair discrimination of these children.

In sharp contrast, we also work for the Private Children's Home, whose ministry focused on rehabilitating abandoned children and placing them in permanent families, both domestically and internationally. We saw the life and hope of abandoned children, including the Roma, restored through basic physical needs and emotional and spiritual needs as well.

Since that first trip, our work in Romania has focused on ministering to a variety of needs, but especially those of abandoned children, both in state-run institutions as well as private orphanages and foster care homes.

Over the years, we've seen some improvements, but in our experience, the needs of abandoned children are as great now as they were when we first went to Romania in 1994.

I've compiled a slide show of recent images from Romania, that I showed before the hearing and will show again afterwards, documenting the reality some abandoned children in Romania still face. Note too that many photos show American volunteers working alongside Romanians to help with these children.

The slide show also includes just a small sample of the thousands of miraculous stories of intercountry adoption from Romania, sent to me by families all across the United States, where children

are being united with loving families. The contrasts speak for themselves.

Whitney and I again returned to Romania last month and worked with 20 children under the age of 4 in the previously mentioned Private Children's Home. The same children are still there that were there during our last visit, only now a year older. Some children have been fortunate enough to be placed in foster care, but most face a difficult future without a family.

Unless the pending cases are processed and the current law is changed, the nonprofit organization that we work with anticipates raising these children until they are out of high school, as very few, if any, Romanian nationals are inquiring to adopt these children.

If the pending intercountry adoption cases were processed today, seven of these children from this organization would have permanent, loving homes.

While in Romania last month, I also accompanied a social worker for a day and learned that the new law has created a paperwork nightmare. Since it requires new signatures from parents who had already terminated their rights, social workers now spend most of their time locating parents or relatives for signatures instead of working to find children permanent homes.

My understanding is that social workers are also obligated to explain to the parents or extended family that the government will pay them to care for the child if they take them back, even if the conditions are unfit to raise a child.

On that particular day, we searched for the parents of two girls from the Children's Home and finally found them living in a city garbage dump. Another child's grandmother, who lived in similar conditions, wanted to reclaim the child so she could receive money from the government, despite the fact that she had never seen the child and the child had been living with a wonderful foster care family for over 3 years, who wanted to adopt him.

But I was not granted access to a state hospital. I was told that because the new law prohibits adoption of children under 2 years of age, there are once again entire floors filled with abandoned babies, reminiscent of the Ceausescu era.

I also understand that in an effort to meet E.U. admittance criteria, requiring closure of large government institutions, many foster care parents are required to accept more children than they can support. According to the social worker I was with, some foster parents have up to 16 children.

These are some of the experiences I had just 1 month ago, but the organization said that these are common experiences that social workers in Romania clearly face. Clearly these are not in the best interests of the children.

Whitney and I first considered adopting a Romanian child after our summer trip in 2000. Our motives for wanting to adopt a child were very simple: to provide a home to a child who needs a loving family. Our experiences have confirmed to us that, though Romania has made some progress over the years in providing for abandoned children, as Ambassador Ducaru noted, the need is too great for Romania to meet by itself.

Statistics tell us there are over 80,000 children in state care and another 9,000 babies abandoned annually. However, less than

1,500 children are domestically adopted each year. Further, there is a disproportionate number of Roma children, older children, and children with medical problems that statistics show will never be adopted domestically. In fact, according to the UNICEF report in 2005, approximately 66 percent of the abandoned children are Roma.

Our daughter, Simona, is of Roma descent, and her story is a testimony to the miracle that intercountry adoption can provide to a child who needs a loving family. She was abandoned at 3 months of age at a state hospital in Romania, and she spent the next 2 years of her life in state institutions, where she was largely neglected.

Fortunately, she was then placed in a loving foster care family for 9 months, which in many ways saved her life. But had intercountry adoption not been an option for Simona, she likely would have never been adopted domestically due to her age and Roma heritage.

We celebrate the day we brought her home—June 20, 2001, which was a week before the moratorium on intercountry adoption was first imposed by the Romanian Government. At that time Simona was about 3 years old, she'd just learned to walk, and was speaking less than 10 words in her native language.

Four years later, Simona is now a beautiful, healthy, and thriving 7-year-old girl, who loves to run, jump, play, and laugh. Simona has added immeasurable joy to our family, and we thank God for her.

We celebrate her Romanian heritage, though there are days when we look at her and wonder what would have become of this beautiful girl had intercountry adoption not been an option for her.

But our story is not unique. There are literally thousands of miraculous intercountry adoption stories of Romanian children from all over the world. We have even documented many of these stories in a book, that will serve as an appendix to this hearing.

From our perspective, it is outrageous and offensive to hear that certain influential members of the European Parliament have repeatedly threatened Romania with denial into the E.U. if they allow international adoption, calling it nothing more than the selling of babies.

After returning again from volunteer work in Romania during the summer of 2003, we filed papers to adopt another abandoned child who we'd spent considerable time with at the Private Children's Home.

Despite the moratorium, we received a confirmation of a case number and assignment of our child from the Romanian Government in September 2003, hoping to get approval under the Emergency Ordinance.

Ambassador Ducaru claimed that the cases assigned during the moratorium were "a mere administrative act." However, I know many children were still adopted during the moratorium. So I don't quite understand why this can be called "a mere administrative act."

In February 2004, we joined efforts with hundreds of families with pending cases and Romanian adopted children to form an organization called For the Children-SOS, to actively seek resolution

for the pipeline cases and promote fair and transparent legislation for abandoned children in Romania.

The extensive efforts of For the Children-SOS are documented in an appendix to this hearing. Collectively, our organization has spent thousands of hours not only working with our local, state, and national governments and with the past and current Romanian leaders but also working on the ground in Romania, helping abandoned children.

On July 17, 2004, we met with then Prime Minister Nastase to discuss the moratorium on the proposed new law. In that meeting, he promised to process select cases with serious medical issues. To my knowledge, that was never done.

In October 2004, French Prime Minister John Pierre Raffarin was to lead an international committee under the direction of the Romanian Government to review and process the pending cases. This also was never done.

In March 2005, we met with President Basescu here in Washington. He expressed sympathy for the abandoned children and for those of us with pending cases, but still we've seen no action.

In June 2005, the Congressional Coalition on Adoption Institute sponsored a letter to President Basescu, urging him to process pending cases and consider revising the adoption law. Over 40 U.S. Congressmen signed the letter. Still, to this day, no response has been received.

We understand that there are political ramifications involved with these pending cases, but truly it is unthinkable that abandoned children would have to wait to join loving families already assigned to them, while their government plots and ploys a strategy for accession into the E.U.

We consider ourselves fortunate compared to some American families with pending cases. We have traveled to Romania to see our assigned child on two occasions and received periodic updates and photos. However, many have waited much longer than we have—some up to 5 years. Some continue to pay monthly for private care in children's homes or foster care to ensure proper care for their child.

Still others have lost all contact with their assigned children or learned that they were singled out for domestic adoption. Time is passing. These children are growing up without families—families that have already been assigned to them by the Romanian Government.

We urge the Romanian Government to approve all pending cases immediately. In the words of one pending family: "These children do not have shelf lives, and if they did, they would have expired long ago."

Our daughter, Simona, has been praying daily for our assigned child for 2 years. She often asks us when the Government of Romania will say "yes" and let her little sister come home. Simona knows, somehow, the urgency of this adoption and what it is like to be without a mom and a dad. She also knows the joy of belonging to a family.

She is a small voice for the many children from her own country that need permanent, loving families, and right now a voice is what the abandoned children of Romania desperately need.

Thank you.

Mr. SMITH. Mr. Forsyth, thank you very much for your statement.

In your statement you talked about "Simona loves to run, jump, laugh," then you added "and be silly." There's nothing silly about the wisdom and the truth that is being uttered from a child's mouth.

And I hope, Mr. Ambassador, you will take that back. I mean, it's not just the parents, it's the siblings who desperately want to build these families and will provide a great atmosphere in which these kids can grow and thrive.

So thank you, and I do hope there will be no prejudice and I hope the Ambassador will take note of that as well, for your willingness to come forward with a pending case by the Government of Romania, and we will follow that closely as well.

Ms. Murphy-Scheumann.

**STATEMENT OF DEBRA MURPHY-SCHEUMANN, PRESIDENT,
BOARD OF DIRECTORS, JOINT COUNCIL ON
INTERNATIONAL CHILDREN'S SERVICES**

Ms. MURPHY-SCHEUMANN. Yes. I'm Debra Murphy-Scheumann, and I'm president of Joint Council of International Children's Services. We're one of the world's largest and oldest organizations, representing about 75 percent of all of the children who are placed internationally in the United States.

I would like to thank you so much for giving us this opportunity to come and speak today and be the voice of the Romanian children. In order to save some time, I am going to basically summarize some of the information that we have in our testimony, because some of the statistics have already been stated and there's no point of being redundant.

But I would like to submit our testimony, with all the attachments, for the record.

Mr. SMITH. Without objection, it will be made a part of the record, and all of the full statements and attachments by our witnesses.

Ms. MURPHY-SCHEUMANN. Thank you.

The Joint Council shares the commitment of the Romanian Government, and we've been very pleased to see the strides that they have made in child welfare since 1989, and they have indeed made some strides.

But we also recognize the intense political pressure that Romania's getting with their desire for entering into the European Union, which seems to have taken precedent over what is called "the best interest of the child," as we're all aware of this "wonderful" law January 1, 2005, that basically eliminates international adoption with the exception of second degree or the grandparents.

We also heard earlier the testimony about the number of children who are in foster care and institutions and the amount of abandonment, done by the UNICEF study, that continues to show that the abandonment is about the same as it was 10, 20, and 30 years ago.

But our foremost concern is for the development and care of the tens of thousands of children who stay in institutions or their inadequately funded foster care situations.

You know, we've heard a great deal about the pipeline cases today, and I would like to later address just a few of the comments that were made by Ambassador Ducaru, but the 200-plus, or whatever we have left, is just a very, very, very small segment of all the children who actually need homes.

We have to go and look at what's referred to as children's rights. The most basic human right is the right to have a family, and this is something that most of us take for granted, and even the politicians in the United States and in Romania may take your family for granted. But the children in Romania are being used as political pawns, and they're caught in this huge political game.

Again, I would like to address what Ambassador Ducaru was talking about: you know, they're really trying to do what's right and when they make a decision. But it is interesting to note that prior to the accession into NATO, Prime Minister Nastase was advocating wholeheartedly international adoption, and more than once, to more than one government official, he said that Romania is very supportive.

Once they did receive accession into NATO and the E.U. came with some new questions and some new demands, and it was "no international adoptions," and lo and behold, we had a reversal all of a sudden. I'm not aware of any studies that came out during that time that actually indicated that international adoptions, all of a sudden, not the thing to do.

So basically, according to the United Nations' Convention on the Rights of the Child, the Hague, as we all know, is very supportive of this, and then also the Universal Declaration of Human Rights, they all state that the family is the central unit, and they all state and stress: for permanency.

Now, one thing that we do want to clarify, as an organization, is that foster care is not a permanent solution. In 2004, the Pew Commission took a look at the foster care in the United States, which has a 150-year history.

They did a study in Nevada on 100 youth, and they found that 41 percent did not have enough money to even pay for their basic living expenses; 24 percent had supported themselves at some time by dealing drugs; 50 percent left foster care without a high school degree; and 41 percent had been in jail or some type of arrest record.

I plead with you, Ambassador Ducaru: You said that you want to prove that you're able to learn. Learn from us. We have made grave mistakes for our own children; don't do the same thing for the Romanian children.

We have tried to make some changes in our system. The Adoption and Safe Families Act of 1997 came out, stressing that children need safety, permanency, and well-being, and we started to see children in foster care being there for life, 18 years, to going down and looking at concurrent planning.

We need to put pride aside. The United States has put pride aside. We have been absolutely amazed at the number of Congressmen who are not aware that the United States is a receiving coun-

try for these children, but we are also a sending country. Families from U.K., Australia, Canada, they're just among a few of the ones who come and adopt foster children from the United States, and also other infants.

Is there a violation by Romania with the conventions that they've signed? Absolutely, clearly. There's no question that these children are being denied their right to have a family. Romania is party to both conventions: the Hague Convention, which they signed on December 28, 1994, and ratified in May 1995; and also the CRC, which they implemented October 28, 1990.

We all know that there has been a strong influence of the European Union, and sadly, as we all know, there's been many undocumented reports from the EP's former rapporteur to Romania. And I'm not going to go into those quotes again, because we all know what they are, but it appears definite that the cessation of international adoptions was largely a result of the E.U. putting pressure to improve their human rights record.

Romania does need to institute reforms to combat corruption. There's no question on that. Many countries do. But does that mean that we stop all international adoptions and prevent all children? No. We make the system better. We put in safeguards. We start looking at prosecutions, something that nothing's been done about.

It's not making the laws more complex, by any means; if anything, the laws should be simpler. The more complex the laws, the more levels of corruption there become in there. But the countries have to start prosecuting, including the United States, which has started taking a movement, of the people who are acting in corrupt manners.

The other thing that we strongly encourage for Romania is that you look at 5-year, 10-year, 15-, 20-year benchmarks, because you cannot change a system overnight, and we saw the "dumping" of hundreds and hundreds of children in a very short period of time into a foster care system that was not functioning at all.

In fact, many of the social workers I talked with, when I asked about their visits and how often they visit, they said, "Well, we don't have a car." I said, "Well, then how do you get there?" And he goes, "Well—." And I said, "Do you need cars? Is that something that you need help getting?" He goes, "Well, if we had the cars, we still don't have the money for the gas."

So we've got a system that, before it's even started, has been broken down.

Again, in regards to the UNICEF study, that, again, has already been addressed, but I did want to state that it did show that there is existing racial discrimination by society, by the child welfare workers, and also by the medical workers.

There's tens of thousands of orphans remaining, and it is interesting to know that the domestic adoptions had increased while the international adoptions had decreased. Well, if you don't have international adoptions, they will decrease. So I think that is probably a statistic that maybe needs to be reevaluated.

But I think we also have to take a look at the way that some of the children are counted as being adoptable. Many children in the welfare system in Romania are currently visited by family

members, which is wonderful, Joint Council highly encourages in the reunification efforts. It is what the priority should be.

But historically Romania has counted adoptable children as those who have had their parental rights terminated, whether by relinquishment or by abandonment. But to achieve this designation, if they don't go to court, they're not going to be abandoned.

So we have many, many people in limbo right now, or children, whose parents have never seen them for years and years and years, and yet they're not considered to be adoptable.

Another thing that we would like to address is the foster care system. I am president of a Romanian foundation, and we do have a children's home in Romania. I'm happy to say that those kids are doing great; but even those kids change dramatically when they get home. And that's in one of the best institutions—not institutions—children's homes, excuse me, in Romania.

And some of the foster parents that I talk with have repeatedly stated they have not been trained, some have not seen a social worker since the child was placed with them; and then others are—there are clear financial gains for some of the foster parents.

The lack of family reunification plans is another area that we're highly concerned about. What we are hearing in talking directly with some individuals, is that yes, the abandonment rates may be going down, reunification increasing, but they're also not being given any choice. They have to take the baby back with them, also to the point where one was actually escorted via ambulance back to the birth mother's home.

And the other issue we'd like to talk about is the basic freedoms. Individuals who are involved in the child welfare system in Romania, they know what the issues are, but on the same hand, they will all tell me, "But off the record," you know, "this is what's happening. On the record I cannot say anything, because I'll lose my job."

Newspaper reporters have repeatedly tried to do articles. One reporter came over here to the United States to visit the children in the homes. She went back to submit the story, and they were—it was after a visit of Baroness Nicholson, and they said, "No, we can't print it; it's against party lines."

We have seen public officials, very high-ranking public officials, in Romania be very supportive of international adoption and know that this is what is best, for the last option, as opposed to just staying in foster care. But they too have had to switch over to party lines if they want to continue having a position with the Romanian Government.

We recognize this is a very complex issue, the adoption reform, but it is something that has to be addressed, and it has to be addressed now.

One thing that we would like is to request Romania to sign within 30 days all of the pending cases that they have.

Now, I would also like to address that I'm extremely concerned about the information that we just received, saying that there is a committee looking at all of these individual cases to see how strong the bond is between the child and the family.

Not one person from the Romanian Embassy has called me about any of the children I have in my children's home, of which five are

waiting to come back with their families. So how do they know how strong the bond is?

Again, I think this is an area that can be opened up for extreme corruption, just as we saw with some of the cases in the Emergency Ordinance—some cases are approved and others not, depending on who got put on the desk. Another interesting statistic they had was that 688 adoptions were finalized, when direct information was given to us in May saying that there were four in the process. So they've done a great deal of recruitment, evidently, in the last 8 weeks.

But also, those four cases that were identified were all children whose parents had gone over to Romania or have actively advocated to get the children. All four of those cases were from those families.

The last that I would like to say is we did go over to Romania, I had four beautiful children standing up on the stage in front of all the reporters, just asking to be adopted. We were ready for all the phone calls to come in to look at Annkusa and Annamaria and Vasile and Myesah. We received not one telephone call. These are four children who made the front page of the Romanian paper.

So, again, what we would like to say, in closing, is that we have a responsibility to these children for their voices to be heard.

And the other concern is: If we do not stand up for the children's rights in Romania, it is, I will tell you, sir, happening in Bulgaria. We've already talked with public officials who have indicated that. And it will be Ukraine and then it will be—so what will happen is these 80,000-some cases will end up being 400,000, 500,000 cases.

So we have to start standing up for children's rights today.

Thank you.

Mr. SMITH. Thank you so very much for your testimony and for your leadership.

I'd like to now ask Dr. Johnson if you'd proceed.

**STATEMENT OF DR. DANA JOHNSON, DIRECTOR,
INTERNATIONAL ADOPTION CLINIC,
UNIVERSITY OF MINNESOTA**

Dr. JOHNSON. Thank you very much for the invitation to be here, and I want to thank you for your passion on this issue and for the passion of everyone else in the room here—and I want to be in the front row when you have your debate with Emma Nicholson. [Laughter.] [Applause.]

The time is late, and my full statement is available. I want to concentrate on comments on two issues related to the current adoption laws. One is the essential ban on intercountry adoption, and the second is the concentration on reunification in the Romanian adoption laws.

Many people have made comments on how ironic it is that the European Union foisted a law on Romania that basically bans intercountry adoption because everyone, save a few countries, have actually signed the Hague Convention.

I would also point out that while the United States adopts the largest number of children from abroad, Western Europe has the highest rates of international adoption in the world. Indeed, Nor-

way, Sweden, Denmark, the Netherlands, France, and Spain all have higher rates of international adoption than the United States, and Germany and Italy are close behind.

So Europe likes to adopt internationally as well, and why they would preclude Romania from placing kids abroad I think goes directly back to the fact that Emma Nicholson played the principal role in drafting this legislation.

Now, Lady Nicholson has already been vilified during this hearing, but not sufficiently, in my mind, so I'll add a few more comments. One is that I think her comments about international adoption also flow back to domestic adoption.

Romania is a country where people hide the fact that they adopt. This is not something that's accepted in society, and why would a couple go out of the box and identify themselves with the pedophiles and organ traffickers that international adopters are if they're going to adopt domestically? So her assault on international adoption is an assault on adoption in general.

The next thing I want to talk about and add some scientific support to is this whole issue of concentrating on the reunification of an abandoned child with his or her family. Now, superficially, this focus is consistent with the U.N. Convention on Human Rights and also the Hague Convention.

However, in neither of those documents is the mention of time. It doesn't tell you how long you should spend reunifying that child with the family, and contemporary child development research has clearly shown that there is a known amount of deterioration that occurs in children who are in hospitals or institutional care and outside of family care during the first few years of life.

In fact, you can predict that every child who is in institutional care during that period of time will lose 1 month of physical growth, 1 month of motor development, 1 month of speech development for every 3 months they're in institutional care.

You also can predict that from age 4 months through 24 months of age, they will lose one to two I.Q. points a month.

The other thing we know is that by placing them into a caring, competent family, you can recover some of this function—not all of it, but much of it.

As a previous speaker said, foster care is only stopgap; it does not provide the permanent family that each child needs to develop fully. All you have to do is look at our own experience in this country to know how wanting foster care can be.

What I would end up by saying is that the clock is ticking. A child that's abandoned in Romania today at the end of next summer will have permanently lost 15 I.Q. points. That child 2 years from now will have permanently lost 30 I.Q. points, which means that half of those kids are going to be mentally retarded.

So the question that I would ask is that it is a child's right to develop normally, not just to be in a family, but to develop normally, and that's probably the most fundamental human right, aside from being able to survive.

A child's brain is delicate, and it's perishable, and I challenge Romania to consider how many I.Q. points they're going to allow their children to lose before they establish child protection legislation

that is evidence-based and not just tabloid-based, as Emma Nicholson put in place.

Thank you.

Mr. SMITH. Dr. Johnson, thank you so very much for your testimony and that very unique perspective, borne out of your studies and the studies, I'm sure, of others; but I looked at your footnotes and noticed that you have worked extensively on this, about the loss of mental and motor capabilities on the part of a child.

I think that's left out of this, so I think the right to develop normally, it's a very good, important point to be made here.

And for all the families that are waiting, obviously, they know that the child that they just yearn to make a part of their family, and in many cases emotionally already have, is deteriorating. I would hope that the Romanian Parliament and the President, by way of the Ambassador, would take home that message very clearly: Romanian kids, this anti-adoption law is a nightmare for these children.

And you have provided empirical data for that, and the others have as well, but thank you for that very unique perspective.

Mr. Atwood, please.

**STATEMENT OF THOMAS ATWOOD, PRESIDENT AND CEO,
NATIONAL COUNCIL FOR ADOPTION**

Mr. ATWOOD. Mr. Chairman, on behalf of the National Council for Adoption, NCFCA, I thank you and the Commission for the opportunity to provide testimony on this important topic.

Founded in 1980, NCFCA has been involved in improving the intercountry adoption system since the early stages of drafting the Hague Convention and since the Intercountry Adoption Act of 2000. We greatly appreciate the commission's leadership in drawing attention to Romania's cruel and arbitrary ban on intercountry adoption.

NCFCA agrees with the principle that domestic adoption is to be preferred over intercountry adoption. Whenever possible, children should grow up in permanent families in their countries of origin. However, national boundaries and national pride should not prevent children from having families.

When domestic adoption is not occurring for children within a certain timeframe, as is the case with tens of thousands of Romanian orphans, they should become eligible for intercountry adoption.

This hearing is asking the right question: Is Romania's ban on intercountry adoption in the best interest of children? In our view, the answer is clearly and emphatically: No.

Considering Romania's ban, it seems as though Romanian policy-makers prefer that their country's orphans grow up in desperate, overcrowded institutions rather than in loving American families.

At least as puzzling and astonishing is that the European Union requires Romania to adopt such a policy in order to obtain membership in the union.

The American and international child welfare communities should be very concerned about this attack on children's rights. We should work to reverse the policy as soon as possible, and we

should strive to prevent opponents of adoption from advancing their harmful agenda in other vulnerable countries.

Since 1990, more than 8,200 Romanian orphans have found loving, permanent families through adoption by American parents. In 2000, the last nearly full year for Romanian adoptions, more than 1,100 Romanian orphans found loving families in America.

In 2004, that number had dropped to 57, and there has been one adoption in 2005. If the rate in 2000 had continued, 3,000 additional Romanian orphans would now today be enjoying loving, permanent families.

Romania has signed, ratified, and supposedly put into force the Hague Convention, the fundamental principles of which are that intercountry adoption can be in the “best interests of the child,” and that “intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her state of origin.”

Romania is in violation of this treaty by allowing orphans to be adopted internationally only by family members outside of the country. Note the word “permanent” in the Hague Convention. Only adoption offers the orphaned child a permanent family.

The benefits of intercountry adoption to children are indisputable. The record clearly shows that outcomes for children who are adopted internationally are better than those for children raised in institutions or foster care.

A study recently published in the *Journal of the American Medical Association* found that the large majority of internationally adopted youth are well-adjusted, despite the fact that “before adoption, most international adoptees experience insufficient medical care, malnutrition, maternal separation, and neglect and abuse in orphanages.”

The JAMA study also found that internationally adopted children actually fared better than domestically adopted children. Other studies establishing that intercountry adoptions benefits the children are detailed in our written statement.

NCFR supports Romania’s efforts to place children temporarily in state-approved foster families rather than in institutions. But foster care does not provide the permanence and security offered by a family through intercountry adoption.

The American experience with adoption and foster care is clear-cut: Children who are adopted fare better than those who experience long-term foster care.

Couple this finding with the JAMA findings and you have indisputable evidence: intercountry adoption is better for children than Romanian foster care. It’s as simple as that.

Children can be taught to appreciate their countries of origin, and they are in most international adoptive families. They can visit their original countries and even move to them later in life.

But one can never restore love and security to a childhood lived in uncertainty and transience, without a forever family with whom one belongs. Foster care is an appropriate temporary measure, but it should be just that: temporary.

After all, what is more important to a child: having a loving, permanent family of your own or growing up in the country where you

happen to have been born? The question answers itself: all children need and deserve loving, permanent families of their own.

NCFR also supports Romania's efforts to promote domestic adoption, both related and non-related. But there were only 3,500 adoptions of orphans by Romanian citizens from 2001 to 2003.

Contrast that statistic with UNICEF's estimates that there are more than 4,000 newborns abandoned annually, and it is apparent that without intercountry adoption Romania is losing ground in its efforts to provide for the well-being of orphans.

Despite problems with Romania's intercountry adoption program, it was neither necessary nor in children's interests to end adoptions altogether. Transitioning to the Hague Convention and initiating other targeted reforms, prosecutions, and enforcement efforts, in cooperation with the global adoption community, could address the problems.

Yes, Romania's harmful policy could spread to other countries, especially a nation who is desiring admission to the E.U. Many countries of origin deal with a certain amount of nationalistic reaction to the idea of allowing their country's children to be adopted internationally.

Yesterday I returned from Moscow, where I was working with adoption officials to enact strategic reforms to protect children better while still allowing orphans access to intercountry adoption. While I was there, the Duma considered and—thankfully—rejected for now a moratorium on intercountry adoption that had been promoted by nationalistic opponents of adoption.

Fortunately for the children's sake, Russia may be moving in the right direction, but nationalistic perspectives combined with the political pressure from the E.U. could harm children's interests in intercountry adoption in several countries.

In conclusion, national boundaries and national pride should not prevent children from having families. It is indisputable that adoption, whether domestic or intercountry, is a phenomenally successful social institution which has met the needs of millions of children. It can continue to do so for many thousands of Romanian orphans, if allowed the opportunity.

We greatly appreciate the American Government's and this Commission's advocacy of intercountry adoption and offer our continued assistance in advancing this crucial mission.

Thank you.

Mr. SMITH. Thank you so much, Mr. Atwood.

Thank you all for your very persuasive and, I think, very compelling testimonies but more importantly for the work you do day in and day out on behalf of these children and on behalf of specific children that you would like to make a part of your family.

Just a couple of very brief questions, then I'll turn to my friend and colleague, Commissioner Pitts.

I would hope that the Romanian Government would take home an issue that I've raised—and, Ms. Murphy-Scheumann, you raised it as well—about prosecution.

Baroness Nicholson has made sweeping statements that really, without proof, slander those families that have adopted children through intercountry adoptions. Where is the proof? Where have the prosecutions been, to put these people behind bars? That's

where the emphasis should be, rather than on banning this loving solution.

And, if you could, Dr. Johnson, elaborate further on some of your work. I think it's a bombshell when you can prove empirically, and Romanian health officials should take very seriously, as should the E.U., because this seems to be the harbinger of a larger policy that's emerging, as you indicated, in Bulgaria and elsewhere, of shutting down the intercountry adoptions by a small clique of people.

You know, very often a small group, when they have the power, like being a rapporteur, can disproportionately dictate an outcome to the European Commission or parliament or whoever it is they may be working for.

But when you made the point, again, Dr. Johnson, that contemporary child development research has unequivocally shown that, in infancy, hospital or orphanage care for longer than four to 6 months can cause permanent alterations in cognitive, emotional, and behavioral development, and then you went through some of the—you know, 3 months equals 1 month loss, could you elaborate on that further, because I think that's a bombshell. Romanian kids are going to be hurt, and are being hurt, because of this law.

Dr. JOHNSON. Oh, they are clearly being hurt. And, actually, most of the work was done on Romanian kids. There are two large studies, one done by Michael Rutter's group in the U.K., looking at Romanian adoptees in the 1990 and 1991 immigration, and another one done in British Columbia by Elinor Ames and Lucy LeMare.

They've followed these kids out now. Lucy LeMare's data shows that the kids who were in institutional care for 2 years or more have an average I.Q. of 70, which means that half the kids are mentally retarded.

Michael Rutter's group: a third of the kids who were in the orphanage for longer than 2 years have severe attachment problems.

Our data on international adoptees adopted to Minnesota shows that as kids get to be in institutions longer than 2 years, they have a far higher incidence of conduct disorders, attachment problems, internalizing behaviors, school problems—you just go down the list of malfunctions during childhood, and that's what you find. It all relates to the degree of deprivation that they suffered when they were in institutional care settings.

So the information is absolutely unequivocal, and it is absolutely time-related.

Mr. SMITH. Commissioner Pitts?

Mr. PITTS. Thank you, Mr. Chairman.

Your data is so alarming, maybe someone should be charged with a crime against humanity to what is happening to these small children.

I want to go to Mr. Atwood first. You know, one of the things that Ceausescu is remembered for, his legacy, before he was overthrown, was the deplorable conditions of the orphans by the hundreds of thousands in those institutions.

It seems that the present administration, for whatever reason, is locked into the same old bureaucratic, Communist, dictatorial mentality to keep little children locked up, in violation of treaties and

international norms to the right of children to be raised and developed in normal, loving, permanent family settings.

Why do you think this is occurring? You mentioned national pride. Is that it, or old Communist beliefs? In your opinion, why is this happening?

Mr. ATWOOD. Well, certainly national pride is one thing. I would speculate that—and this is something that occurs in every country of origin, in international adoption, to some extent.

You can to some extent respect the attitude “We should be able to take care of our children ourselves,” but that’s national pride, and that should not prevent children from having families.

The other factor, of course, is the E.U. pressure, which has been discussed; and another, that Representative Northup was getting to, which I think is very true, is: simply a lack of understanding of and appreciation for adoption.

You know, to pick another country, we did some polling in Russia: 81 percent of the people in Russia said they would never consider adopting. I’m sure there’s something like that in Romania.

It’s very different in the United States. 70 percent or so say they would consider adopting. 70 percent or more. But we weren’t like that 50, 100 years ago either.

So there’s a lot of communication that needs to go on, a lot of promotion of the idea of adoption that needs to go on in a country like Romania, before you’ll really get any kind of momentum for it to happen, and domestically, for domestic adoption to really take off.

And that’s why international adoption is crucial for those orphans, because we can, through international adoption, give them families now.

Mr. PITTS. Dr. Johnson, you mentioned the psychological/physical ramifications to a child, a young child, say, who’s been in state care since birth and the impoverishment that results.

Is there currently, do you know, a program or government services available in Romania to address these children’s needs, who are domestically adopted in Romania? And how prepared are the medical officials in Romania to address the special needs of these children?

Dr. JOHNSON. Well, very poorly. I mean, we don’t do as good a job as we should in this country, and Romania doesn’t have the medical infrastructure, particularly in behavioral medicine, that is necessary.

There’s a study now going on, called the Bucharest Early Intervention Project, looking at the mental health needs of children after they’ve been institutionalized. Even in children who have been institutionalized and put in foster care, the rates of mental illness—and this is in very young children—is twice what you would expect in the general population. The rates are even higher in the kids who have been institutionalized.

So the longer children are in institutions, the more mental health needs there are going to be.

And, you know, none of the countries of the world do a particularly good job in providing mental health care for children, especially countries whose economic situation is very, very poor.

I would point out that even though we're talking about Romania here, this is true in institutions throughout the world, and we just have to acknowledge that institutional care is a horrible situation for kids to grow up in and what they really need is families.

Mr. PITTS. Thank you.

Ms. Murphy-Scheumann, you state in your testimony that reintegration with the family should always be the primary goal. Shouldn't there be limitations on this, such as how long a child has been away from the biological family and what interest the family has expressed to be reunited with the child?

Could you talk about, you know, the family reunification plans a little bit.

Ms. MURPHY-SCHEUMANN. Yes.

What we're stressing is that you should look to the family first, but the Adoption and Safe Families Act, it actually specifically talks about concurrent planning and that as soon as the child enters into the foster care system, they should be looking at a solution already, so at the end of 12 months, either they're reunited or reintegrated with the family or they are free for adoption, but they get out of the foster care system.

So the new benchmark is somewhere around 12 months. Some of our foster kids had 7, 8, 9 years in foster care. As we heard last night, the young lady who spoke at the Angels in Adoption dinner had been in foster care for 18 years. So the Adoption and Safe Family Act is addressing that, and we would encourage Romania to learn from that also.

Mr. PITTS. Mr. Forsyth, you mentioned that some families have had their assigned children pre-selected for domestic adoption. Could you expand on that. What would these children—why would they be pre-selected?

Mr. FORSYTH. Yes, sure.

We know, of course, many families. I mentioned our organization For the Children-SOS. We, through that organization, have met many families of these 200 pending cases and have shared with them the sorrow they felt in recent months to learn that their child is no longer adoptable because they were adopted to a domestic family.

And so these are families that had assignments, just as we do, from the Romanian Government, and children that were assigned to them, who they knew and were in some cases even looking after.

I'm an engineer, and statistically, it's illogical to me to think that if there's 80,000 children in Romania that are under government care and a large percentage of those perhaps even now are adoptable, that they would select a child that already has been given a family—especially considering that international adoptions are no longer an option, that they would select a child that already has been assigned to a family to be a domestically adopted child.

The truth of the matter, I think, just from my experience, is that in Romania, as has been testified, social workers are having a difficult time. American families with pending cases have their paperwork in order. It's easy for the social workers to adopt a child that has been oftentimes well cared for because of the situation that they're in and also had their paperwork already ready to go.

Mr. PITTS. From your experiences, how would you describe the future of children in Romania given the current child welfare situation?

Mr. FORSYTH. Well, over the 11 years we've been there, we've seen a number of children grow up, and it's bleak, under the current legislation and under the current opportunities for children, especially those that are Roma, especially those who have specific needs, medical needs, for example. The future is not bright.

Mr. PITTS. And in your experience, is anything being done to minimize the rate of child abandonment in Romania?

Mr. FORSYTH. I think there are. You know, there is a lot going on on the ground in Romania that is very, very encouraging. There are countless numbers of non-government organizations that are working there.

One of the wonderful things that are available to international families are to go and to work with some of these non-government organizations, that Romania currently has their doors open to foreigners to come in and help with, and so my wife and I have been privileged to do that. Through those efforts, on a very small scale, there are differences that are being seen.

In the small town that we've worked with, they've all but eliminated abandoned babies, just in this small little community, because of the outpouring of support they've given through donations given internationally, funding, but also just people going to work with those organizations, to help minimize child abandonment issues.

And so there are some small success stories, but the problem is much greater than that.

Mr. PITTS. Thank you very much for your testimony.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Commissioner Pitts.

I just want to thank our distinguished panelists again for your testimonies, which we will use and ponder over and pore over, frankly. You've made a number of good recommendations.

For instance, Dr. Johnson, I would be very interested in knowing what the Ministry of Health's response in Romania is to your findings.

We have testimony that is being submitted for the record by the House of Angels, and Simona Stewart makes the point that there are many hundreds of babies simply abandoned in state hospitals, and then asks very poignantly: "I say to you: Had Emma Nicholson, MEP, spent 1 day with me in any Romanian child ward of any Romanian state hospital, I tell you, she'd go home in tears at the misery that she has caused"—and, as she points out, this is a Romanian citizen who is in the business of every day trying to care for these children.

It is a nightmare, and your empirical data, I think, is very, very helpful and persuasive in trying to say to the government: "We care about your children, the families that are here care about your children." The data clearly shows: 1 day in excess of being in one of those institutions hurts.

It is a form of child abuse, however unwitting it may be, it is a form of child abuse. We want Romania to rejoin the countries of the world that see the best interest of the child as the prime inter-

est, not trying to appease and to appeal or to pander to a rapporteur who happens to hold the cards as to accession into the EU.

And I thought your point, Ms. Murphy-Scheumann, about the NATO accession, that the statements were favorable to adoption when that was helpful to their cause, and now just the opposite, when it seems to be helpful to the opposite, that doesn't bring honor to any government anywhere.

So, again, your testimonies are outstanding, and this will be the first of a series of hearings. We hope—hopefully, with the Ambassador's help—to bring the head of the adoptions program here.

Anytime, anywhere, the MEP leaders would like to meet with us, this Commission stands ready, willing, and able, and we will again issue an invitation to them to come—because this injury has to be undone, and this harm which continues has to be undone.

So thank you so much for your tremendous testimonies.

The hearing is adjourned. [Applause.]

[Whereupon, at 12:59 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Helsinki Commission today examines the effect of Romania's ban on intercountry adoption on the lives of the children of Romania. Some 37,000 children live in institutions in Romania today, tens of thousands of others are in foster care. Romania does not to date have the capability to adequately cope with this humanitarian crisis nor does it have a robust practice of domestic adoptions. Yet the Romanian Government was led to believe that banning intercountry adoptions was an appropriate price for membership to the European Union. The Romanians under the leadership of then-President Ilescu capitulated. That the EU, which has traditionally stood with the United States in defense of human rights, should demand such a policy is appalling. That the Romanians should accept it is equally troubling. By adopting a law prohibiting intercountry adoption, except in the exceedingly rare case of a biological grandparent living abroad, Romania has denied thousands of children a loving home and a caring family.

I am particularly concerned about the fate of the Roma children who have been abandoned. Unfortunately, there is still a common stereotype, even among well-educated Romanians, that Romani children are genetically predisposed to lying, stealing and other criminal behavior. There is also a considerable amount of discrimination against those born with any type of disability. Faced with prejudice by prospective adoptive parents in Romania, and cut off from international adoptions, these children will most certainly not find homes.

Romania's primary antagonist pressing for a ban on intercountry adoptions has been the former rapporteur for Romania's accession to the EU. She asserts that individuals who adopt internationally are those who are turned down to adopt in their own countries and are likely pedophiles and child traffickers. She alleges that children adopted internationally suffer dismal fates. She has no facts to support her allegations. She espouses a view that places biological, cultural and linguistic origin as a source of a person's identity above the importance of children having a family. This view sees it as a primary, fundamental right of every child to retain a connection, even if only the faint hope of a connection, to a biological mother. According to this view, international adoption violates the child's identity by placing him or her in a culture and family that does not correspond to his or her true identity. Those who have driven this issue within the EU emphasize the corruption problem because they know that is the best argument to win people over to their side, but their real motivation is sinister, one that emphasizes ethnic identity over basic humanity, and sentences children to a life of loneliness without parents to love and care for them.

Prior to enactment of the anti-adoption law, approximately 200 Romanian children had been matched with adoptive parents in the United States. These families have committed their hearts to these children. Dozens have written to the Helsinki Commission pleading for our help. Does anyone really believe that they are motivated by

anything other than compassion? Congressman Smith, who has been at the forefront of efforts to combat human trafficking, and I, can say with absolute certainty that this is not child trafficking.

I'd like to share with you the story of one family—in this room today—whose adoption got stuck in the pipeline. Becky Hubbell and David Clark are from Leawood, Kansas. If the Romanian Government would allow this couple to proceed with the adoption of Vasile Leica, who is now 7 years old, he would be joining a family of 5 children, with parents who have been married for 32 years. Both parents are accomplished professionals who have adopted children from China, India and Romania. Every year for the past five years, Becky Hubbell has traveled to Botosani, Romania with a team of doctors and surgeons providing free care to children and adults. Becky has also helped establish children's homes in Romania and Moldova and a home for unwed mothers in India. Are Vasile's interests really best served by growing up in a group home for children rather than joining this loving family? Absolutely not.

You can be sympathetic with Romania's need to join the European Union and still recognize that the adoption law is deeply damaging to the lives of thousands of children. There has to be a better and more humane way to deal with this problem and I urge the EU and Romania to sit down and take seriously the fate of thousands of innocent children and the loving families that await them.

**PREPARED STATEMENT OF HON. JOSEPH R. PITTS,
COMMISSIONER, COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

Mr. Chairman, thank you for holding this important hearing regarding inter-country adoption in Romania. As you know well from your leadership on adoption issues, there are many wonderful families in the United States who are waiting to give Romanian children a loving home. It is deeply disturbing that the apparent biases of one or two individuals in the European Union are allowed to negatively affect the lives and futures of tens of thousands of children in Romania. These individual biases that are holding hostage the lives of many children must be strongly addressed by the European Union, and policies must be changed so that thousands and thousands of children in Romania have the opportunity for a better life.

As you may know, a moratorium on adoptions by the Romanian government has been in place since October 2001, but Romania has allowed exceptions to the moratorium for reasons such as family reunification and for children typically the most difficult to place domestically in Romania, such as older children or children with special needs. On February 5, 2004, the Romanian Government issued an emergency ordinance that appeared to prohibit all future inter-country adoptions from Romania and repeal these exceptions to the moratorium. Then, on June 21, 2004, Romanian President Iliescu signed into law a draft adoption bill that limits international adoption solely to adoption by a child's grandparents. The law was published in the Romanian Government Monitor on June 22, making the law official. While there is widespread agreement that the prior Romanian legal framework did not always protect the best interests of children, creating opportunities for corruption at many levels, I remain extremely concerned that the new Romanian adoption law imposes serious obstacles to all adoptions and creates a system in which children remain for years in state care without parents. In July 2004, senior U.S. Government officials met with Romanian officials in Washington during which they expressed their disappointment in the new Romanian adoption law and urged an expeditious solution to the remaining adoptions in progress so that children can be placed in a permanent family environment.

The U.S. Department of State announced on February 25, 2005, that the Romanian National Authority for the Protection of Children's Rights for Non-Governmental Organizations (NGOs) had requested suggestions on how to better implement Romania's new child welfare law and how to amend it. In June 2005, I joined with several of my colleagues in sending a letter to Romanian President Traian Basescu expressing our concern about the new law that became effective in January 2005. It is clear that the major tenets of the law are such that no child would have the opportunity to be adopted internationally unless those adopting are related to the child. We would all agree that it is in the child's best interest to remain in the family, community, and country to which they are born. In fact, the Hague Convention on Inter-country Adoption endorses a "continuum of placement preferences" that puts reunification before adoption and domestic adoption before international. There are, however, circumstances in which all reasonable efforts

have been made to find a family for a child in the child's country of origin and despite these efforts, the child is not adopted. For these children, international adoption is their only chance to find a permanent and loving home.

I believe that not only are the limits of the new inter-country adoption law adverse to the spirit and tenets of both international child welfare treaties to which Romania is a signatory, it also does not provide a means by which the two hundred cases previously processed under the emergency ordinance may be completed. Unfortunately, these children have now waited an interminable period to be placed with a loving family. Therefore, it is my hope and the hope of all Members of the Congressional Coalition on Adoption that the Romanian government will develop a transparent system for reviewing these cases and processing adoptions that were qualified under the special ordinance prior to its suspension. In addition, I hope that we, as Members of Congress who care deeply about children and about the country of Romania, can work together with the leadership of the country to reverse this law that is so damaging to children's health and welfare.

Thank you Mr. Chairman, I look forward to hearing from this morning's witnesses.

**PREPARED STATEMENT OF HON. MAURA HARTY,
ASSISTANT SECRETARY FOR CONSULAR AFFAIRS, U.S.
DEPARTMENT OF STATE**

Chairman Brownback, Chairman Smith, distinguished Commissioners, I appreciate the opportunity to discuss with you the efforts of the Department of State on behalf of American families and Romanian children in need to urge the Government of Romania to live up to its international treaty commitments and allow intercountry adoptions.

The Department of State is committed to fostering an international environment for intercountry adoptions that protects the interests of orphaned and abandoned children, their birth parents, and American families. The Department's role is divided into several broad substantive areas. First, U.S. implementing legislation for the Hague Convention on Protection of Children and Cooperation in the Respect of Intercountry Adoption designates the Department of State as the central authority for the United States, and assigns regulatory and accrediting responsibilities to the Department of State.

Second, as a foreign policy matter, we encourage other nations to become parties to the Hague Convention. The U.S. Government considers this instrument to be most effective in establishing a set of internationally agreed requirements and procedures to govern intercountry adoptions. A key element of the Convention is that it identifies the advantage of a permanent family to a child for whom a suitable family has not been found in the child's country of origin.

The Department of State also has the responsibility for reviewing immigrant visa applications filed on behalf of children who have been adopted or will be adopted by American citizens. In fiscal year 2004, around the world we issued 22,884 immigrant visas to these children, enabling them to join their new families in the United States.

Romania's child welfare and adoption systems are of continuing concern to the Department of State. In 2001, the Government of Romania imposed a moratorium on intercountry adoptions. This action was taken in response to concerns in the U.S. Government and others about the Romanian adoption system as it existed prior to 2001. Specifically, a joint U.S. Agency for International Development (USAID) and U.S. Department of Health and Human Services (DHHS) Report on Intercountry Adoption in Romania, published in January 2001 stated, "[T]he nature of the child welfare services in Romania" was susceptible to corrupt practices and . . . many of the financial resources generated for child protection programs through the intercountry adoption process were being misappropriated." The report also stated that Romania had "virtually uncontrolled adoption activities that allowed prospective adoptive parents to fly to Romania and adopt directly from the birth parents or orphanage officials . . ." and there was "very little focus on the use of child centered adoption procedures."

Clearly, Romania's previous adoption laws failed to provide child welfare protections, and reform of the system was imperative. To that end, the United States, UNICEF and other countries and organizations provided suggestions and guidance to the Government

of Romania as it worked to craft a revised adoption law that would meet international standards.

The Department of State worked aggressively with the Government of Romania to address these serious issues and develop a transparent adoption system. Our objectives have been to restore transparency, improve the Romanian child welfare system so that it meets international standards and lift the intercountry adoption moratorium as early as possible. The Department's efforts took on greater urgency and importance in June 2004 when the Government of Romania passed an adoption law that effectively bans intercountry adoptions from Romania by restricting such adoptions to the child's biological grandparents. This legislation went into effect on January 1, 2005.

Because the current legislation failed to include a mechanism for processing cases that were registered by Romanian officials under the moratorium, its passage effectively froze action on these cases. At the same time that the moratorium was put in place, Romania nevertheless allowed prospective parents to continue to register their applications to adopt with the Romanian Government. Regrettably, this legislation is so restrictive that it has ended up harming the very children and families it ostensibly was designed to protect. Children continue to face long term institutional care—the least desirable outcome.

Romania is a party to the Hague Convention on Intercountry Adoption, and has therefore agreed to certain international standards and principles, one of which is that intercountry adoption is a legitimate option for children who cannot find permanent placement in their country of origin. However, the Romanian Government's current adoption law, by effectively closing off this option, runs directly counter to this principle and Romania's treaty commitments. It is also inconsistent with UNICEF guidelines and with the legal framework of virtually all European Union member states.

Furthermore, the Romanian Government's handling of international adoption issues over the past four years has, according to the Romanian adoption authority's own estimates, created an impasse for many hundreds of children in need of families.

I think it is important to describe to you in real terms the impact of this moratorium. Earlier in my testimony I mentioned the Department of State's responsibility for adjudicating immigrant visas. In fiscal year 2004, when we issued almost 23,000 immigrant visas to adopted children worldwide, our Embassy in Bucharest issued only fifty-seven immigrant visas to Romanian children adopted by Americans. Since January 1, 2005 our Embassy has issued precisely one of these immigrant visas. Since the moratorium began, the only immigrant visas we have been able to process have been on behalf of children who were registered for intercountry adoption before the moratorium.

Given the number of Romanian children in need and the relatively smaller number of Romanian families looking to adopt domestically, the Department of State is concerned that this law prevents thousands of Romanian children from finding permanent families to raise them.

As previously mentioned, while the moratorium was in effect between 2001 and the June 2004 passage of the current adoption law, a court order required that the Government of Romania continued to register applications to adopt Romanian children from families outside Romania, including from the United States. There are approximately 200 registered cases that involve U.S. families. Looking for a reasonable resolution to these cases has been the primary focus of the Department of State's most recent efforts.

The Department of State has repeatedly sought commitments from both the current and former Romanian governments that they would process pending cases to conclusion. The U.S. Government has held conversations with Romanian officials at all levels, including a March 2005 meeting between President Bush and President Basescu. Secretary of State Rice discussed this matter with the Romanian Foreign Minister in May 2005. Past U.S. Ambassadors to Romania and other U.S. Embassy officials in Bucharest have repeatedly discussed the issue with Romanian officials there. At every opportunity, the U.S. Government has impressed upon the Government of Romania the importance we attach to processing the pending cases to conclusion in a legal, transparent and expeditious manner.

Despite periodic commitments to establish a mechanism to resolve the pending cases, the Romanian Government has taken only tentative, intermittent steps. In fact, Romanian officials have offered many promises, but there has been little or no follow-through.

For example, in late 2004, then-Prime Ministers Nastase of Romania and Raffarin of France publicly suggested the creation of an international commission to review the pending cases. This did not happen under the former Romanian government, and its successor similarly has not pursued it.

In March 2005, Romanian President Basescu, during a visit to Washington, met with a number of American families whose adoptions are still pending and he committed to pursuing a solution to the pending U.S. cases immediately. But so far we have seen no action by the Romanian Government.

I traveled to Romania in early May 2005 and met with President Basescu, Foreign Minister Ungureanu and other officials of the Government of Romania. My message was quite clear: we need to resolve the pending intercountry adoption cases as soon as possible. I received assurances from the Romanian officials that they are committed to resolving the intercountry adoption issues. My response to these assurances was, "Hope is not a policy."

The Romanian Government has asserted that its adoption law and its failure to proceed with pending cases are being driven by concerns over Romanian accession to the European Union. It is the understanding of the Department of State, however, that there is no European Union law or regulation restricting intercountry adoptions to biological grandparents or requiring that restrictive laws be passed as a prerequisite for accession. All current EU member states with the exception of Ireland have ratified the Hague Convention.

The Department has sought clarification from the European Union on its stance with regard to Romania and its adoption legislation. I am hopeful that the European Union will be able to shed

light on what are and are not the actual adoption-related requirements, if any such requirements exist, for EU candidate countries.

Chairman Brownback, Chairman Smith, it is with great disappointment that I appear before you today. After rounds of discussions and years of consultations, the fact remains that there has been no real progress. This is a humanitarian issue, a child welfare issue. Hundreds of Romanian children are being denied the opportunity to live with families that are prepared to give them a permanent, loving home and American families are being asked to suspend their lives in hopes of some future resolution. Again, I say: Hope is not a policy. The Department of State will continue to press Romania to fulfill its commitments to the U.S. Government and American families to resolve the pending cases with concrete, transparent criteria so that Romanian orphans and abandoned children can have the future they deserve.

I thank the Chairmen and the members of the Commission for your attention to this important subject. At this time I am pleased to answer any questions you might have.

**PREPARED STATEMENT OF HIS EXCELLENCY SORIN DUCARU,
AMBASSADOR OF ROMANIA TO THE UNITED STATES**

Ladies and Gentlemen, Members of the Commission, it is a great honour for me to appear before you to address my country's new legislative framework in the field of child protection and adoptions and also the recent measures for the implementation of these new provisions.

When the communist regime fell in 1989, Romania inherited a very difficult situation of abandoned children, a system overburdened with institutionalized children. In the following years, efforts have been started towards creating a comprehensive and functioning child protection system. At the same time, thousands of domestic and international adoptions were concluded, many of them by US families. We appreciate those US adoptive families that offered a loving home to many Romanian children in need, in a moment of lack of substantive legislative and institutional framework in the field of child protection.

However, the abuses of the system of inter-country adoption in place in Romania became the subject of international criticism and the Government decided to introduce a moratorium on international adoptions, which came into effect in October 2001.

The criticism referred to the ambiguous nature of some legal provisions regarding adoptions, lack of transparency regarding the procedural stages of an international adoption, including the financial aspects of these procedures, elements that led to widespread corruption in the system. The flagrant inconsistency between certain provisions in the Romanian law and the stipulations of the UN Convention on the child's rights and of the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption was also invoked.

In spring of 2001, ABC's 20/20 broadcasted a story called "Children for Sale" which clearly depicted how special interests and money were generating and even encouraging new situations of child abandonment instead of finding families for children already waiting in state institutions. Romania had started to be viewed as a market for international adoptions, where financial considerations prevailed over the humanitarian dimension, which is assuring the best interest of the child. This is why the Romanian Government had decided to institute a clear policy of finding a national solution for the children and to impose a moratorium on international adoptions.

The purpose of the moratorium on international adoption was to provide the time needed to develop appropriate new legislation and the administrative capacity to ensure that inter-country adoption would be restored exclusively in the best interest of the child, if no other suitable form of care was available in Romania.

During October–December 2001 and February–December 2004, while the moratorium was into force, Romania had no legal framework to support the registration and processing of new cases of international adoption. Between December 2001 and February 2004, the government has approved international adoption for the cases registered before the moratorium (the so called "pipe-line" cases). All US cases of international adoption submitted before the moratorium were finalized.

Nonetheless, foreign families continued to file requests to adopt Romanian children, based on false expectations that the ban on international adoptions would be lifted after the approval of the new Romanian law. The United States pending cases are amid the above mentioned; it is essential to emphasize that no American family that currently awaits approval for adopting Romanian children had filed the request prior to October 2001. Also, it is important to stress that the registration of a petition for international adoption during the moratorium represented a mere administrative act and did not signify approval of the request. According to reports received by the Romanian Embassy in Washington and Romanian authorities, many US families were told by their adoption agencies that their requests had been approved, when in fact their application for international adoption was only registered.

Irregularities involving international adoptions registered during the moratorium were observed:

- Many requests for adoptions were referring to children who did not have an “adoptable” status; under these circumstances, the children were not registered in the official records. All efforts focused on declaring the child adoptable, without any previous effort to integrate him/her within the biological or extended family, thus eluding the provisions of the Hague Convention.
- Many unsolved files were incomplete; many files even failed to identify a child; there are situations when the adoptive family/person nominated several children or situations when a child was nominated by several adoptive families/persons.
- The majority of the American families have submitted applications for children younger than three years old. Those children could only be adopted nationally even according to the former methodology in force at that time, only children older than the age of three could have been considered for international adoption.

All these shortcomings basically led to the conclusion that the system failed to act constantly in the best interest of the child. It prioritized the identification of a child for a family, not a family for a child.

ROMANIA’S NEW LEGISLATIVE FRAMEWORK ON CHILD PROTECTION AND ADOPTIONS

The new legislative framework that regulates the current status of adoption in Romania came into effect on January 1st, 2005 and is based on the principle of promoting the best interest of the child. It was drafted together with a group of European Commission experts that provided permanent consultancy, taking into consideration the provisions of UN Convention on the child’s rights,¹ the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption² and the European practices in the field. The final version of the new legislative framework included the recommendations of the Council of Europe as well.

The UN Convention on the child’s rights states that the best interest of the child shall be the most important reasoning in the field of adoption. This implies that no other interest, economical,

¹ Ratified by Romania in 1990.

² Ratified by Romania in 1994.

political, state safety or of the adoptive persons will have priority and will be considered equal to the interest of the child, the rights of the child being primordial compared to the rights of adults. Thus, it is necessary to emphasise that the new Romanian legislation in the field of adoption provides as a final goal the identification of a family for a child and not the identification of a child for a family.

The existent legislation approaches the child in the context of all his/her rights, basically in the context of his/her biological family, trying to raise awareness of the primordial nature of the parental role and responsibility towards one's own child.

The new legislation regulates the following aspects that were not regulated by the previous legislation:

—procedure and situations in which a child can be adopted. The individualised protection plan identifies domestic adoption as the final solution for the child's welfare, provided that all the efforts to reintegrate the child within the biological family and to integrate the child within the extended family have failed. International adoption is considered as an option of last resort, and only for the biological grandparents who are living abroad. According to the previous legislation, the activities meant to reintegrate the child in the biological family were not stimulated, thus giving priority to adoption and not to the reintegration of the child in his/her family. This was in contradiction with the provisions of the UN Convention on child's rights.

—only the Court decides the initiation of the domestic adoption procedure after rigorously checking that all means of reintegrating the child in the biological family or integrating the child in the extended family have been exhausted; the procedures under the previous legislation encouraged the identification of a child for a family willing to adopt and not the identification of a family function of the specific case of each child after exhausting all means of reintegrating the child into its biological family. In practice many families met the children before they had the status of children free to be adopted, thus violating the regulations of the Hague Convention; the child became "the object of a transaction" between persons/institutions and his/her rights were infringed.

—maintenance of the right of the parent withdrawn of his parental rights or to whom the punishment to forbid parental rights was applied to consent to the adoption of the child; this provision results from the temporary, reversible nature of the measure of withdrawing parental rights and from the permanent and irreversible nature of adoption regarding the natural descendants; even in the mentioned conditions, the previous law did not emphasised the rights and the responsibilities of the parents towards their own children.

—the obligation to counsel the biological parents or the legal representatives previously to their consent to adoption, provision of the Hague Convention; the Court has the certitude that the parents freely consent to the adoption and no payment or advantage intervened in order to obtain the consent; the previous legislation did not stipulate this provision and the child could be declared abandoned "ex officio" if the family had not maintained a relation-

ship with the child for more than 6 months (under the Law no. 47/1993);

—adoption is approached as a civil law institution and not as a measure of protection (as it was regulated in the previous law) meaning it does not address automatically to all the children needing a protection measure but to all the children to which such a legal operation meets his/her needs and specific situation.

Regarding the results registered in the field of child protection during 1998–March 2005 (based on the information indicated in the attached annexes) the following observations can be noted:

—the number of national adoptions increased simultaneously with the diminution of the number of international adoptions every year after 2001. Since the Moratorium on international adoptions entered into force, the efforts focused on identifying Romanian families for children declared adoptable. Romania's domestic capability to protect its own children, by reintegrating them in their natural family, extended family or by national adoption has improved.

- during January-March 2005 a number of 1312 children were reintegrated within the biological family;

- the number of children protected in substitutive families (extended family, foster families, other families/persons) has increased while the number of children protected in placement centres decreased starting with 2000;

- the number of alternative services increased during 2002–2004 (services to prevent child's separation from his/her family as well as support services for the integration of the child within the family). As a result of the development of these services, the number of the children protected in the system decreased; we have increased the number of day care centres (by 40), the number of services providing counselling and support for parents (by 30) and the number of centres to support the reintegration or the integration of the children in the family (by 17).

—The alternative services had also a positive impact on addressing the problem of child abandonment in our country. During 2004, out of 4,614 children left in the maternity hospitals and pediatry sections a number of 2,389 children were reintegrated within their biological family and 940 children were placed within foster families

—regarding the age of the children protected in the residential system, starting with 2002, the number of under 1 year-old children has decreased significantly from 1028 children in 2002 to 436 children in 2004 meaning that the number of children entered in the residential system has decreased significantly starting with 2002; at the end of 2004, under 10 year-old children protected in the residential system represented almost 22% of the total of children in the residential system, tendency noted also in 2002. In conclusion, the number of children entered in the system decreased significantly as a result of the development of the services to prevent child's separation from his/her family

—since the beginning of 2005, 1047 Romanian families soliciting the adoption of a child have been registered in the National Register for Adoptions. 688 domestic adoptions have been approved by now. The Courts initiated the domestic adoption procedure for 192

children. There are also 217 pending case in view of initiating the adoption procedure.

The general conclusion of those analyses:

—the number of children that entered in the residential care system decreased following the development of services to prevent child's separation from his/her family;

—the number of children protected in the family care system increased compared to the number of children protected in the residential system and the total number of children benefiting of a special protection measure decreased as a result of the development of services to prevent child's separation from his/her family and of the services for the integration of children within their families;

—the number of national adoptions increased while international adoptions decreased.

The mentioned results indicate the progresses obtained in this respect, progresses noted by the European Commission in the periodical reports that monitor the evolutions registered in Romania in view of joining the European Union. Also, according to the European Parliament's report of December 3, 2004 (rapporteur Pierre Moscovici), the EU Parliament "congratulates Romania on responding to international appeals and Parliament's requests by introducing national child protection standards and strict rules to govern inter-country adoption; considers that this new legislative framework should serve to protect children's rights even more effectively and must be properly enforced".

Also, in May 2005, the EU Commissioner for Enlargement, Mr. Ollie Rehn, wrote to the Romanian Government: "I take note of and appreciate your willingness to explore any possible solutions to respond to the various concerns expressed, as long as such solutions are not contradicting the current legislation in force in Romania. I am convinced that your position should be solely based on the best interest of the child. We also naturally expect you to fully implement the new Romanian legislation, which is in line with international standards. To deviate from these principles would require amendments to your new legislation which would re-open the debate and whose results could become worse than the initial objective . . ."

Taking into consideration the fact that foreign citizens applied for the adoption of Romanian children during the period when the moratorium on international adoptions was in force, the Romanian Office for Adoptions decided to clarify the situation of those cases by analysing each file, with the aim of ensuring that in each case the respect of rights of the child is beyond any doubt.

This analysis will be performed by a Romanian national Working group, established on June 29, 2005. It is composed of Romanian specialists with qualifications and responsibilities in the field of child protection employed in several ministries/other central institutions. They are currently analysing the files existing at the Romanian Office for Adoptions as well as the information regarding the situation of each child.

The audit report will be finalized by the working group within 4 months from its setting up, probably in October 2005. Based on the results of this audit, suitable measures will be identified with the aim of finding the appropriate solutions for these cases.

The Romanian Office for Adoptions will share the results of this domestic effort and consult with the European Union, in compliance with Romania's accession commitments, as well with American and all the other concerned parties, in a transparent manner.

Romanians are engaged to address the issue of abandoned children within the framework of the present legislative framework creating the premises for the prevention of the abuse and corruption that may occur in the adoption system. All the institutions and public authorities involved in the adoption procedure as well as those with an important role in preventing child's separation from his/her family shall improve the function mechanisms according to the new legislation in view of respecting and guaranteeing the rights of the child.

In Romanian culture and tradition, such as in the culture of many other nations, children represent a supreme treasure and the best hope for a better tomorrow. It is matter of national pride and responsibility to prove to ourselves and to the international community that we can take care of our own children and overcome an unflattering past of abuse and corruption.

**PREPARED STATEMENT OF ELLIOT FORSYTH, PROSPECTIVE
ADOPTIVE PARENT**

Dear Chairman Smith and distinguished members of the Commission,

My name is Elliot Forsyth and I first want to express my sincere gratitude to you and the Commission on behalf of my wife, Whitney, our daughter Simona, and on behalf of over 200 American families and thousands of families around the world that currently await Romania's decision on processing their pending inter-country adoption cases. We are thankful for the Helsinki Commission and its leaders who, despite your overwhelming responsibilities to domestic and international issues, show concern for the rights and welfare of abandoned children in Romania. Thank you for hosting this hearing.

I was requested by the Commission to provide testimony today in this hearing to bring you a perspective from my personal experiences on the ground in Romania, as an adoptive parent of a Romanian child, and as one of over 200 American families with current pending adoption cases from Romania whose final approval has been delayed for years due to Romania's moratorium and subsequent legislation essentially banning inter-country adoption. Though I am greatly honored to testify today, I fear it is not without risk; a risk that exposing my name and speaking out publicly for the children of Romania could somehow jeopardize our own pending adoption case, as has happened to some families we know. However, we are committed to being a voice for abandoned children in Romania, and pray their rights to a permanent loving family will be honored as a result of this hearing.

For two weeks each summer for the past eleven years, Whitney and I have taken time away from our jobs as a university professor and an engineer to serve as volunteers for a private Romanian non-profit organization. Our first trip in June of 1994 was only four years after the revolution in Romania, and the experience deeply impacted our lives. We fell in love with Romania's beautiful landscape and its warm and loving people. But we also saw the brutal effects of the former communist government: people stripped of all they had and tens of thousands of children left abandoned. We worked in one State-run institution housing over 300 children in cramped, deplorable conditions, and where the environment had developed into a survival of the fittest. We saw a disproportionate number of abandoned children from Roma decent and witnessed unfair discrimination of these children. In sharp contrast, we also worked with a private children's home, whose ministry focused on rehabilitating abandoned children and placing them in permanent families, both domestically and internationally. We saw the life and hope of abandoned children, including the Roma, restored through meeting basic physical, emotional, and spiritual needs.

Since that first trip, our work in Romania has focused on ministering to a variety of needs, but especially the needs of abandoned children, both in State-run institutions as well as private orphanages and foster homes. Over the years we've seen some improvements, but in our experience, the needs of abandoned children are as great now as they were when we first went in 1994. I have compiled a slide show of recent images from Romania that I showed

before the hearing and will show again afterwards, documenting the reality that some abandoned children in Romania still face. Note too that many photos show American volunteers working alongside Romanians to help these children. The slide show also includes just a small sample of the thousands of miraculous stories of inter-country adoption from Romania, sent to me by families across the United States, where children are united with loving families. The contrasts speak for themselves.

Whitney and I again returned to Romania last month and worked with 20 children under the age of four in the previously-mentioned private children's home. The same children are still there that were there during our last visit, only now a year older. Some children have been fortunate enough to be placed in foster care, but most face a difficult future without a family. Unless the pending cases are processed, and the current law changed, the non-profit organization anticipates raising these children until they are out of high school as very few, if any, Romanian nationals are inquiring to adopt these children. If the pending inter-country adoption cases were processed today, seven children from this organization would have permanent loving homes. While in Romania last month, I also accompanied a social worker for a day and learned that the new law has created a paperwork nightmare. Since it requires new signatures from parents who had already terminated their rights, social workers now spend most of their time locating parents or relatives for signatures instead of working on finding children permanent families. My understanding is that social workers are also obligated to explain to the parents or extended family that the government will pay them to care for the child if they take them back, even if the conditions are unfit to raise a child. On that particular day we searched for the parents of two girls from the children's home and finally found them living in the city garbage dump. Another child's grandmother who lived in similar conditions wanted to reclaim the child so she could receive money from the government; despite the fact that she has never seen the child, and the child has been living with a wonderful foster care family for over 3 years who want to adopt him. Though I was not granted access to a State hospital, I was told that because the new law prohibits adoption of children under two years of age, there are once again entire floors filled with abandoned babies, reminiscent of the Ceaucescu era. I also understand that in an effort to meet EU admittance criteria requiring closure of large government institutions, many foster parents are required to accept more children than they can support. According to the social worker I was with, some foster parents have up to 16 children. These are some of the experiences I had just one month ago, but the organization said that these are common experiences that social workers in Romania currently face. Clearly, these are not in the best interests of the children.

Whitney and I first considered adopting a Romanian child after our summer trip to Romania in 2000. Our motives for wanting to adopt a child were very simple: to provide a home to a child who needs a loving family. Our experiences had confirmed to us that, though Romania has made some progress over the years in providing for abandoned children, the need is too great for Romania to meet by itself. Statistics tell us there are still over 80,000 chil-

dren in State care and another 9,000 babies abandoned annually. However, less than 1,500 of these children are domestically adopted each year. Further, there are a disproportionate number of Roma children, older children, and children with medical problems that statistics show will never be adopted domestically. In fact, according to the UNICEF report of 2005,¹ approximately 66% of abandoned children are Roma.

Our daughter, Simona, is of Roma decent and her story is a testimony to the miracle that inter-country adoption can bring to a child who needs a loving family. She was abandoned at 3 months of age at a State hospital in Romania. She spent the next 2 years of her life in State institutions where she was largely neglected. Fortunately, she was then placed with a loving foster care family for 9 months, which in many ways saved her life. But had inter-country adoption not been an option for Simona, she likely would never have been adopted domestically due to her age and Roma heritage. We celebrate the day we brought her home, June 20, 2001, which was less than a week before the moratorium on inter-country was first imposed by the Romanian government. At that time, Simona was about 3 years old. She had just learned to walk and was speaking less than ten words in her native language. Four years later, Simona is now a beautiful, healthy, and thriving 7 year old who loves to run, jump, play, and laugh. Simona has added immeasurable joy to our family and we thank God for her life. We celebrate her Romanian heritage though there are days when we look at her and wonder what would have become of this beautiful child had inter-country adoption not been an option for her.

Our story is not unique. There are literally thousands of miraculous inter-country adoption stories of Romanian children from all over the world. We have even documented many of these stories in a book that will serve as an appendix to this hearing. From our perspective, it is outrageous and offensive to hear that certain influential members of the European Parliament have repeatedly threatened Romania with denial into the EU if they allow international adoption, calling it nothing more than the "selling of babies."

After returning again from volunteer work in Romania during the summer of 2003, we filed papers to adopt another abandoned child we had spent considerable time with at the private children's home. Despite the moratorium, we received confirmation of a case number and assignment of our child from the Romanian government in September of 2003, hoping to get approval under the Emergency Ordinance. In February of 2004, we joined efforts with hundreds of families with pending cases and Romanian-adopted children to form an organization called For The Children-SOS to actively seek resolution for these pipeline cases and promote fair and transparent legislation for abandoned children in Romania. The extensive efforts of FTC-SOS are detailed in an appendix to this hearing. Collectively our organization has spent thousands of hours not only working with our local, state, and federal governments, and with the past and current Romanian leaders, but also working on the ground in Romania helping abandoned children. On

¹The Situation of Child Abandonment in Romania, UNICEF report, January, 2005.

July 17, 2004 we met with then Prime Minister Nastase to discuss the moratorium and proposed new law. In that meeting he promised to process select cases with serious medical issues. To my knowledge, this was never done. In October of 2004, then French Prime Minister Jean-Pierre Raffarin was to lead an international committee under the direction of the Romanian government to review and process the pending cases. This also was never done. In March of 2005, we met with President Basescu. He expressed sympathy for the abandoned children and for those of us with pending cases, but we've still seen no action. In June of 2005, the Congressional Coalition on Adoption Institute sponsored a letter to President Basescu urging him to process pending case and consider revising the adoption law. Over 40 US congressmen signed the letter. Still, to this day, no response has been received. We understand that there are political ramifications involved with these pending adoption cases, but truly it is unthinkable that abandoned children would have to wait to join loving families already assigned to them, while their government plots and ploys a strategy for accession into the EU.

We consider ourselves fortunate compared to some American families with pending cases. We have traveled to Romania to see our assigned child on two occasions and receive periodic updates and photos. However, many have waited much longer than we have— some up to six years. Some continue to pay monthly for private care in children's homes or foster care to ensure proper care for their child. Still others have lost all contact with their assigned children or learned that they were singled-out for domestic adoption. Time is passing. These children are growing up without families, families that have already been assigned to them by the Romanian government. We urge the Romanian government to approve all pending cases immediately. In the words of one pending family, "These children do not have shelf-lives, and if they did, they would have expired long ago."

Our daughter Simona has been praying daily for our assigned child for two years. She often asks us when the government of Romania will say yes and let her little sister come home. Simona somehow knows the urgency of this adoption and what it is like to be without a mom and a dad. She also knows the joy of belonging to a family. She is a small voice for many children from her own country that need permanent loving families. And right now a voice is what the abandoned children of Romania desperately need.

Thank You.

**PREPARED STATEMENT OF DEBRA MURPHY-SCHEUMANN,
PRESIDENT, BOARD OF DIRECTORS, JOINT COUNCIL ON
INTERNATIONAL CHILDREN'S SERVICES**

Mr. Chairman, Members of the Commission, thank you for providing me with an opportunity to share our experience and concern about the current situation in Romania.

I am pleased to be here today and hopeful that the Commission can take action and encourage reform in Romania's child welfare system so that it is indeed, operating in the best interest of the children.

I am the mother or guardian of 10 children; have been a foster parent for more than 60 children; the founder and President of Special Additions, Inc.; the President of JCICS and the President of a Romanian Association that operates a children's home in Romania. I have served on the JCICS Board of Directors since 2002 and this is my second year as President.

Today, I will touch on who JCICS is and what we believe; Romania's legislation and Children's Rights; violations of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and the UN Convention on the Rights of the Child; the influence of the European Union; Romania today and lastly, our recommendations.

JCICS OVERVIEW

Joint Council on International Children's Services (JCICS) is one of the oldest and largest associations of licensed, non-profit international adoption agencies, child advocacy groups, parent support groups and medical clinics in the world. Our mission is to advocate on behalf of children in need of permanency and promote ethical practices in intercountry adoption.

Through our involvement in international child welfare since 1976, JCICS has developed an appreciation of the complexity related to the processes and approaches that serve to protect children while expeditiously meeting their need of finding permanency, safety and love. Collectively our members, over 200 organizations, serve approximately 75% of all international adoptions in the United States. JCICS believes that all children—regardless of race, ethnicity, gender, medical limitations or other conditions—deserve a permanent, safe and loving home. When children cannot be safely cared for in their birth families, or in permanent adoptive homes within their country of birth, we believe that ethical intercountry adoption provides the most positive option for children.

ROMANIAN LEGISLATION

Joint Council shares the commitment of the Romanian government to strive for best practices in child adoption and welfare law and we support Romania's effort to promote national adoption in an effort to care for its children. We also recognize the intense political pressure within Romania and their desire for European Union accession.

As you are aware, on January 1, 2005 Romania implemented new legislation eliminating international adoption as an option for

children in need of permanent families, except for cases of adoption by biological grandparents.

While the new legislation seeks to promote national adoption, which is an important piece of child welfare and one that JCICS supports, only 3,513 children were adopted by Romanians over a 2 year span from October 2001 to October 2003. In the spring of 2004, there were an estimated 37,000 children still institutionalized, as reported by Gabriela Coman, head of the Child Protection and Adoption Authority. However, this figure does not include infants born in maternity centers or abandoned at hospitals who are counted under the Ministry of Health, or foster care. JCICS's foremost concern is for the development and care of the tens of thousands of children who remain in institutions or inadequately funded foster case situations.

Many adoption cases were legally registered with the Romanian Government prior to implementation of the new law and are now considered "pending or pipeline cases". There are approximately 211 such cases in the United States. In March 2005 President Basescu agreed to process the pipeline cases by April 2005 ensuring permanency for these children. To date this has not occurred.

CHILDREN'S RIGHTS

One of the most basic human rights is the right to have a family. This is something that most of us take for granted. Sadly, many children in Romania have become political pawns in government politics and are being denied the right to permanency.

According to the United Nation's Convention on the Rights of the Child and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the best interest of the child is a permanent family.

The Hague Convention reads:

"The States signatory to the present Convention,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Recalling that each State should take, as a matter of priority, appropriate measures to enable the child to remain in the care of his or her family of origin,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin."

The Convention on the Rights of the Child echoes The Hague Convention's tenet that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.

Article 21 of CRC:

"States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;”

In a later press release, issued on January 26, 2004, UNICEF clarified their position on intercountry adoption vs. institutional care and stated that:

“For children who cannot be raised by their own families, an appropriate alternative family environment should be sought in preference to institutional care, which should be used only as a last resort and as a temporary measure. Inter-country adoption is one of a range of care options which may be open to children, and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution.”

The Universal Declaration of Human Rights which has been adopted by the EU also states:

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

We would like to stress that foster care is not a permanent solution. The 150 year history of foster care in the United States demonstrates the faults and shortcomings of a foster care system. The Pew Commission on Children in Foster Care in 2004 revealed the poor outcomes for emancipated youth in the United States after they leave foster care. Focus groups with 100 youth in Nevada found that 41 percent did not have enough money to cover basic living expenses, 24 percent had supported themselves at some time by dealing drugs, 50 percent left foster care without a high school degree, and 41 percent had been in jail.¹ The Adoption and Safe Families Act of 1997 establishes unequivocally that our national goals for children in the child welfare system are safety, permanency, and well-being. It addresses the inadequacy of foster care to provide a permanent family for children in need, and it directs that permanency planning efforts must begin as soon as a child enters foster care and must be expedited by the provision of services to families. JCICS urges all countries to use foster care only as a short-term solution for children awaiting a permanent family.

The United States recognizes the urgent need of permanency for children. While the US is a receiving country, we are also a sending nation with families in Canada, UK, and Australia among others, adopting US children through the foster care system or private adoption.

JCICS is concerned for children who do not find permanency. Their options are severely limited as they age out of institutional settings. They leave without adequate education and training and their options are severely restricted. They are prone to be victims of abuse and violence and/or perpetuate violent acts against individuals or society. Many of them will runaway to live on the streets or in the sewers and become involved in crime, drugs and prostitution.

¹Nevada KIDS COUNT. “Transition From Care: The Status and Outcomes of Youth Who Have Aged Out of the Child welfare system in Clark County, Nevada.” Issue Brief II. Las Vegas: University of Nevada, 2001.

VIOLATION OF CONVENTIONS

It is our concern that the newly implemented legislation does not provide maximum protection of a child's rights nor contains proactive measures to achieve permanent placement within a family structure as echoed in the Hague and CRC conventions.

Romania is party to both conventions. Romania signed the Convention on the Rights of the Child on October 28, 1990. Romania ratified The Hague Convention on December 28, 1994 and it entered into force on May 1, 1995.

Article 3 (1) of the Convention of the Rights of the Child states that: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." The Hague Convention states a similar priority for the best interest of children.

JCICS, along with other child welfare advocates, are concerned that the current legislation in Romania, essentially eliminating the possibility of intercountry adoption, is in breach of these convention principles.

INFLUENCE OF THE EUROPEAN UNION

Child protection has been one of Romania's priorities for their governing program in connection with EU integration. Sadly, the undocumented claims made by the EP's former rapporteur to Romania appear to have influenced foreign media coverage and current legislation resulting in reform that contradicts the basic tenets of the Hague Convention by compromising a child's right to a permanent family through intercountry adoption.

The cessation of international adoptions was largely a result of EU pressure to improve their [Romania] "human rights record". In 2001, the former EU Rapporteur to Romania issued a report which threatened Romania's opportunity to advance into the European Union. It repeated claims that children were being sold for their organs and prostitution in amounts up to \$50,000. These accusations have continued throughout the years with a recent article addressing the plight of internationally adopted children occurring in July 2004, by former Rapporteur Emma Nicholson: "Supporters of this trade claim it provides loving couples with a child whose life would otherwise be miserable. While this can be true in some cases, the reality for many Romanian children is far less positive. Children exported abroad—often against their will—are often subjected to pedophilia, child prostitution or domestic servitude. Since 1989 this trade has grown endemically and propped up the corruption which has seeped into many aspects of Romanian public life."² Despite repeated requests to the EU and Romania for proof of these accusations, they failed to provide documentation supporting these allegations.

Romania needs to institute reforms to combat corruption. This should include stringent penalties and enforcement of laws—not limiting laws to such a degree as to prevent intercountry adoption as an option for children. While Romania is striving for economic

²Nicholson, Emma. Red Light on Human Traffic. Guardian Unlimited: July 1, 2004.

and social stability we recommend short and long term planning with benchmarks for goals at 5, 10, 15 and 20 years. We are concerned that implementing programs quickly without the proper infrastructure have created significant problems and is not in the best interest of the children.

ROMANIA TODAY

Romania has made tremendous strides since the fall of communism and has taken some positive steps towards child welfare reform. JCICS supports many of the efforts and encourages the country to continue to protect the rights of children. However, we are troubled by the current situation in Romania and the neglect of its most helpless citizens.

UNICEF STUDY

UNICEF conducted a three month transversal study on the abandonment of children in Romania in 2003 to 2004. This study confirmed the desperate circumstances of abandoned children of Romania. It states: "The coordinates of child abandonment in 2003 and 2004 were the same as those 10, 20 or 30 years ago. Despite continued efforts on behalf of the government and non-governmental groups, the number of children coming into care continues." Of the children abandoned in Romania, the majority of the children are Roma at 56.7%, with Romanian being second at 41%, Hungarian at 1.7% and finally Turkish-Tartar at 0.6%. The study showed that the research indicated [in the reference years of the study] that approximately 4,000 newborns were abandoned each year in maternity wards and another 5,000 abandoned annually to pediatric wards and hospitals. The study also indicated an existing racial discrimination among society and professional child welfare and medical workers to the Roma population.

TENS OF THOUSANDS OF ORPHANS REMAIN

Domestic adoptions have not increased to keep up with the needs of abandoned children in Romania. Limiting a child's right to a family through only domestic adoption or intercountry adoption by second-degree relatives, denies the right to a permanent family for thousands of children. We believe that this short-sighted approach has a negative impact on the future of these children and creates for them long-term sentences of hopelessness and despair.

INACCURATE STATISTICAL REPORTING SYSTEM

Many children in the welfare system in Romania are currently visited by parents or family members. While JCICS supports the protection of parental rights and exploration of reunification in these cases, there are many other children for whom this is not the case.

Historically, Romania has counted children as "adoptable" only when their parental rights are terminated. However, to achieve this designation, children must receive documented relinquishment from their parents or an abandonment hearing in the courts. The latter often does not occur due to the significant lack of funding from the government. As a result children may never have contact

with their parents but are unable to be adopted or statistically recorded as “adoptable”.

INADEQUATE FOSTER CARE SYSTEM

We are concerned about reports of thousands of children hastily placed into an inadequate foster care system in Romania. Foster parents have not been trained; social workers lack the resources to make the required visits; and financial gains are a motivation for many foster care parents

LACK OF FAMILY REUNIFICATION PLANS

A lack of family reunification plans and processes are evident as birthmothers attempting to relinquish their babies are forced to take their child home without additional support or assistance or when abandoned infants are dropped off and left with distant relatives with no follow-up supervision.

BASIC FREEDOMS

Individuals involved in child welfare reform in Romania, as well as media reporters, are reluctant to come forward to address their concerns on the current situation due to negative reprisals from the Romanian government. Until the citizens of Romania can feel secure to address the reality of the current situation in Romania, making positive end-roads in child welfare reform will be extremely challenging.

RECOMMENDATIONS

JCICS recognizes the complexity of adoption reform and the difficulties that exist in developing a system that both conforms to international standards and balances the needs of children waiting for families. However, the situation has become so politically complex that children continue to suffer until a law that accounts for the rights and best interests of the children is supported by the EU and approved by the Romanian government.

It is our hope that the European Union will embrace the international community and join together to ensure that a child's health and happiness is what ultimately governs our actions. Methods for eradicating corruption in adoption need to be implemented and full functioning child welfare infrastructures need to be established in all countries. Reintegration of the child with their family should always be the primary goal. If that is not a possibility, then national adoption along with intercountry adoption should be considered as options. The foremost objective is permanency for the child.

While we understand that the Helsinki Commission cannot insert itself into Romania's internal challenges, JCICS requests that the following action items are considered:

- Ensure that Romania's adoption legislation adheres to the tenets and principles outlined in the Hague Convention on Protection of Children and Co-Operation In Respect of Intercountry Adoption.
- Emphasize through diplomatic communication with the European Union and other EU and EP delegates that international

adoption is the best option for children who cannot be permanently placed within their country of birth.

- With regards to the pending “pipeline cases” we recommend:
 - Creation and passing of an exception to the law to allow processing of the pipeline cases under Romania’s emergency ordinance.
 - Expediently processing the pipeline cases using clear criteria.

CLOSING

JCICS believes we all have a responsibility to let these children’s voices be heard. It is our duty to insure that these children are given a life of safety, permanency, and well-being.

Thank you very much for allowing me to appear before your Committee today. I would be happy to answer any questions you may have.

APPENDIX

1. JCICS LETTERS

a) April 25, 2005 to President Basescu (including recommendations for processing pipeline cases

April 25, 2005

The Honorable President TRAIAN BASESCU
 President of Romania
 1 Victoriei Square
 District 1
 Bucuresti, Romania

DEAR PRESIDENT BASESCU: It is with gratitude that we thank you for taking the time to meet with the families and organizations at Ambassador Ducaru’s residence in Washington DC on March 10, 2005 in regard to the pipeline cases.

We are writing you today to address three points:

1. JCICS White Paper
2. Processing of pending cases
3. Current situation in Romania

As you are aware, Joint Council on International Children’s Services (JCICS) is one of the oldest and largest membership associations of licensed, non-profit international adoption agencies, child advocacy groups, parent support groups and medical clinics in the world. JCICS does not place children for adoption or provide adoption services, but rather advocates on behalf of children in need of permanent families and promotes ethical practices in inter-country adoption.

JCICS White Paper. JCICS shares the commitment of the Romanian government to strive for best practices in child adoption and welfare law and supports Romania’s effort to promote national adoption in an effort to care for its children. We would like to commend the National Authority for the Protection of Children’s Rights (NAPDC) for their request for input from NGOs regarding Romania’s child welfare legislation. Joint Council has prepared a “White Paper” defining our position on permanency for children around the world (see enclosure). We will be sending a copy of it to NAPDC as well.

Processing of pending cases. JCICS presented to the US State Department recommended criteria for processing the pipeline cases. The ultimate goal for all involved is to have the system be as transparent as possible. Enclosed are our recommendations.

Current situation in Romania. It has been brought to our attention that some children currently considered part of the “pipeline” cases awaiting adoption by matched U.S. families have been adopted nationally. JCICS applauds the efforts to keep children with birth families and extended families. However, many of these abandoned children have been residing in institutions or foster care for at least three to twelve years. This naturally raises questions and concerns as to why these children’s families are just now coming forward to adopt them. We sincerely hope that these placements have been done at the request of the extended family and that they were not the result of external pressures or financial incentives. We know you share our strong belief that it is in the best interest of any child to be adopted by a family solely on the basis of a dedicated commitment to that child’s well being. We would like to take this opportunity to emphasize the need for transparency and ethical practices in child placement—both domestically and internationally—and that a child’s best interest should be of foremost priority.

Joint Council is confident that under your leadership the care of these children, and all children in Romania, will proceed in an ethical and transparent manner. We understand the political pressure that Romania is facing with regards to the pending EU Accession, but believe that a child’s right to a permanent family should prevail over political pressure.

Thank you again for your time and consideration of our requests.
Sincerely,

MEGHAN HENDY
Executive Director

DEB MURPHY-SCHEUMANN
President

DEBBIE PRICE
Romania Caucus Chair

SPECIFIC RECOMMENDATIONS FOR PROCESSING OF PIPELINE CASES

The establishment of a transparent procedure to process pipeline cases is essential to the protection of children’s rights in Romania. It is critical that a system be created that will protect the rights of the child, prevent corruption, be clear in terms of legislation, and be able to be accomplished within a defined timeframe.

There are several areas of concern to be addressed in completing the “pipeline” cases:

- Creation of a definition of “pipeline cases” to determine those children who are eligible for completed adoptions;
- Establishment of a transparent procedure to finalize the “pipeline cases”;
- Creation and passing of an “exception” to the law to be implemented by January 1, 2005 that will provide for the processing of “pipeline cases” that were initiated under Romania’s emergency ordinance;

- Determination of the department within the Romanian government responsible for processing the cases;
 - Identification of those pipeline cases and assessment of the prospective adoptive parents desire to proceed with their adoption.
- We highlight and offer suggestions on two of the above areas of concern: Definitions and Procedures

DEFINITIONS

To insure that all cases that were in process prior to the suspension of the emergency ordinance are finalized, a definition and criteria needs to be established that will be consistent for all children.

It is recommended that the definition include at least one of the following components:

Cases that were:

- assigned a file number by the Romanian Adoption Committee for processing
- have a letter approving the family for adoption from the Central Authority or foreign embassy of the adoptive parents domicile prior to March 20, 2004;
- Approved by the local direction as an identified family.

PROCEDURES

We suggest that all pipeline cases be processed within six months of the passing of the new procedure.

The Romanian Adoption Committee should publish monthly reports to detail how many adoptions have been completed in all regions. These reports should be made public via the internet or through written request to Romanian Embassy posts.

To keep the process as transparent as possible, files should be processed based on established criteria that must be applied to all cases. Criteria can be established as follows:

Date that the file was registered at the RAC;

Documented medical or mental special needs of the child;

Age of the Child;

Date that the file was registered with the foreign embassy;

Date that the Direction approved the child;

Each criterion could be assigned a weighted measure that would be useful in identifying which cases should be given priority.

For example:

File registered at the RAC in June 03—Measure (1–5) Score: 3

Child has detailed special needs—Measure (1–5) Score: 5

Child is 2 years of Age—Measure (1–5) Score: 4

File has not be registered with Embassy—Measure (1–5) Score:

1

Direction approved child in January 04—Measure (1–5) Score: 3

Total Score: 16 out of 25 or 64%

Categories for purpose of processing

Category 1 Scores 75–100% (processed first)

Category 2 Scores 50–74%

Category 3 Scores 25–49%

Category 4 Scores 0–24%

Thank you for this opportunity to provide suggestions for the processing of pending cases in Romania. We look forward to a swift

resolution to this issue and for these children to be united with permanent families.

b) July 7, 2004 to The Guardian Editor in Chief Emily Bell

July 7, 2004

Ms. EMILY BELL
 Editor in Chief
 The Guardian Unlimited
 3-7 Ray Street London EC1R 3DR United Kingdom

DEAR MS. BELL: In her article, *Red Light on Human Traffic*, July 1, Baroness Emma Nicholson makes a number of serious undocumented accusations regarding intercountry adoption while equating intercountry adoption to human exportation and trafficking violations. As the Executive Director of Joint Council on International Children's Services, a national non-profit organization in the United States dedicated to advocating on behalf of children in need of permanent families and promoting ethical standards in intercountry adoption, I challenge the Baroness' conclusions and object to her continued campaign against international adoption.

The recent court case referenced by Nicholson, Pini and Bertani & Manera and *Atripaldi v. Romania* heard by the European Court of Human Rights (ECHR), is a singular court case and is not, as Nicholson proclaims, a "landmark judgment on inter-country adoption, which has major ramifications . . . in 45 countries across Europe". In this particular case, the court found that the two girls in question, "preferred to remain in the socio-family environment in which they had been raised at the CEPSB", a private institution approved by the Brasov Child Protection Department. The court also found that "the sole cause of the failure to execute the adoption orders had been the actions of the CEPSB staff and its founder members," including a kidnapping attempt. While the CEPSB may be well managed, it is still an institution and should not be considered a long-term solution for the children in its care.

The Baroness also writes "the supply of Romanian children for international adoption is drying up". Unfortunately, the facts show the Baroness' claim is incorrect. According to the Romanian National Authority for Child Protection and Adoption there are 84,382 children in the Romanian system who are in need homes. Over 26,000 children are living in institutions and are estimated to be three years of age or older. It is well documented that children who do not find permanent families, especially those institutionalized over the age of two, are at greater risk for attachment disorders, speech delays and other developmental challenges.

Joint Council believes that the child's best interest is of the utmost importance and should never be compromised. When children cannot be cared for by their birth families or in permanent adoptive homes within their country of birth, we believe that intercountry adoption provides the most positive option for children. Both UNICEF (the United Nations Children Fund), in their January 2004 statement on intercountry adoption and the Hague Convention on Protection of Children and Co-Operation in Respect of International Adoption support this assertion.

Unfortunately, Baroness Nicholson routinely equates international adoption with serious crimes of human exploitation with-

out providing solid evidence to support her claims. These sensationalist tactics ignore the fact that many thousands of children are successfully adopted into loving families each year. Even more importantly, in lieu of international adoption, the Baroness provides no healthy solutions to the on-going plight of the world's orphaned children. She believes that institutionalizing children in their own country is preferable to finding a permanent, committed family wherever they might be. We cannot be more strongly opposed to her position.

Joint Council firmly believes that cases of child trafficking should be quickly condemned and prosecuted to the full extent of the law. Many countries, which recognize the tremendous contributions that international adoption have made on the lives of thousands of abandoned, neglected children, have found ways to keep adoptions open while creating stringent systems of oversight that minimize corruption. From experience, they have come to understand that trying to prevent corruption by banning all intercountry adoptions simply does not work. In fact, banning international adoption does nothing to give pause to unscrupulous individuals. What it does do is deny children who are in desperate need from finding permanent families.

As citizens of a larger international community, we have an obligation to work together to ensure that a child's health and happiness ultimately governs our actions. Eradicating corruption in adoption should be an international priority. Fully functioning child welfare infrastructures must be established in all countries, and national adoption should always be promoted as preferable to intercountry adoption. At the same time, our ultimate goal should be to find loving, permanent homes for our world's needy children, wherever they may be found.

Sincerely,

ANTONIA FORKIN EDWARDSON

Executive Director

Joint Council on International Children's Services

c) February 23, 2004 to US Ambassador Michael Guest

February 23, 2004

The Honorable MICHAEL GUEST, the Ambassador of the United States

The American Embassy

Filipescu 26

Bucharest, Romania

DEAR MR. AMBASSADOR: Joint Council on International Children's Services (JCICS) is one of the oldest and largest membership associations of licensed, non-profit international adoption agencies, child advocacy groups, parent support groups and medical clinics in the world. JCICS does not place children for adoption or provide adoption services, but rather provides continued education for adoption practitioners and works to promote higher ethical standards in adoption.

Joint Council believes that all children deserve permanent, loving homes. When children cannot be cared for in their birth families, or in permanent adoptive homes within their country of birth,

we believe that intercountry adoption provides the most positive option for children.

I am writing to you on behalf of our member agencies to thank you for your continued commitment to international adoption and attention to the recent events in Romania that have resulted in the cancellation of the Emergency Ordinance.

JCICS is pleased that the U.S. Department of State is working diligently to ensure that the 36 cases with court decrees be finalized. However, we strongly believe that all cases filed while the Emergency Ordinance was law and have a registration number from the National Authority for Child Protection and Adoption (NACPA) should also be processed.

After a dossier is completed with the 171-H verification letter from the U.S. Embassy in Bucharest, it is filed with the National Authority for Child Protection and Adoption and is assigned a registration number. At this point, the case is officially accepted by the Romanian Government. Joint Council believes that the registration number presents a very easy point of reference from which the U.S. Embassy in Romania can advocate for the cases that had been filed prior to the cancellation of the Emergency Ordinance.

We need to emphasize the urgency of this situation as many children and families have already waited over one year to be united through adoption. If these families are made to wait until a new adoption law is implemented, they could be faced with waiting for an additional year or worse, losing their referral. Your assistance in making sure that the processing of cases with a NACPA registration number becomes a priority with the Embassy will be greatly appreciated.

Again, thank you for your continued commitment to this issue.

Sincerely,

ANTONIA F. EDWARDSON
Executive Director

d) February 2, 2004 to Prime Minister Nastase

February 2, 2004

The Honorable ADRIAN NASTASE
Prime Minister of Romania
Piata Victoriei, Sector 1
Bucharest, Romania

DEAR PRIME MINISTER NASTASE:

Joint Council on International Children's Services (JCICS) is one of the oldest and largest membership associations of licensed, non-profit international adoption agencies, child advocacy groups, parent support groups and medical clinics in the world. JCICS does not place children for adoption or provide adoption services, but rather provides continued education for adoption practitioners and works to promote higher ethical standards in adoption.

Joint Council believes that all children deserve permanent, loving homes. When children cannot be cared for in their birth families, or in permanent adoptive homes within their country of birth, we believe that intercountry adoption provides the most positive option for children.

In May 2003, JCICS submitted comments to your office regarding the draft law which strives to revise Romania's adoption procedures. We have recently learned that the Romanian government is about to implement the new law. As such, we would like to take this opportunity to comment on aspects of the draft law that we believe could compromise a child's right to achieve placement within a permanent family structure.

As noted in the preamble to the Hague Convention, States which are signatory to the Convention recognize that the child "should grow up in a family environment, in an atmosphere of happiness, love and understanding" and that "intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin". We believe that several provisions contained within the draft law contradict the basic tenets of the Hague Convention, thus resulting in an inability to fulfill Article 56, which provides for the issuance of a certificate stating that the "adoption is in accordance with the standards stipulated under the Hague Convention."

First, while acknowledging a child's right to a family, Article 2 of the proposed law includes language which suggests that a substitute family would be preferential to a foreign adoptive family. Additionally, Article 39 (2) states that international adoption may be allowed only if "the care of the child cannot be appropriately ensured within the special child protection services, be they public or private". The combination of this and similar language is concerning. If children are allowed to be cared for by a "substitute" family or other public or private services before international adoption can be considered, the reality is that the child will not have the greatest opportunity for permanency. This type of wording provides for the practice of institutional care to be made a priority over a permanent family through international adoption; a situation that is in direct conflict with the tenets of the Hague Convention and the UN Convention on the Rights of the Child.

Second, Article 46 (1) prohibits international adoption as an option for children who are under the age of two. It is difficult to understand what the purpose of this prohibition would be other than to assure that efforts have been made to preserve the original family and/or pursue a placement with a Romanian family. The draft law does stipulate that such measures are taken within a defined period of time. Therefore, if no permanent family is found to care for the child in Romania, then there is no benefit to force children to wait until the age of two to be adopted internationally. It has been well documented that children who do not find permanent families are at greater risk for attachment disorders, speech delays, and other developmental challenges. By postponing the option of international adoption for two years, the opportunity for a child to overcome these risks is decreased dramatically.

JCICS shares the commitment of the government of Romania to strive for best practices in child adoption and welfare laws. We recognize the intense political pressure from both within Romania and foreign entities concerned with corruption issues. However, it is important that the new law be one that provides maximum protection of a child's rights and contains proactive measures to achieve permanent placement within a family structure as echoed in both the

Hague Convention and the UN Convention on the Rights of the Child. Until the provisions outlining substitute families, care by public or private services and the age restriction are changed to allow for international adoption as a valuable and timely option, we believe that the draft law fails to provide for the best interests of children.

While Joint Council looks forward to implementation of a new law and the end of the moratorium on Romanian international adoptions, we hope that time will be allotted for review and revisions before finalization.

Respectfully Submitted,

ANTONIA FORKIN EDWARDSON

Executive Director

Joint Council on International Children's Services

2. STATISTICS AND INFORMATION ON ROMANIA

Statistics and Information on Romania

- In 15 years, over 8,000 orphaned Romanian children have found permanent, loving families in the United States.
- Adoptions peaked in 1991 with over 2,500 children adopted due to media publicity about the thousands of children living in inadequately staffed and funded orphanages after the fall of communism in Romania.
- The mean average over the 15 years noted is 548 adoptions annually.
- In the spring of 2004, it was estimated that 37,000 Romanian children were still institutionalized, as reported by Gabriela Coman.

Timeline:

- December 1989—Romania's President Nicolae Ceausescu is overthrown ending communist rule. An estimated 600–700 institutions in Romania provide residence for an estimated 100,000 children.³
- 1991—Adoptions by U.S. citizens peak due to media publicity about the thousands of children living in inadequately staffed and funded orphanages.
- December 2000—Prime Minister Nastase takes office; a de facto suspension of international adoptions occurs.
- June 21, 2001—The Romanian Adoption Committee (RAC) announces a one-year moratorium on inter-country adoption due to concerns about corruption.
- October 8, 2001—The Romanian Government issues an ordinance (OUG No. 121) stating that child protection is one of the priorities of the governing program for 2001–2004, in connection with Romania's integration with the European Union.
- December 6, 2001—The Romanian Government issues an Emergency Ordinance (amending OUG No. 121) which allows applications for international adoption to be processed if the case falls under extraordinary circumstances (i.e. special needs or older children) and the adoption is in the child's best interest.

³Johnson, A. K., Edwards, R. L., & Puwak, H. C. (1993). Foster care and adoption policy in Romania: Suggestions for international intervention. *Child Welfare*, 72(5), 489–506.

- December 14, 2002—The new legislative package is submitted for public debate.
- Early 2003—The legislative package is sent to the European Commission to receive the point of view from the European body. The experts of the European Commission submit their observations. The legislative package on child protection consists of Draft law on protection and promotion of the rights of the child; Draft law on adoption; Draft law on the structure, operation and funding of the National Authority for the Protection of the Rights of the Child; and a Draft law on the structure, operation and funding of the Romanian Office for Adoptions.
- May 5, 2003—JCICS participates in the public debate on a version of the Legislative Package on Child Protection and submits comments. JCICS' concerns include the prohibition of adoption of children under the age of two, a prolonged parental consent period, prolonged travel requirements, etc.⁴
- December 2003—Romania faces considerable pressure following reports of 105 children being approved for adoption during the moratorium by Italian families. This spurns negative press against international adoption and some individual's state that Romania's 2007 entry into the EU may be in jeopardy.
- February 5, 2004—The Emergency Ordinance is repealed. All international adoptions are suspended until the new adoption law takes effect. During the moratorium, 1,115 international adoptions were processed under the exceptional procedure.⁵
- March 10, 2004—The European Parliament approves a pre-accession report on Romania presented by Baroness Nicholson. In the resolution, Parliament states "Romania will have to deal with the high level of corruption, ensure the independence and proper functioning of the judiciary, guarantee freedom of the media and stop ill-treatment at police stations" [MEPs] reminded Romania that Parliament has to decide whether to approve Romania's accession."⁶
- March 11, 2004—The new adoption law is approved by the Romanian Cabinet and is sent to the Parliament. As reported by Gabriela Coman, the new adoption law would cease all inter-country adoptions with the only exception being when the child has relatives up to the second-degree in the adoptive family abroad. JCICS understands that second-degree relatives are defined as grandparents or siblings.
- June 21, 2004—Romanian President Ilescu signed into law the new adoption legislation.
- September 24, 2004—JCICS met with officials from the Embassy of Romania, U.S. Senate Foreign Relations Committee and the Bureau of European and Eurasian Affairs within the Department of State to discuss Romania adoptions.
- October 19, 2004—Romania agrees to establish international adoptions committee. The international commission will be estab-

⁴The May 2003 version differs significantly from the March 2004 version. In addition, two other versions were released (October 2003 and January 2004) which were less restrictive than the March 2004 version.

⁵Under the Emergency Ordinance 384 children were adopted by families in the United States, 230 in Italy, 224 in Spain, 73 in France, 49 in Israel and 44 in Germany among others.

⁶Nicholson, Baroness Emma. "A warning shot for Romania", Report on Romania's Progress Towards Accession. (COM(2003) 676-C5-0534/2003-2003/2203(INI)), Doc.: A5-0103/2004.

lished for the purpose of reviewing pending cases that were registered with the Romanian Government prior to adoption of the new law.

- December 2004—President Traian Basescu takes office.
- January 1, 2005—The new adoption law is implemented in Romania limiting international adoptions to only biological grandparents. However, U.S. adoption law prohibits relative adoptions in cases of grandparents.
- January 2005—The U.S. Government has identified approximately 211 “pipeline cases” in which Romanian children had been matched with U.S. parents prior to the adoption of the new law. The U.S. families have indicated they still want to continue with the process.
- Present—It is not known exactly how many children remain in institutions, foster care placements or are living on the streets. In the spring of 2004, there was an estimated 37,000 Romanian children still living in institutions. To date the pipeline cases have not been processed.

3. UNITED NATION’S UNIVERSAL DECLARATION OF HUMAN RIGHTS

Universal Declaration of Human Rights Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories.”

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal

respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence wor-

thy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights

and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

**PREPARED STATEMENT OF DR. DANA JOHNSON, DIRECTOR,
INTERNATIONAL ADOPTION CLINIC,
UNIVERSITY OF MINNESOTA**

Thank you, Mr. Chairman, Commission members and representatives, for inviting me to address you today and for convening a hearing on the pressing topic of the impact of Romania's restrictions on domestic and international adoption on the well being of abandoned children.

I appear before you to offer three perspectives on this issue. I am first a physician who counsels thousands of families each year throughout North America and Western Europe as they prepare to adopt children from abroad and after they bring their children home. I am also a researcher who has spent the last fifteen years studying the effect of institutionalization on child health and well being as well as the outcome of post-institutionalized children adopted internationally. The majority of this research has been conducted in the context of Romanian orphans. I was the director of the team of professionals that first published information on the medical status of Romanian adoptees in the United States; I have participated in a number of deinstitutionalization programs in Romanian neuropsychological institutions and camine-spitals under the direction of Christian Tabacaru, former head of child protection and the Romanian Adoption Committee. I serve as consulting pediatrician to the Bucharest Early Intervention Project, the first randomized, controlled study of the effects of foster and institutional care on early brain development and I am a founding member of the Bucharest Institute of Child Development.

Finally, I offer my experience in my most satisfying role, as the proud adoptive parent of Gabriel James Sunil Sai Johnson. Once a fragile three-pound baby abandoned to die by his birth mother in Calcutta India, twenty years later he is a successful college student who can easily lift me off the ground. In summary, I am intimately acquainted on both a professional and personal level with the profound deterioration that occurs in abandoned infants and young children within orphanages and hospitals, the intense desire on the part of potential adoptive parents to provide homes for these children and the extraordinarily positive effects that nurturing, permanent families play in insuring normal brain and personality development.

In the context of today's hearings, there are three main groups that share an interest and have played important roles in determining the fate of abandoned Romanian children; the government of Romania, the legislative bodies of the United States and the European Union and families who desire to adopt abandoned Romania children both domestically and internationally. All three groups would enthusiastically agree that the rights and well being of those abandoned should be our principal concern and all would agree that institutional care is utterly inadequate. There would be no disagreement that children are best served by remaining in their birth families and if that is not possible they should remain in competent, permanent families in Romania. As signers of the Hague Convention on Inter-country Adoption, the government of Romania, the countries that form the European Union and the United States have all accepted the statement that adoption abroad "may offer

the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her state of origin.”¹ However the means to achieve these goals differ which is why we face the current crisis.

Two viewpoints can be distilled from the controversy defining the “best interests” of children deprived of parental care, particularly in the realm of international adoption: advocacy for children and advocacy for one child. Those who advocate for children as a group, represented by such groups as UNICEF and Save the Children UK, hold many aspects of international adoption to be in direct conflict with the articles of the UNCRC.^{2,3,4} From this perspective, sanctioning practices that downplay the value of birth family and culture and weaken legal protection for the parties involved undermines legal protections for all children. Those at the opposite pole are motivated by one of the most fundamental drives shared by humans: protecting and nurturing the individual child. From this viewpoint, the right of a single, identifiable child to grow up in a permanent family outweighs virtually every other consideration. While these viewpoints appear to be at odds, they are both centered in the well being of children, and within this arena there is considerable room for thoughtful compromise.

Current adoption laws in Romania are an outgrowth of inadequate restructuring and implementation of child protection legislation in the post-Ceausescu era. Reports by the European Union⁵ in 1999 and the United States⁶ in 2001 highlighted a system in crisis and in need of a substantial overhaul. The process of Romania’s accession to the European Union that began early in this decade provided the European Parliament the opportunity to examine child protection policy in Romania and bring it into compliance with accepted European standards. However, the resulting legislation, which we are discussing today, essentially eliminates international adoption and concentrates on birth family reunification as the solution to child abandonment.

Superficially, the focus on reunifying an abandoned child with his or her family is consistent with both the United Nations Convention on the Rights of the Child⁷ and the Hague Convention on International Adoption.¹ However, the length of time an abandoned child spends outside a permanent family is not a factor considered in either document. Contemporary child development research has unequivocally shown that in infancy, hospital or orphanage care for

¹ Convention of 29 May 1993 on Protection of Children and Co-operation In Respect of Intercountry Adoption. Hague Conference on Private International Law. Available at: http://hcch.evision.nl/index_en.php?act=conventions.text&cid=69. Accessed September 11, 2005.

² Intercountry adoption. UNICEF International Child Development Center. December 1998. Available at: www.unicef-icdc.org/publications/pdf/digest4e.pdf. Accessed September 11, 2005.

³ Position on international adoption of children from Bulgaria. Save the Children UK. October 2003.

⁴ Dillon S. Making legal regimens for intercountry adoption reflect human rights principles: transforming the United Nations Convention On the Rights of the Child with the Hague Convention On Intercountry Adoption. Boston University International Law Journal. Fall 2003; 21(2):179-257.

⁵ Ad hoc Report on Child Protection in Romania A/RO/SOC/99003, 22 July 1999, OMAS Consortium.

⁶ Ambrose MW and Cobun AM. Report on Intercountry Adoption in Romania. January 22, 2001. Available at: <http://www.acf.hhs.gov/programs/cb/publications/romanadopt.htm> accessed September 11, 2005.

⁷ Convention on the rights of the child. UNICEF. Available at: <http://www.unicef.org/crc/crc.htm>. Accessed September 11, 2005.

longer than 4–6 months can cause permanent alterations in cognitive, emotional and behavioral development.⁸ A reasonable estimate is that an infant loses about 1–2 IQ points/month, and sustains predictable losses in growth as well as motor and language development between 4 and 24 months of age while living in an institutional care environment. The second finding is that placement in a permanent, nurturing home in early life can immeasurably improve outcome.⁹ Finally, though foster care can prevent the deterioration in growth, cognition and emotional development seen in institutionalized children, it is at best a stopgap measure as it does not provide the permanent, committed caregivers that are needed to optimize development. We need only look at the problems in our own foster care system to realize that our goal should be permanence.^{10 11 12 13} Therefore the duration of time when reunification is the priority must be informed by scientific evidence. Failure to do so will violate a child's right to develop normally.

The virtual elimination of international adoption as an option for child protection in Romania is particularly surprising since countries such as Norway, Sweden, Denmark, France, the Netherlands and Spain have the highest rates of international adoption in the world¹⁴ and all members of the European Union aside from Greece and have signed, acceded or ratified the Hague Convention on Intercountry Adoption.¹⁵ The ban on international adoption in the current Romanian legislation directly reflects the personal views of Lady Emma Nicholson the Rapporteur of the European parliament to Romania from 1999–2004. Charged with overseeing the progress of Romania towards membership in the European Union, Nicholson devoted much of her effort to reforming the child protection system. Within that context, Nicholson spent an inordinate amount of energy promoting an outright ban on international adoption in Romania by tarnishing the character and motives of those involved in the process.^{16 17 18 19} Central to her campaign to

⁸Johnson DE. Medical and developmental sequelae of early childhood institutionalization in international adoptees from Romania and the Russian Federation. In: Nelson C, editor. The effects of early adversity on neurobehavioral development. Mahwah, NJ: Lawrence Erlbaum Associates, Inc.; 2000:113–162.

⁹Johnson, DE. Adoption and the effect on children's development. *Early Hum Dev* 2002;68:39–44.

¹⁰Halfon N, Mendonca A, Berkowitz G. Health status of children in foster care: the experience of the Center for the Vulnerable Child. *Arch Pediatr Adolesc Med* 1995;149:386–392.

¹¹Takayama JI, Wolfe E, Coulter KP. Relationship between reason for placement and medical findings among children in foster care. *Pediatrics* 1998;101:201–07.

¹²Simms MD, Dubowitz H, Szilagyi MA. Health care needs of children in the foster care system. *Pediatrics* 2000;106:909–18.

¹³Murphy Garwood M, Close W. Identifying the psychological needs of foster children. *Child Psychiatry Hum Dev* 2001;32(2):125–135.

¹⁴Selman P. The demographic history of intercountry adoption. In: Selman P, editor. *Developments, trends and perspectives*. London: British Agency for Adoption and Fostering (BAFF); 2000:15–37.

¹⁵Status table. Hague Conference on Private International Law. June 16, 2004. Available at: http://hcch.e-vision.nl/index_en.php?act=conventions.status&cid=69. Accessed on September 11, 2005.

¹⁶Nicholson N. Red light on human traffic. *Guardian Unlimited*. July 1, 2004. Available at: <http://society.guardian.co.uk/adoption/comment/0,8146,1250913,00.html> Accessed September 11, 2005.

¹⁷Mitu F. Interview granted by Baroness Emma Nicholson. TELE7ABC Italy. February 19, 2001. Available at: <http://www.peds.umn.edu/iac/pdf/ABCtranscript.pdf>. Accessed September 11, 2005.

¹⁸Nicholson has proof on children abused by adopting foreigners. ZIUA. March 13, 2004. Available at: <http://www.ziua.net/display.php?id=7019&data=2004-03-13>. Accessed September 11, 2005.

end international placements was an effort to characterize parents seeking to adopt internationally as unfit, having been denied the option of adopting in their own countries, as well as the frequently articulated, though never substantiated, charges that international adoption was an “international trade in children” controlled by criminals not only for “pedophilia, child prostitution or domestic servitude” but for organ transplantation as well.

Recognizing that poverty was the root cause of child abandonment and that EU membership offered the best hope for economic well being, Romania was forced to placate Lady Nicholson and the European Parliament by passing the current highly restrictive adoption legislation in June 2004. Economic pressure to retain these laws continues. Nicholson, responding to the BBC’s question on her views if Romania re-asserts international adoption said, “If Romania were to go back to the selling of children (her stated view of international adoption), then I believe she will be delaying her entry into the European Union for a long, long time to come.”²⁰ With the current statutes, children with handicaps or who are members of ethnic minorities who are difficult to place in Romanian families but readily placed abroad, currently have little hope of a permanent family.²¹

Romanian is a sovereign nation and should be permitted to craft its own solutions to child protection problems that are evidence—rather than tabloid-based. In doing so, Romania should be able to rely on the financial and technical assistance of the United States and the European Union. While we must work towards the ideal of all nations caring for their own children, we must also acknowledge current realities. We must not penalize the children abandoned in Romania today as poverty remains the standard for much of the population, the physical and professional infrastructure of the child protection system remains inadequate and adoption perspectives in Romanian society do not permit timely in-country placement of all abandoned children in competent and committed families.

I once again emphasize that this issue is not merely a matter of law that can be resolved at the agonizingly slow pace of most legal or legislative proceedings. If an infectious disease or release of a known toxic agent threatened the future of thousands of Romania’s children, there would be no hesitation to intervene. Development outside of a nurturing family during the first years of life leads to catastrophic loss of brain potential. Unfortunately, this epidemic of maldevelopment is as silent as the hospital and institutional wards where these children vegetate.

The clock is ticking. If an infant abandoned today in Romania remains outside of a family by the end of next summer, his or her IQ will have dropped an average of 15 points. By the end of summer of 2007, IQ will have permanently dropped an average of 30 points

¹⁹ Damian G. Romania has been destroyed by internal corruption. ZIUA. March 29, 2004. Available at: <http://www.ziua.net/display.php?id=8733&data=2004-03-29>. Accessed September 11, 2005.

²⁰ Interview with Baroness Emma Nicholson MEP. BBC News. September 18, 2004. Available at: http://www.adoptachild.org/Messageboard/forum_posts.asp?TID=93&TPN=2&dlimit=1. Accessed September 11, 2005.

²¹ Richards SE. Dispatches from Romania: the babies left behind. December 1, 2004. Available at: <http://slate.msn.com/id/2109971/entry/2109977/>. Accessed September 11, 2005.

and be close to the mentally retarded range. The present laws in Romania leave children in institutional or temporary family care for an unacceptable period of time. Placement of these children in adoptive Romanian families and if this is not possible, in families abroad will prevent this deterioration. A child's brain is a delicate and perishable entity, I challenge you to consider how many IQ points do the abandoned children of Romania need to lose before action is taken?

**PREPARED STATEMENT OF THOMAS ATWOOD, PRESIDENT
AND CEO, NATIONAL COUNCIL FOR ADOPTION**

The National Council For Adoption (NCFA) thanks the Commission on Security and Cooperation in Europe for the opportunity to provide testimony regarding the important topic of "In the Best Interest of the Children? Romania's Ban on Intercountry Adoption." Founded in 1980, NCFA is an adoption research, education, and advocacy organization that promotes the positive option of adoption, both domestic and intercountry, for children and families in the United States and around the world. NCFA has been involved in improving the intercountry adoption system since the early stages of drafting the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) and the Intercountry Adoption Act of 2000. We greatly appreciate the Commission's leadership in drawing attention to Romania's ban on intercountry adoption. Since Romania's de facto ban on intercountry adoptions began in 2001, thousands of Romanian orphans have been deprived families, due to this cruel and arbitrary policy.

The National Council For Adoption agrees with the principle that domestic adoption is to be preferred over intercountry adoption. Whenever possible, children should grow up in loving, permanent families in their countries of origin. However, national boundaries and national pride should not prevent children from having families. When domestic adoption is not occurring for children within a certain timeframe, as is the case with tens of thousands of Romanian orphans, they should become eligible for intercountry adoption.

The topic description for this hearing asks the right question: Is Romania's ban on intercountry adoption in the best interest of children? In our view, the answer is clearly, and emphatically, no. Considering Romania's ban on intercountry adoption, it seems as though Romanian policymakers prefer that their country's orphans grow up in overcrowded institutions, rather than in loving American families. At least as puzzling and astonishing is that the European Union (EU) required Romania to adopt such a policy in order to obtain membership in the union.

When Romanian President Nicolae Ceausescu was overthrown in 1989, estimates of orphaned children housed in deplorable conditions in institutions around Romania ranged from 100,000 to 300,000. Following media coverage of the children, families around the world responded in genuine concern and opened their hearts and homes through adoption to many thousands of these children, of whom large numbers were discovered to suffer from significant and sometimes permanent special needs as a result of institutionalization. Although plagued by frequent changes in rules and procedures, and by a process hindered by the corruption of a few, Americans have successfully adopted more than 8,200 Romanian orphans from 1990 to 2004.

Since late 2000, however, Romania has erected a series of institutional barriers to adoption that have resulted in an effective ban on intercountry adoption. In 2000, the last nearly full year for Romanian adoptions, more than 1,100 Romanian orphans found loving families in America. In 2004 that number had dropped precipitously to 57, and there have been no adoptions in 2005. If the rate

in 2000 had continued, 3,000 additional Romanian orphans would have found families in America, in the time since then. Currently, Romanian law restricts adoptions to biological family members.

Even cases where children have already been matched with families are not being allowed to proceed. Just three days ago, I heard from a couple who have been matched with a child and trying to adopt her for several years. This ten-year old girl has a relationship with them and wants to be adopted by them, but the authorities intend to move her to an orphanage. How can anyone argue that forced institutionalization is in this girl's best interest? Romania's own adoption authority, the Child Protection and Adoption Authority, estimates that there are approximately 37,000 children in institutionalized care in Romania (some estimates are much higher). It is tragic for the children that Romanian law will not allow them to be considered for placement with the thousands of families around the world who would be pleased to adopt them. Approximately 5,000 families have submitted applications since the suspension began.

Romania has signed, ratified, and supposedly put into force the Hague Convention, the fundamental principles of which are that intercountry adoption can be in the "best interests of the child," and that "intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin." By only allowing orphans with family members outside of the country to be adopted internationally, and then, only by these relatives, Romania is in violation of this treaty. The Romanian ban also contradicts the recommendations of international children's organizations, such as UNICEF, which has stated: "For children who cannot be raised by their own families, an appropriate alternative family environment should be sought. . . . Intercountry adoption is one of a range of options which may be open to children, and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution." Note the word "permanent" in this strong UNICEF endorsement of intercountry adoption. Foster care does not offer permanence. Only adoption offers the orphaned child permanence.

The benefits of intercountry adoption to children are indisputable. The record clearly confirms what common sense tells us, that outcomes for children who are adopted internationally are better than those for children raised in institutions or in foster care. A study, "Behavior Problems and Mental Health Referrals of International Adoptees," recently published in the *Journal of the American Medical Association* recently found that even though the studied internationally adopted youth were referred to mental health services more often than non-adopted, the effect size was small, and the large majority of them were "well-adjusted." Interestingly, the study also found that they presented fewer behavior problems and were referred for mental health services less often than domestically adopted children. The researchers considered the finding that the large majority of internationally adopted children and youth were well-adjusted to be particularly significant in light of the fact that, "before adoption, most international adoptees experience insufficient medical care, malnutrition, maternal separation,

and neglect and abuse in orphanages.” Clearly, internationally adopted children grow up healthier than they would have, if they remained in institutional or temporary care.

Scandinavian studies of internationally adopted children through 2000 also found that, despite the very difficult starts in life many of them had, “70 to 80 percent of [internationally] adopted children and young adults were growing up without any sign of major problems.” In another study by researcher Michael Rutter in 1998, it was documented that despite having poor health at the time of the adoption, the majority of internationally adopted children made significant progress within the first few years of adoption. The children with special needs especially benefit from concerned parents and medical opportunities available to them in the receiving countries, showing improvements in development and cognitive ability.

Empirical studies are valuable, but in this case they only confirm what we already know from common sense and millennia of human society: All children need and deserve loving, permanent families and parents of their own. We can also observe intercountry adoption’s benefits to children with our own eyes in the international-adoptive families we know personally. It simply defies human nature to suggest that institutional or temporary care can take the place of a loving, permanent family of one’s own, whether obtained through domestic or intercountry adoption.

NCFA supports Romania’s efforts to place children, temporarily, in state-approved foster families, rather than in institutions. But foster care does not provide the permanence and security offered by a family through intercountry adoption. The child’s interest in a loving, permanent family dictates a policy that prefers adoption over foster care—first, domestic, then, intercountry, when domestic adoption does not occur within a certain period of time.

What rationale, based on the child’s interest, is there to prefer domestic foster care over intercountry adoption, as is the case with Romania’s current policy? Does the child have a greater interest in remaining in his or her country of origin than in having a family? The love and security of belonging in one’s own legally recognized and permanent family during childhood is fundamental to healthy human development. Children can be taught to appreciate their countries of origin, and they are, in most international-adoptive families. They can visit their original countries and even move to them later in life. But one can never restore love and security to a childhood lived in uncertainty and transience, without a forever family with whom one belongs. Foster care is an appropriate temporary measure, but it should be just that, temporary.

NCFA supports Romania’s efforts to promote domestic adoption, both related and non-related. But there were only 3,500 adoptions of orphans by Romanian citizens from 2001 to 2003. Contrast that statistic with UNICEF’s estimates that there are more than 4,000 children abandoned in Romania annually, and it is apparent that without intercountry adoption Romania is losing ground in its efforts to provide for the well-being of its orphans.

Notwithstanding the problems with Romania’s intercountry adoption program, it was neither necessary, nor in children’s interests, to end adoptions altogether. Transitioning to the Hague Convention and initiating other targeted reforms and enforcement ef-

forts, in cooperation with the global adoption community, could have addressed the problems. But, for now, the European Union, led by Baroness Emma Nicholson, has ended intercountry adoptions out of Romania, by making Romania's admission into the EU contingent upon this tragic policy.

There is concern that this harmful policy could spread to other countries, especially nations desiring admission to the EU. Many countries of origin deal with a certain amount of nationalistic reaction to the idea of allowing their countries' children to be adopted internationally. The American and international child welfare communities should be very concerned about this attack on children's rights in Romania, work to reverse the policy as soon as possible, and prevent opponents of adoption from advancing their harmful agenda in any other vulnerable countries.

National boundaries and national pride should not prevent children from having families. Intercountry adoption can and should strengthen the bonds of friendship between countries, not strain them. It is indisputable that adoption, whether domestic or intercountry, is a phenomenally successful social institution, which has met the needs of millions of children. It can continue to do so for millions more orphans around the world, if allowed the opportunity. NCFCA calls upon the European Union, the government of Romania, and all those concerned about the welfare of children to advance the positive option of intercountry adoption, in the interest of children. We greatly appreciate the American government's and this Commission's advocacy of intercountry adoption and offer our continued assistance in advancing this crucial mission.

**MATERIAL SUBMITTED FOR THE RECORD BY HON.
CHRISTOPHER H. SMITH**

[Excerpt from the 2005 Trafficking in Persons Report, U.S.
Department of State]

**ILLEGAL ADOPTION, BABY SELLING, AND HUMAN
TRAFFICKING**

Legitimate intercountry adoption provides a permanent family placement for a child unable to find one in his or her country of origin, absent any irregularities by the adoptive parents, the birth parents, or any parties involved in facilitating the relationship. Appropriate and legitimate intercountry adoption does not imply baby selling or human trafficking. Unless adoption occurs for the purpose of commercial sexual exploitation or forced labor, adoption does not fall under the scope of the Trafficking Victims Protection Act. Baby selling, which is sometimes used as a means to circumvent legal adoption requirements, involves coerced or induced removal of a child, or situations where deception or undue compensation is used to induce relinquishment of a child.

Baby selling is not an acceptable route to adoption and can include many attributes in common with human trafficking. Though baby selling is illegal, it would not necessarily constitute human trafficking where it occurs for adoption, based on the Trafficking Victims Protection Act, the UN Protocols on Trafficking in Persons and the Sale of Children, the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, and definitions of adoption established by U.S. jurisdictions.

The purposes of baby selling and human trafficking are not necessarily the same. Some individuals assume that baby selling for adoption is a form of human trafficking because trafficking and baby selling both involve making a profit by selling another person. However, illegally selling a child for adoption would not constitute trafficking where the child itself is not to be exploited. Baby selling generally results in a situation that is nonexploitative with respect to the child. Trafficking, on the other hand, implies exploitation of the victims. If an adopted child is subjected to coerced labor or sexual exploitation, then it constitutes a case of human trafficking.

**STATEMENT SUBMITTED FOR THE RECORD BY
HON. DAN BURTON, MEMBER OF CONGRESS (IN-5)**

Mr. Chairman, I would like to thank the Helsinki Commission for allowing me the opportunity to comment on the subject of Romania's adoption policy.

Under the regime of Romania's former Dictator Nicolae Ceausescu, hundreds of thousands of Romania's abandoned children languished in hospitals, left to die of horrible diseases and neglect. The fall of the Ceausescu regime brought a ray of hope to these and many other children, but now just a few years later, the children of Romania—the most helpless of Romania's citizens—are once again caught between a Byzantine bureaucracy, and an ill-conceived law that may prevent them from ever having a family to call their own.

I was greatly disappointed when the government of Romania passed Law 273/2004 in June of 2004, which took full effect on January 1, 2005, and brought inter-country adoptions to a sudden halt. The only exception granted was for adoption by grandparents living abroad. The result: many children who were already in the process of being adopted by foreign families are now caught in limbo, and their adoptive parents have no legal recourse to try and get them out.

As we should all understand and appreciate, the reuniting of children with their birth parents is a high priority for the government of Romania, and they should be commended for their efforts in this regard; however, for every overburdened caseworker there are 300 children. If parents cannot be found or—tragic as it may sound—simply do not want their children, the only viable option is to find a family willing to adopt these children.

I doubt few people would argue with this simple premise, but the new Romanian law unfortunately only allows children with a birth certificate and a court-issued decree of abandonment to enter the adoption process. The difficulty arises in the fact that without parents to sign over care to the state, these children become, in essence, non-existent in the eyes of their own government. Furthermore, is it likely that enough in-country adoptive families can be found when conservative estimates show that 6.4 percent of the Romanian population is unemployed and 28.9 percent live below the poverty line? What type of life will these children have to look forward to under those circumstances?

Hundreds upon hundreds of Romanian children are caught in this legal limbo waiting to be adopted by loving and caring adoptive families. In fact, more than a dozen pending cases were presented to President Basescu in March of 2005. Unfortunately, I have been told that eight of those families have already been given the devastating news that their prospective children have been domestically adopted or are being presented for domestic adoption. In fact, my dear friends the Murrells were one of those unlucky families. They were eagerly awaiting the adoption of a beautiful little girl named Cristina, only to be told in February 2005, after two and a half years of trying to bring Cristina home, that she was adopted by a family in Romania and there was nothing the United States could do about it. Losing Cristina was like suffering a death in the family and the family was understandably devastated. Un-

fortunately, to compound the tragedy, when my staff tried to follow up on this case with the State Department, the Department's Bureau of Consular Affairs was anything but helpful.

As a senior Member of Congress actively involved in children's issues, I know that there is a strong desire within the United States Congress to aid the Romanian government in seeing that these children find safe, loving homes, and to ensure that each Romanian child transitions safely through the adoption process. I agree that we must continue to ensure that the birth parents have their rights protected and that the perspective adoptive parents are capable of providing for the needs and well-being of these children. However, when all intra-country options have been exhausted we must question the wisdom of Law 273/2004, which arbitrarily prohibits an inter-country solution.

In closing, I am extremely grateful that the Helsinki Commission has chosen to take up the question of Romania's adoption policy. I believe as policymakers we have an obligation to protect and defend those who cannot stand up for themselves. We should not close our eyes to the facts; namely, hundreds of thousands of innocent children without parents, some suffering a multitude of health problems in deplorable hospitals and orphanages throughout Romania—almost harkening back to the days of Ceausescu—simply because of an ill-advised law that appears to put the issue of national pride over the best interests of the children. I believe that this is no way to treat the children of Romania. I fervently hope that the Commission will send a strong message today that the abandoned children of Romania deserve better; they deserve to live in loving homes, whether in Romania, the United States or anywhere else.

**STATEMENT SUBMITTED FOR THE RECORD BY
THE HOUSE OF ANGELS (GAESTI, ROMANIA)**

My name is Simona Stewart (nee: Vatafu), I'm a Romanian citizen, born in the city of Targoviste, Dambovita County.

I've been running the House of Angels (a private emergency shelter for abandoned children 0–3) in Gaesti, Romania (Dambovita County) since March 2002, and I've been in the middle of the battle for Romanian child welfare rights since 1999.

As a Romanian, I consider it my social responsibility to speak up for those who cannot speak for themselves, namely the little Romanian orphans who bear the brunt of the horrific consequences of our current “national adoption policy”; wrongfully imposed upon us by the shortsightedness and impracticable orders of European Parliament's Rapporteur to Romania, Baroness Emma Nickleson, MEP.

Given the new Law on Child Welfare which passed this January, 2005, in direct response to Baroness Nickleson's demands as a condition of entry for Romania to get into the European Union, the welfare of all orphaned and abandoned children has been directly affected by this new Law, and I truly hope and pray that someone could wake up the Romanian Government so they can re-consider the disastrous humanitarian effects of this law.

House of Angels was built to be an oasis where new born babies, recently abandoned by their birth mothers in State hospitals, could receive proper care, nutritious meals, and the most important thing of all—a loving hug! Three or four months after staying at the House of Angels, the new born babies would be ready for foster care families. In concept, this would have smoothed the way for a transition to traditional family care.

But, in accordance with the new Law, new born babies from birth to two years old are no longer allowed in any institution of any kind, and now must go directly from the hospitals to foster families. If they can!

This may work well on paper, but the problem is that foster families here in Romania don't want to take such young babies of just a couple of weeks or months, as they are rightfully very high maintenance. And since the current adoption moratorium was imposed, there are now many hundreds of babies simply abandoned in State hospitals without any legal possibility of ever leaving them.

Life of an abandoned baby in our Romanian hospitals is very stark: no human contact or stimulation, no nutritional meals, no diapers, just months and years of living in a one square meter crib. For there is no money to pay for such things. Yes, the new Law mandates we do this to these defenseless children, but when has the Law ever been funded to pay for these demands?

Sadly, the consequences of gross under-funding have been disastrous: the infants quickly develop RADS (Radical Abandonment Disorder) which manifests itself through a self stimulating rocking motion. This in turn leads to severe mental problems as all functionality of the upper brain is left to waste away during the most critical period of a child's mental development. As the hospitals have no funding to care for this extra burden imposed by the new, un-funded, Law; the children—no, the babies—are left to fend for themselves and are supplied only with occasional meals when

the budget permits. Tea instead of milk to save money. And then left completely naked to save on the expense of diapers. Left to urinate upon themselves until money comes into change the sheets. No teddy bear tonight, they weren't in the budget this year. Too bad if the room is freezing cold, for there is no money to pay for heating oil either. I have witnessed all this for myself, and it is ashamedly all too true.

The goal of the House of Angels was to prevent abuses such as these, and keep the kids in the House of Angels until they are physically and mentally able to join a proper Romanian foster family. According to the new Law, the children can't even have that little head start anymore. It's been forbidden by the European Union's Rapporteur. I say this to you, have Emma Nickleson MEP spend one day with me in any Romanian child ward of any Romanian State hospital, and I tell you she will go home in tears at the human misery she has caused.

But we cannot lay all the blame at the foot of her desk, we must remember that it was Romanian politicians who gave into this EU greenmail and permitted this human atrocity to take place. It is one thing to want to appease the Members of the European Union's Parliament by giving into them as they demand, but it is altogether another thing to do so without any thought to the consequences of one's actions if the price to be paid is to be in the health and sanity of Romania's children. And, although I have no proof, (and none shall ever be admitted to by our Ministry of Health) I also am firmly convinced these innocent children have paid with their own lives as well. For although the Law has been passed, its financial burden on those who now must follow its demands have never been financed to meet anything close to their needs. And who suffers now? The innocent who cannot speak for themselves do.

The maximum capacity of our facility today is 40 toddlers. In December 2004 we had 55 kids aged 0 to 3 years old. We understood the demand was great, and we accepted each of them with open, loving arms. Each child has his own medical dossier as well as complete information about his mental and physical development which will also follow them when they leave our facility. Therefore, when they are adopted, they have all their medical information from birth till the first tooth or the first step and beyond.

According to the new Law; we, as an NGO, must now also prepare all dossiers of the children in order to determine if the child is adoptable or not. Under the old Law, the Local Commission for Child Protection had the right to declare a child "abandoned" if in accordance with a notarized statement given by the birth mother; or not, if the birth mother could not be found within six months. Since January, under the new Law, we, the NGO, must now seek out the 4th degree relatives of the child and get written statements from each of them saying they don't want the child. Then we must submit this dossier to the Court of Law, and bring the mother before the Court, in front of the Judge, to have her declare her intent to abandon her child.

According to the new Law, if one of the child's 4th relatives is not found, then the Judge can reject the dossier until the relatives are found. No matter how long that may take!

In a nutshell, according to the new Law, it is now nearly impossible to declare any child abandoned and put him up for adoption. And this is what the politicians wanted all along. If a child is never declared “abandoned” then he can’t be counted in the statistics—and thus everyone has solved the Rapporteur from the European Union’s demands for entry into the EU. The dreaded Romanian orphans have all gone away (on paper). And in turn, Romania gets into the EU. Mission Accomplished! Unless you happen to be a stateless child living in a Romanian hospital somewhere—unaccounted for.

Presently in Romania, there are more requests than ever for national Romanian adoptions; and yet oddly there are no kids available for adoption??? Where have they all gone??? My best friend in Bucharest, Nita Luminita, married and aged 31, has been trying to adopt a child for one year since she was approved as adoptive parent. She had submitted requests to all 42 Romanian counties Commissioners for Child Protection and surprisingly all her answers were negative: “There are no children available for adoption”. How is that possible? The answer is the new Law.

If your Commission is permitted any reasonable investigation into the matter, you will probably receive positive answers from all the Romanian county’s Commissioners for Child Protection saying that there are currently enough foster families for all the abandoned children in Romania. And they are right! But do you know that one foster family is required to take at least 2 or 3 kids at once, if they want to get a salary as a foster family? Do you know that families living in a 2 room house have to take care of 3 foster children and 2 of their own? Given the state of Romania’s weak economy today, Romanians are not willing to take care of an abandoned child save for the salary they get as foster parents. And not surprisingly, it is the most impoverished Romanians who volunteer first to be foster parents, and all for the money. While the wealthier Romanians who can and want to adopt are told they cannot. It breaks my heart to say that, being also a Romanian, but I prefer to let the truth be known rather than leave the kids in the current situation.

A good friend of mine Shirley Sinclair from Cody, Wyoming in the USA asked me in 2003 to help her adopt a child from Romania. I found her a little boy in a foster family in Dambovita County and she wanted to adopt him. We submitted her dossier #1870 on the 4th of March 2003 with the National Authority for Child Protection and Adoption in Romania, and it was confirmed as approved adoption No. 22704 on December 16th 2003. But when we went to the Court of Law, the Romanian foster family decided to adopt keep the child for themselves. Naturally, after 10 months and being native Romanians, they had priority and were given the right to adopt the child. The sadness and disappointment of the US family is impossible to describe.

Not surprisingly, once the Romanian foster family found out they would no longer receive their monthly payments once they adopted the child as one of their own. They immediately cancelled their adoption plans. To date, the Romanian foster family still have not adopted that child. They say they must live off the money that comes from the monthly foster family payments as neither of them

can get jobs anywhere else. This child was one of three foster children under their care. They also have two of their own.

The adoption home study done for this Romanian family was inaccurate and nobody mentioned that they didn't have the proper legal conditions to adopt a child. It was just an easy out to a complex problem. The end result is a desperate US family who could have offered this child a loving environment, and on the other hand, a child with no future. How many times has this scenario been repeated across Romania I do not know, but I am sure it is only one of thousands where loving parents that could have provided a wonderful place to be loved and grow up were denied so that we Romanians could get into the EU. What a price we pay, when we pay with our own children's blood.

All Romanians, and I count myself amongst them, understand that the future and well-being of our country rides on our accession into the European Union. We know this is important and we stand ready to make any efforts and many changes to achieve that goal. But it seems that the children of this nation are paying too heavy a price for our lofty goals. The sad truth is, that it need not be so. There really is no need to deprive these children from loving families. Why are we doing this to our own? So that we can accommodate one misguided Rapporteur? The sad truth is yes, that seems to be exactly why we are doing it.

Over the past two years I have spoken and pleaded with many of Romania's leading politicians (including those on this panel) and have asked them why we are doing this to our own? And universally the answer comes back, because it must be so if we are to ever get into the European Union. So, I asked my esteemed countrymen if any of them had actually been to a State institution recently, or any child ward of any Romanian State hospital, and not surprisingly they all said "no". At a recent Romanian American reunion in Chicago Illinois, I asked two Romanian Senators why they were not doing more to help these children? They replied naively that they had not heard anyone protesting in the streets about this problem. I sorrowfully pointed out to them that abandoned two year olds haven't the means or ability to carry placards through the streets and to speak for themselves! And as they are no one's children, no one speaks for them either.

So now we must, this Committee must. We must speak for those whom cannot speak for themselves. We must stop this human atrocity from continuing and immediately recommence adoptions to any loving family, Romanian or otherwise, that meets strict international guidelines as set forth by reasonable nations that seeks first and foremost to protect the well-being of these abandoned children.

Please remember that while you read all this; that right now as we sit in our air conditioned offices in our plush chairs, eating what we will, there are kids in the Romanian hospitals who have never been touched by the sunshine or by the wind, eaten what would make them well, nor ever been hugged by a loving parent. If there is something you, or our Ambassador Mr. Ducaru can do to repeal this Law, please do so, and please do so quickly. For every minute counts.

This is just a small cry for help coming from the little Romanian orphans who cannot speak for themselves.

Thank you for reading this,

SIMONA A. STEWART,
President of the House of Angels

**LETTER SUBMITTED FOR THE RECORD BY THE CENTER FOR
ADOPTION POLICY**

CENTER FOR ADOPTION POLICY,
RYE, NY
August 15, 2005

The Honorable SAM BROWNBACk, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

Re: International Adoption of Children in Romania

DEAR SIRs: We write to you as Executive Directors of the Center for Adoption Policy (“CAP”) in anticipation of the upcoming September hearing during which the Helsinki Commission intends to examine adoption issues in Romania.

CAP is an independent, not-for-profit organization dedicated to researching, educating and advising governments, lawyers and other participants involved in the process of finding a family for every unparented child. CAP is not affiliated with, nor does it receive any funding from, any adoption agency. As part of its mission, CAP monitors and analyzes legal developments applying to inter-country adoption in countries that are signatories to the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption (“the HCIA”), with particular focus on Europe. Romania is of particular interest to CAP given the number of abandoned and unparented children in this country.

Over the past four years, CAP has followed closely the development by the Romanian Government of an adoption policy and the drafting of new adoption legislation.

CAP submitted several sets of written comments to the Romanian National Authority of Child Protection and Adoption as well as to the Blue Ribbon committee that drafted the new adoption legislation in Romania, at the invitation of the DFID member of the working group. CAP also made its research and comments available to the United States Embassy in Bucharest, and to the Prime Minister of Romania.

The focus of our research and comments was to ensure that the proposed legislation served the best interests of the children in Romania in compliance with Romania’s obligations under international human rights treaties and under the HCIA. Needless to say, the final text of the adoption law as it relates to international adoption was a major disappointment. As noted by Chairman Brownback, the new legislation “limits international adoption to the grandparents of the Romanian child—effectively ending international adoption.”¹

As we participated in the drafting process for the new adoption law, we noted that the texts became increasingly unfavorable to and restricting of international adoption. Ultimately, we believe that the Romanian Government was the subject of considerable pressure from European Union representatives who played an in-

¹ Sam Brownback, Winds of Change in Romania?, Congressional Record, Proceedings and Debates of the 109th Congress in Session, March 15, 2005, Vol. 151 No. 31.

strumental role in the accession negotiations process. Using the political desire of the Romanian Government to join the European Union as promised in 2007, these individuals conflated international adoption and child trafficking into two major and connected issues. They pressured the Government to draft a law that best served these individuals' anti-international adoption agenda and not the best interests of the children as would have been done by a law that allowed international adoption with appropriate safeguards. We attach for your consideration an article we wrote for the Wall Street Journal Europe.

Aside from political considerations, it is CAP's view that the current legislation is in violation of Romania's obligations under the United Nations' International Convention on the Rights of the Child and hence in violation of Romania's commitment to respect human rights under Guiding Principle VII of the Helsinki Final Act. The current legislation is also in violation of Romania's obligations under the HCIA.

Specifically, the new Romanian law on adoption—by effectively eliminating international adoption—fails to comply with the hierarchy of solutions for the care of abandoned and unparented children that results from the UN Convention on the Rights of the Child (“UNCRC”) and is equally established by the HCIA.

THE UNCRC

The provisions of the UNCRC relevant to adoption include:

Article 20(3)

“Such [alternative] care [to be ensured by the state] [for a child temporarily or permanently deprived of his or her family environment] shall include, inter alia, foster placement, kafalah of Islamic law, adoption, or if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.”

Article 21

“States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) ensure that the adoption of a child is authorized only by competent authorities [. . .];

(b) recognize that inter-country adoption may be considered as an alternative means of the child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

[. . .].”

The ambiguous wording of Article 21, combined with the focus placed in Article 20 on the continuity of a child's upbringing in his

or her domestic environment, had led some to argue that the UNCRC gave preference to any domestic solution, including long term care in domestic institutions, over inter-country adoption. However, UNICEF in an official statement released on January 15, 2004 unequivocally rejected this reading and provided its own interpretation of Articles 20 and 21.²

UNICEF states that the first priority, in implementation of the right of every child to know and be cared for by his or her family, is to enable families needing support to care for their own children and to assist them to that effect. However, for “children who cannot be raised by their own families, an appropriate family environment should be sought in preference to institutional care, which should be used only as a last resort and as a temporary measure. Inter-country adoption is one of a range of care options which may be open to children and for individual children who cannot be placed in a permanent family setting in their countries of origin, it may indeed be the best solution. In each case, the best interests of the individual child must be the guiding principle in making a decision regarding adoption.”

This Statement removes any ambiguity as to the hierarchy of care solutions for children under the UNCRC. Among the possible solutions of care for unparented children, institutions come last, after any form of alternative appropriate and permanent family care has been considered. This interpretation by UNICEF is also consistent with the views of the Committee on the Rights of the Child (CRC Committee). In its Concluding Observations following its review of the second report submitted by Romania under Article 44 of the Convention,³ the CRC Committee recommended that Romania “place children in institutions only as a measure of last resort and as a temporary measure; [. . .]; expedite the adoption of the revised law on adoption and ensure that this new legislation is in full conformity with the Convention and other international standards, in particular, the Hague Convention on [Inter-country Adoption]; [. . .]; explore ways to encourage national adoption so that recourse to inter-country adoption becomes a measure of last resort.”

In considering the best interests of the child, the UNCRC, as interpreted by UNICEF, thus ranks possible care solutions in the following order:

1. Family of origin;
2. Suitable permanent family in the country of origin;
3. Inter-country adoption;
4. Domestic foster-care (non-permanent family environment);
5. Institutional care

The current Romanian legislation effectively eliminates inter-country adoption and thereby prefers domestic foster care and institutional care over inter-country adoption, in violation of Articles 20 and 21 of the UNCRC as interpreted by UNICEF and the CRC.

²Statement available at www.unicef.org/media/media_15011.html

³CRC/C/15/Add.199 (March 18, 2003).z

THE HCIA

The HCIA in its Preamble recognizes that a child should grow up in “a family environment” (paragraph 1) and that if the child cannot remain in the care of his or her family of origin (paragraph 2), “intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin” (paragraph 3).

These provisions are interpreted in the Explanatory Report on the HCIA (hereinafter the Report).⁴ The Report states that “[t]he third paragraph of the Preamble, in referring to permanent or suitable family care, does not deny or ignore other child care alternatives, *but highlights the importance of permanent family care as the preferred alternative* to care by the child’s family of origin” (emphasis added) (paragraph 43). The Report goes on to explain that the final wording of paragraph 3 of the Preamble amended the initial draft wording that read “a child who cannot in any suitable manner be cared for in his or her country of origin”. The amendment (and hence the current wording of paragraph 3 of the Preamble) aimed to “ensure that a child should always be placed in a family rather than in an institution or in any kind of environment other than a family” (paragraph 45). This principle is repeated again in the Report at paragraph 46 which reads: “the idea behind [the final wording of paragraph 3 of the Preamble] is that the placement of a child in a family, including in intercountry adoption, is the best option among all forms of alternative care, in particular to be preferred over institutionalization”.

The HCIA in Article 4 confirms the principle of the subsidiarity of intercountry adoption stating that an intercountry adoption shall take place only if the competent authorities of the state of origin “[. . .] (b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child’s best interests.” The Report directly refers to the comments made in explanation of the third paragraph of the Preamble as applying to Article 4 (see paragraph 102). Hence Article 4 of the HCIA does not change the hierarchy of preferred solutions established in the Preamble. The Report further clarifies that, despite the subsidiarity principle, “there was consensus [among the drafters of the Convention] that, in certain circumstances the best interests of the child may require that he or she be placed for adoption abroad, even though there is a family available in the State of origin, for instance in cases of adoption among relatives, or of a child with a special handicap and he or she cannot adequately be taken care of” (paragraph 123).

Thus, the HCIA, as interpreted by the Report, clearly provides that intercountry adoption can only be subsidiary to placement of the child in the birth family and placement in a permanent or suitable domestic family. Because of the Report’s statement that the HCIA highlights the “importance of *permanent* family care as the preferred alternative to care by the child’s family of origin” (emphasis added), it is CAP’s view that intercountry adoption should not

⁴This Report drawn up by G. Parra-Aranguren provides an authoritative interpretation of the HCIA as it is based on the very work of the Conference and the members drafting the Convention. The Report is available at www.hcch.net/e/conventions/expl33e.html.

be subsidiary to placement in foster families or substitute families that lack the desired permanency. Furthermore, in CAP's view, there is no doubt that under the HCIA as interpreted by the Report, intercountry adoption may not be subsidiary to placement in a domestic institution or any kind of environment other than a family.

It had been argued by some that in the process of reforming its laws on adoption and children protection with a view to meeting the criteria for EU accession, Romania was not required to follow the hierarchy of solutions established by the HCIA because the HCIA is not part of the EU *acquis communautaire*. Rather, it was argued that Romania was required to comply with the provisions of the UNCRC, which is part of the *acquis communautaire*, and this convention was interpreted by the same commentators as making intercountry adoption subsidiary to any domestic solutions (including domestic institutions). In CAP's view, the unequivocal statement of UNICEF clarifying Article 21 of the UNCRC changed that picture completely. UNICEF made it clear that there is no conflict or contradiction between the provisions of the UNCRC or the HCIA with regard to the place of inter-country adoption among the alternative care solutions for unparented children. Under either Convention, intercountry adoption is only subsidiary to a permanent family in the child's country of origin (whether his biological family or an adoptive family) and cannot be subsidiary to institutionalized or long term foster care in the country of origin.

Furthermore, the current legislation has a dramatic effect on the situation of one of the most neglected, destitute and abused group in the Romanian population: the Roma children. As your Commission is well aware, there is a continued strong anti-Roma racist feeling in Romania and members of the Roma minority are the subject of blatant discrimination.⁵ A significant number of the children abandoned in Romania are of Roma ethnic background (from one or both parents).⁶ These children often remain in hospitals or are placed in other institutions in less than adequate conditions. Given the persistent prejudice in the Romanian population against the Roma, and the fact that this is an economically disadvantaged group, it is very unlikely that these children will be adopted by a Romanian family. International adoption would then be the only hope to give these children a chance to grow up in a permanent family they can call their own. By effectively eliminating international adoption, the new legislation condemns the abandoned Roma children to long term institutionalized care or at best, long term foster care placement. This perpetuates the discrimination in the Romanian society against the Roma minority as these children

⁵ See e.g., Sam Brownback, The Decade of Roma Inclusion, Congressional Record, Proceedings and Debate of the 109th Congress, April 4, 2005, Vol. 151, No. 24; and Sam Brownback, Racist Manifestation in Romania Deserve Government Response, Congressional Record, Proceedings and Debate of the 109th Congress, May 12, 2005, Vol. 151, No. 62.

⁶ In its 2005 Report on "The Situation of Child Abandonment in Romania", UNICEF notes that most of the mothers (in the sample studied) who have abandoned their children in medical institutions (maternity wards and pediatric/recovery wards) are of Roma ethnic origin. In the UNICEF study, 56.7% of the mothers in the study sample who abandoned their children were Roma. The Study further notes that the over-representation of mothers of Roma ethnic origin abandoning their children is obvious if it is taken into account that this ethnic group makes up less than 10% of the general population. Pages 67-68. The UNICEF Report is available at www.unicef.org/romania/child_abandonment_CD.pdf

will remain second class citizen, deprived of an adequate education and the nurturing family environment to which they are entitled.

Thus, to comply with its commitment under Guiding Principle VII of the Helsinki Final Act, CAP believes that Romania should restore international adoption to its just position in the hierarchy of solutions for unparented children. CAP wholeheartedly agrees with Chairman Brownback's request that the Romanian Government revise its existing law to allow the resumption of international adoption with appropriate safeguards.⁷

We hope you will find this information useful. We remain at your disposal for any questions.

ANN N. REESE
DIANE B. KUNZ

[From the Wall Street Journal Europe, February 4, 2005]

A One-Woman War Against Inter-country Adoption

(By Diane Kunz and Diane Reese)

Almost fifteen years ago the plight of Romania's abandoned children shocked the world. The crazed schemes of dictator Nicolae Ceausescu had doomed hundreds of thousands of children to a life in orphanages which were little more than warehouses. Spurred by televised images of caged children, and tales of AIDS spread among children in state care through forced blood transfusions, the world rallied to help these smallest victims of totalitarian excess. Financial aid and personal volunteers flowed into the country. Thousands of children were given permanent families by people who saw them as citizens of the world in need of nurturing homes, not as property of a sovereign state.

Time passed, and the world's attention turned to new, more immediate crises. With the spotlight removed, the children once again became pawns in a political process.

Today an equally dire fate awaits Romanian children whose birth families cannot care for them. It comes not at the hands of an evil ruler but because of the machinations of self-proclaimed human rights advocates. The result is the same: children condemned to a life without a family of their own.

The Romanian government has one major political aim, to join the European Union. Romania is scheduled to achieve this goal in 2007, but only if it meets the conditions set forth by the European Union and by the European Parliament's Committee on Romania. Until recently, that committee was chaired by Emma Nicholson, Baroness of Winterbourne.

Lady Nicholson has been conducting a one-woman war against inter-country adoption (ICA), using Romania's application to join the EU as her nuclear weapon. Her view is that ICA is a cover for child trafficking and is also beneath the dignity of member states of the EU. She has yet to prove her allegations, which does not stop her from continually making inflammatory charges. These are in-

⁷ Sam Brownback, Winds of Change in Romania?, Congressional Record, Proceedings and Debates of the 109th Congress in Session, March 15, 2005, Vol. 151 No. 31

herently suspect as Lady Nicholson has made it clear that she believes that there is no such thing as good ICA.

Lady Nicholson has stated: "It was a mistake from the beginning to assume that for a child, a foreign adoptive family is better than the family which can not care for him. This is totally false."

Following her own logic, in 2001 Lady Nicholson pressured the Romanian government into declaring a moratorium on all ICA. Her justification was that Unicef supported such a ban because it viewed that ICA was not a preferred alternative under the United Nations Convention on the Rights of the Child (UNCRC).

In January 2004, Unicef clarified its position on ICA, stating that ICA was preferable to home-country institutionalization—and undercutting Lady Nicholson's anti-ICA platform. Those of us who believe that every child should have a family of his or her own rejoiced.

But Lady Nicholson struck back as soon as the Unicef statement became public. Using the excuse that Romania had made too many exceptions to the ICA moratorium, she told the Romanians in no uncertain terms that their application to the EU was in grave trouble. She could no longer claim that Unicef opposed ICA. Instead, Lady Nicholson stated that Romania's corrupt judiciary and legal practices legitimized her opposition to ICA.

Lady Nicholson's power in large part stemmed from her position as chair of Romania's EU application committee, a post she held until September 2004. Although she was then replaced by Pierre Moscovici as committee chair, she was promoted to vice president of the Foreign Affairs Committee of the European Parliament, and Liberal Party adviser to Mr. Moscovici.

Her leverage in Bucharest remains enormous. She has promised EU aid for the orphanages/foster homes that will be needed to care for the tens of thousands of children she intends to keep penned up in Romania. Think of it: The Romanians get to make progress on their EU application and she provides jobs as well.

On June 15 of last year, the Romanian Parliament, caving in completely to Lady Nicholson, passed a bill that totally banned ICA except in cases of biological grandparents living abroad. This became law on Jan. 1, 2005.

While the U.S. administration of President George W. Bush has publicly and privately intervened to try to keep ICA alive in Romania, there are no new carrots to offer Romania to offset the blessing of EU membership that Romania so clearly craves. Unfortunately, the best interests of children are easily subsumed to a larger agenda. Institutionalized children have no seat on the committees that negotiate treaties among nations.

Will the world stand silent while Romania's abandoned children are sentenced to a life without families of their own? Three weeks ago, a killer wave abruptly ended the lives of thousands of children in its wake. We have seen an enormous outpouring of concern, generous grants of time and money by the international community. The knowledge that an early warning system could have saved many lives has generated vows of "never again."

We are sounding the alarm for institutionalized children, in Romania and elsewhere. Their numbers exceed those killed in the recent tsunami tragedy. Dooming them to lives without families is a

preventable tragedy, in plain sight of those who have the will to keep looking when the media frenzy has moved on.

ICA may not save every abandoned child the fate of institutionalization, but it will save some children. For those it is the same as receiving the life-bestowing miracle of having ten extra minutes to flee the tsunami to higher ground. It is our obligation to ensure that the right to grow up in a family is preserved for the most vulnerable members of society.

Dr. Kunz and Ms. Reese are co-directors of the New York-based Center for Adoption Policy.

**STATEMENT SUBMITTED FOR THE RECORD BY THE
ROMANIANS WORLDWIDE GROUP**

September 10, 2005

The Romanians Worldwide Group (RWW Group)—an international Romanian lobby group—is actively lobbying for the rights of children in Romania, and for improving the quality of life of all institutionalized children in that country.

The former Romanian Government has approved new legislation in 2004 that bans de facto all inter-country adoptions.

From a legal standpoint, one can argue Romania is infringing its own obligations under the Hague Convention for inter-country adoptions. In a letter addressed to the former Romanian Prime Minister Adrian Nastase on February 6, 2004, Pierre Poupard, UNICEF's representative, has highlighted the conflict before the law was enacted:

"[. . .]UNICEF would respectfully suggest that Romania avoids legislating the imposition of an unqualified and definitive ban on any future adoption of a Romanian child abroad. European States generally leave open the possibility for inter-country adoption from their territory, recognising that there may be given circumstances—such as extended family members abroad—where the child's best interests might be served by such a solution."

Source: UNICEF, http://www.unicef.org/romania/media_1919.html

The effects of the new legislation show the legal framework, and the institutions it has created cannot respond properly to benefit all of Romania's institutionalized children. There are roughly 49,000 children in Romanian institutions according to 2002 Romanian statistics. UNICEF has revealed in its 2005 country report that there were 4000 abandoned children per year in Romania, a pattern that remained unchanged from previous years.

Source: UNICEF, http://www.unicef.org/media/media_24892.html

In response to RWW Group's request, the Romanian Office for Adoptions (ROA)—the newly created child adoption authority—has confirmed in a letter dated June 1st, 2005 that 345 internal adoptions have been approved by Romanian Courts since the new child protection legislation has entered into force on January 1, 2005.

If the Romanian institutions would keep up the pace, and there would be a continuous pool of Romanian families willing to adopt, there would be a number of 700 approved internal adoptions yearly in Romania, roughly.

This projection could mean a disaster to come for Romanian institutionalized children: the internal adoption rate cannot even cover 25% of the abandonment rate. Since there is a ban on inter-country adoptions in effect in Romania, there is no other choice for these children to find a family abroad. As it stands today, most of them will be condemned to live their life in an institution until adulthood.

Under the Hague Convention regulating inter-country adoptions foreign adoptions are a means to provide for the well being of certain categories of children, especially if such children cannot be adopted internally. In a narrow interpretation, Romanian officials now only speak of the requirement to promote internal adoptions,

while offering no other details of what Romania intends to do with children that have not been adopted by Romanians.

The Romanian Government, although quite vocal about child protection progress registered by Romania, keeps a low profile when it comes to discussing a revision of its current legislation to allow inter-country adoptions for some eligible categories of children.

It is a well-known fact that a handful of powerful EU lobbyists had played a key role in pushing Romania to adopt the adoption ban, under threat that the country would not be granted EU membership. However, no contingency plan to support all institutionalized children in Romania has been developed.

The EU does not have a common policy regarding child protection; hence no EU budget item has been discussed for this matter. Only limited EU funds are available to Romania through a non-refundable assistance program called PHARE. Since the EU itself has other priorities, Romania will most likely face serious financial limitations for its overly ambitious child protection goals.

It is hard to accept that opinions shared by a few EU lobbyists can be imposed on a government, and thousands of unfortunate kids, even if it bears the EU stamp of approval. It makes even less sense to avoid tackling the real problems associated with inter-country adoptions by enforcing a permanent ban.

RWW Group considers that Romania needs to re-open the debate at various levels: international, to improve safeguards for inter-country adoptions and effectively abolish any form of child trade, and domestic, to encourage civil debate about Romanian institutionalized children. That should lead to progressive and flexible legislation that will benefit not only politicians, but also the thousands of needy, parentless children who might then have the opportunity to find loving homes.

Sincerely,

DR. THEODOR BAN,
President and co-founder, RWW Group, The Netherlands
 FLORIN RAPAN,
Co-founder, RWW Group, Canada
 FLORENTINA BAN,
Co-founder, RWW Group, Romania

**STATEMENT SUBMITTED FOR THE RECORD BY
FOR THE CHILDREN-SOS**

With the new child welfare legislation—requested by Baroness Emma Nicholson, Romania’s former EU rapporteur (currently their shadow rapporteur), signed into law June 21, 2004 and enacted January 1, 2005, a crisis in child welfare is now being realized.

In several counties it is already being reported that the local governments have no funds to pay the foster parents so the children are being placed in institutions (See attached article). Private payment for foster care (by American parents) is no longer allowed. For those children who have spent their young lives in foster care this is inhumane and a serious form of child abuse. Abandoned babies are stockpiling in hospitals as under the new law a child under the age of 2 must either be placed in foster care or remain in hospital. As of May 17, 2005 only 9 domestic adoptions are in progress—with none being finalized. (See attached article)

In October of 2001, prior to their acceptance into NATO, both former Prime Minister Nastase and President Iliescu publicly and privately told U.S. government officials that new child welfare legislation would be written to allow for inter-country adoption and humane treatment of the abandoned children left behind. An Emergency Ordinance was signed into law which allowed for special needs children and pending adoptions to continue to be processed. In February of 2004 this Emergency Ordinance was suspended after continued pressure from Baroness Nicholson and other EU Enlargement officials. Baroness Nicholson has repeatedly—and publicly—accused international adoptive parents of child trafficking, sexually abusing their children, selling their adopted children’s organs, and other atrocities. Nicholson also claims that it’s “cultural genocide” for a child to be internationally adopted as they lose their language and culture.

From 2001–2004 the Romanian government continued to promise the United States (and other countries) that new child welfare legislation would be written to allow for transparent, fair and humane laws that not only allowed for inter-country adoption, but would address the needs of thousands of voiceless, abandoned children. Innumerable foreign NGO’s and professionals worked diligently with the Romanian government to draft this legislation. In February of 2004 this drafted legislation was thrown out, hastily crafted legislation dictated by several British “child welfare professionals” was put in its place which banned inter-country adoption. On July 17th, 2004, former Prime Minister Nastase met with President Bush and promised to review the pending cases. It never happened. In October of 2004 the formation of an International Committee to review the pending cases was announced by Prime Minister Nastase and the French Prime Minister. This committee has never been formed. On March 10th, 2005, in a meeting with For the Children SOS and members of our State Dept., President Basescu offered his opinion that the new legislation is too restrictive and should be revised, but emphasized that he would not jeopardize EU accession to do so at this time. However, he promised to have representatives in Brussels as soon as possible asking that the pending cases for adoption be finalized on humanitarian grounds. We are still waiting.

Romania will not move forward on processing these pending cases or in revising their current legislation unless they have a green light to do so from the European Union. They fear their accession into the EU will be jeopardized if the legislation is revised to address the serious issues in this legislation that have come to light in its implementation. According to numerous public statements by European officials, the Romanians are justified in this fear.

We, at For the Children SOS ask: why is it permissible for Baroness Nicholson to bring a child from Iraq to her country (England) for much-needed medical treatment—of which she took the time to set up a foundation to raise 8 MM pounds to pay for it—call this child her son, raise this child away from his cultural roots and native language, obtain citizenship for this child, have no foster parent training, and yet deny that same privilege to thousands of parents around the world? (see attached article) No, to our knowledge she didn't seek to formally adopt him—perhaps she was seen as unfit to adopt a child as she spends innumerable hours away from her home in England where he resides. Many of the Romanian children parents are seeking to adopt don't exhibit the telltale scars of their injuries as the son of Baroness Nicholson.. Instead they suffer the permanent scars of malnourishment, developmental delays, illnesses and injuries left untreated, lack of stimulation and a nurturing environment, and psychological damage that is impossible to measure.

We also ask the obvious and rational question—if we, as adoptive parents, were solely interested in adopting our children for the purposes of sexual trafficking, organ selling, and other false allegations of despicable abuse, would we wait 2, 3, 4, 5, and for some even 6 years in hopes that our adoptions would be finalized? Would we spend thousands of dollars—gotten via our credit cards, tag sales, donations from friends and family, and our savings, to fund trips to Washington D.C. to meet with our Congressmen, State Department and Romanian government officials and beg for their assistance in the processing of our children's adoptions and a revision to these draconian laws?

Meanwhile the current Romanian child welfare legislation—which both the European Union Enlargement Commissioners herald as a role model for all EU member states—forbids privately funded baby orphanages forcing untold numbers of babies to instead linger in hospital cribs due to lack of foster parents and/or funding and who are not eligible for adoption until the age of 2, thereby ensuring that preventable developmental delays occur and condemning the vast majority of abandoned children to a childhood without a permanent family.

Perhaps Romania should rethink its much-sought after EU membership if this is the value system its members adhere to.

[From the May 17th, 2005 edition of *Evenimental Zilei*]

Latest Romanian Adoption Statistics

Interest in the adoption of Romanian children seems to have been decreasing for potential parents at home or abroad as since the beginning of the year, when the Adoption Law came into force,

no adoption files have been finalized, according to the specialists of the Romanian Adoption Office (ORA). The only adoption files completed this year have been those started back in 2004, when the old law was in force. According to a report of the National Authority for the Protection of Children's Rights (ANPDC), 1,671 children were adopted in the first 11 months of 2004, out of whom 251 were adopted by foreign citizens. As of January 1, 2005, when law 273/2004 creating the legal framework for adoption, no child has been adopted based on the new regulations. Nine adoption files have been drawn up until late last week, but none of them has been completed so far. Unlike the old legislation, the law no. 273 stipulates that the adoption would be permitted only in the exceptional case when the integration of the child back into his family failed. Another important provision of the law states that international adoption would be approved if the adopting parents are the grandparents of the child.

[From The Guardianul—June 2005]

[Http://www.gardianul.ro/index.php?a=societate20050602.xml](http://www.gardianul.ro/index.php?a=societate20050602.xml)

(By Claudia Marcu)

Tariceanu's government seems to be more and more overwhelmed by the problems which are coming to light in more and more domains (areas). Now the problem area of institutionalized children has been called on the carpet. Maybe the serious sickness that has been hidden in the social assistance and child protection system would not have come to the surface if the boil hadn't been broken in Constanta County. There, the president of the County Commission, Nicusor Constantinescu, decided to lay off the maternal assistants (paid foster care givers) and send the children in their care back to the orphanages. This involved hundreds of children who had benefited from the care that had been given them in their foster families (by the maternal assistants). The reason given was the lack of money in the budget to pay these maternal assistants.

The representatives from the National Authority for the Protection of the Rights of the Child said, "This situation is in no way unique here in Romania. Stefana Costea, a maternal assistant said, "I beg you to please help us resolve this disastrous situation. I had a little girl in my care for over two years. She has a serious handicap and if she goes to the orphanage like they said, I'm afraid for her. She has a real need for special medical care that she won't get there. Personally, I don't care if they pay me or not for two months, I'll protect and keep this child." Probably a few, but not all of the 351 registered maternal assistants have this attitude. However it's certain that for these orphans, the trauma of returning to the orphanages ("placement centers") will be a huge problem.

**LETTERS SUBMITTED FOR THE RECORD FROM PROSPECTIVE
ADOPTIVE PARENTS**

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Please take a stand for the children of Romania. There lives will not be better after a ban on adoptions. They will never have a chance to find their God given families. An institution is no life for a person, let alone these helpless little children. I would like to send some of the "authorities" that say these children are going to be fine, to one of these institutions for just one day. They could then see the life that they are imposing on these poor helpless victims.

We have to help them and the only way of doing that is letting them out of the prison that they are living in, let loving families take them and give them the life that they are never going to have in an institution, please make this about the children and not the politics.

I know that I am rambling on but when we brought our son home, we left so many beautiful children behind. I thank God every day for bringing my son home. Please let the other children have a chance at finding happiness and love. Thank you. I know you will do what's best for the fatherless children of Romania.

TRACY ANDERSON,
Norfolk, Nebraska.

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

File #5215-/19-03-2003

DEAR HONORABLE COMMISSION AND HONORABLE ROMANIAN GOVERNMENT OFFICIALS; My name is Karen Barrentine and I am waiting to bring my daughter home from Romania. Her name is Elisabeta Andreea Vilcu. I have been waiting for six years! I was given open access to this child in 1999 by the Director of Child Protection in Braila Co. In 2003, we were matched. The file no. is listed above. After 6 years, 20 trips, actually living in Romania, and spending hundreds of thousands of dollars, my daughter remains in Romania. There are approximately 260 US families in similar circumstances who are waiting also!

I first met Elisabeta in Sept. 1999. That trip, my second trip to Romania, brought me to an orphanage in Braila where a little girl 21 months old fell in my lap the moment I walked through the door. As she looked into my face, she exclaimed "Mommy." At that moment we began a journey together that has changed my life forever and brought me to Romania approximately 20 times over the last six years. I actually moved to Romania last year to be with my

daughter and attempt to resolve my adoption on my own. I love Elisabeta as any mother loves her daughter.

Elisabeta was born in the state orphanage in Braila County, Romania. At birth she was placed directly into the state orphanage where she lived until three years old. Throughout the first year of her life, she was very sick and spent most of her time in and out of hospitals with pneumonia. At the time I met her; she was underweight and not talking. I did intervene on Beti's behalf at the county level and requested that Elisabeta be placed into a private home. The Director of Child Welfare then placed her in a private facility run by the Franciscan nuns from Italy. She has lived there ever since with eight other girls. Additional older girls recently moved into the home.

Elisabeta is a treasure to me, a daughter I cherish and long to raise, nurture, and care for. During the last six years, I have done that as best I can from the United States. I have given her as much love and emotional support as I am able from so great a distance. I visit at least three to four times a year and spend every available moment with her during these visits. I also send letters/cards and call her at least twice weekly. On the telephone, she sings me songs, tells me she loves me, and that she waits for my visits. When I am in Romania, we take walks in the garden and play games with the other children. My parents speak regularly by telephone and eagerly await her arrival. My mom and sister have visited Beti on three occasions. I am eager for the days when we will no longer be separated by this great distance. I am anxious for the days that I will be able to offer Elisabeta the full measure of love and nurturing I have to give her.

The sisters report to me that Beti needs to be with her mommy in the states. She asks the sisters when her mommy is coming to bring her home. She tells me that she would like me to prepare her bed, pizza, and potatoes for her. In addition, she is asking her mommy to bring her passport. After I leave Romania, Beti walks through the garden crying and asking for me. When I call, Beti asks when I am coming to see her. When I leave Romania, Beti begs me not to leave her! She has never questioned who her parents are because she loves me and accepts me as her mother. I am the only mother she has ever known. We are both suffering a hardship because we cannot be together. Her caregivers report to me that it will do irreparable harm to Beti if we are separated. I have been a part of her life for over six years!

In addition, I have begun a Romanian/American foundation. Our mission is to help the Romanian children thrive in place. We have identified two projects: (1)To collaborate and assist the teachers in Romania to develop an curricula and methods of dealing with special needs children in regular classrooms for the current teaching staff, (2)To build a group home for older children to help develop life and job skills to give them an opportunity in life. We will be working in Constanta and Braila Co. We have met with government officials in these counties and Bucuresti to understand the needs of the children.

I have grown to love Romania and its culture. Beti will grow up visiting Romania in the summers; therefore she will know her heritage and culture. Of course, the name of our foundation is Beta's

BLESSINGS. We received our 501c3 status in the US over a year ago and will have our final approvals this month by the Romanian government for our Romanian foundation, Beta's BLESSINGS, Romania.

I understand that the Romanian government has been under a lot of pressure from the European Union to place a ban on international adoptions. I understand and respect your decision. It is my most urgent request that you release my case and the pending adoption cases already in process. It is our mission with our foundation to help the Romanian children thrive in place. Romania needs her children!

Please can you help me process my international adoption and bring my daughter home?

I do truly appreciate your assistance in this matter.

Sincerely;

KAREN BARRENTINE

Waiting Mom

Founder, Beta's BLESSINGS, USA

*Co-Founder and President, Beta's BLESSINGS Romania
Louisville, KY 40223*

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: We thank you for the opportunity to tell you about our relationship with our Romanian daughter.

We accepted the referral on Bea in March of 2003 after hearing her story. When we received her pictures, we were so excited. We showed everyone that would stop and look everywhere we went.

In August of 2003, we began to write her letters every week. She received only a couple of those letters and then they were held somewhere in Romania for almost a year.

Once those letters were released to her, her foster mom began to write us.

We have two videos of Bea and several letters from her foster mother and some that she has written herself as well.

Bea's foster mother has told her that we are her parents. We did not encourage that and will work on Bea understanding that we are not her biological parents with professional guidance if we are ever allowed to bring her home.

Our daughter, Beatrix Gereben, was six years old when we first saw her picture. She turned eight last Valentine's Day. We call her our little Romanian valentine. She was abandoned by her gypsy mother and her father is unknown. She has been in the Bontidean home since she was three years old.

We send Bea things on special occasions and sometimes just because. She sends homemade birthday cards and sent me a butterfly on Mother's Day that I wear on a necklace. She has numerous pictures of her new family and we have several of her that we received from the adoption agency and from her foster mom as well.

We have called Bea and had friends in Romania call her sometimes.

My husband and I are not exceptionally well off and actually borrowed the \$ from the bank for the adoption. We will not be at the convention because we have to work. But it does not mean that we love our daughter any less than those that are able to be there.

If at all possible, we will stay in contact with Bea until she is allowed to come home, even if that does not happen until she is grown. We love her; she is a part of our family and WE WILL NOT ABANDON HER. She has already been abandoned once.

We will give Bea a good home and a lot of love, support, and guidance. Please help us to bring her home.

SAM AND LINDA BUCHANAN,
Parents to Bea Gereben
Big Spring, Texas 79720

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Regarding the adoption of the following named children:

Alexandra Florina Ursan, adoption registration #6629 (as reported by the U.S. Embassy), dated September 1, 2003

Elena Andrada Ursan, adoption registration #6630 (as reported by the U.S. Embassy), dated September 1, 2003

I am an American citizen who currently resides in Zalau, Romania. I first came to Romania on a two-week mission trip in the summer of 2000. In April of 2001, I returned to this country for six months as a volunteer for an American sponsored Romanian foundation and have remained here for over four years. The foundation provides foster care to children, humanitarian aid to needy people, and life skills training to young women exiting orphanages.

When I arrived as a volunteer, Alexandra Florina Ursan was almost six months old and was in the care of the foundation. I quickly grew to love her and to provide for her needs on a daily basis. In December of 2001, Alexandra's sister, Elena Andrada, came into the care of the foundation at the age of one week. She also stole my heart immediately. After the girls' parents signed their waiver of parental rights, I knew I wanted to adopt both children and become their legal mother.

On August 20, 2002, I submitted a cerere to the Comisia de Protectie a Drepturilor Copilului of Salaj County requesting approval as an adoptive parent. My file, however, was incomplete until April of 2003. On April 21, 2003, I received their approval. On that same day Alexandra Florina Ursan and Elena Andrada Ursan were placed in my personal care for a period of three months. On July 24, 2003, I was approved by the local Comisia Pentru Protectia Copilului to adopt the children.

The Comisia Pentru Protectia Copilului forwarded my file along with the children's files to the Autoritatea Nationala Pentru

Protectia Copilului si Adoptie in August of 2003. In October of 2003, the Autoritatea Nationala requested further information for my file, which the local Comisia provided. The following month I was told by my social worker that our case was considered an international adoption. I would just have to wait for the new legislation.

During this time Alexandra and Andrada remained in my personal care. However, on March 25, 2004, the local Comisia determined that, because of the pending law regarding international adoptions, the children's placement should be changed. The girls were officially placed back into the foster care of the foundation for which I volunteer.

I have done as much as possible to help the children learn about their Romanian heritage. I have taken them to cultural events and historical locations, bought books about their country, collected items unique to Romania, enrolled them in a regular kindergarten program, and integrated them into the community. I encouraged them to be bilingual at their early ages. I have tried to instill in them a strong sense of identity.

Alexandra is now four years old, and Andrada is three. I am the ONLY mother they have ever known! I am the stability in their lives! Taking them from me and placing them with strangers or, even worse, in an institution would have DEVASTATING consequences! I definitely want to continue with their adoption process. Although I own a house in America, I will live in Romania as long as Alexandra and Andrada remain here.

Thank you for your concern.

Sincerely,

BARBARA GASTON CAVER
Prattville, Alabama

September 9, 2005

The Honorable SAM BROWBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, D.C. 20515

DEAR SIRs: In September of 2002, we received a referral through Christian World Adoption for a little Romanian boy named Marian Pieleanu. He was 15 months old at the time. His registration number is 18079 / 23.12.02.

We are still very interested in adopting this little boy, who is now four years old.

The last three years have been an emotional roller coaster for us. During this time, we have prepared our hearts and our home for Marian in so many ways, only to be disappointed, time after time.

We thought we would be traveling to bring Marian home within several months after we received our referral for him, so a few months after getting the referral, my sister hosted a "toddler shower" for me, inviting many of my close friends and family members. Marian received beautiful clothes and toys that are still waiting for him. Then, a short time later, my husband and I painted and decorated Marian's bedroom. It still sits empty, waiting for him.

Over the last three years, it seemed like every time we planned on visiting him, we would receive word that things looked encouraging for our adoption to begin moving forward, so we put off our plans to visit Marian in Romania, thinking that we would be going over to bring him home soon.

But then we would hear that no, nothing was happening now, but maybe next month—or next year. Then the ban on inter-country adoptions was passed and we didn't know if we would ever be able to see him or adopt him. I can't even begin to describe how many tears we have shed over this situation.

We think of Marian and pray for him every day. Photos of Marian are in our living room and kitchen. We have given photos of Marian to our parents and other family members as well.

We have sent clothes over to Romania for Marian and have also sent photos of us to him with the words *mama* and *tata* on the photos, so Marian can look at these pictures and become familiar with our faces.

In addition, we have kept our adoption paperwork up-to-date over the last three years, as our ongoing commitment to adopt this child.

Our families and friends ask about Marian and want to know when our adoption of him will be finalized.

We know other people who have adopted children from Romania and we plan to introduce Marian to these other Romanian children when he joins our family. Mike's sister and her husband adopted a little boy, Joseph, from Romania. He is now five years old. Also, friends of ours adopted twin boys from Romania who are now six years old. We love Marian and we are looking forward to the day when we can bring him home with us so he can be a part of our family forever.

Sincerely,

BRENDA AND MICHAEL CERKEZ
Columbia, South Carolina

September 14, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: It is with great hope and gratitude that I write this letter to the Helsinki Commission. I am a pending family still waiting to complete the adoption of a Romanian girl. My daughter, Ionela Marzea, just had her ninth birthday. We met in the Summer 2000 when I traveled to Romania for the first time on a volunteer vacation. I worked for three weeks in a hospital clinic for at-risk children—babies abandoned at birth or shortly thereafter. Ionela was abandoned there without a birth certificate or any official document that relinquished custody by her biological parents who to this day have never even attempted to visit their child. She represents the thousands of uncounted, dispossessed children—another underreported condition in Romania.

I have returned seven more times to visit Ionela. I also write and/or call her regularly. Our relationship is well documented by eight trip journals and more than 100 pages of correspondence. It took 2½ years to issue a birth certificate, investigate her birth family and complete Ionela's abandonment trial. Meanwhile I helped to start a foundation that supports foster care in Romania. Bridge of Love provides financial support, family counseling and therapies to post institutionalized children. We moved Ionela into one of our foster homes in 2001.

At last declared legally abandoned and available for adoption in early 2003, our files were accepted by the Romanian Adoption Committee (RAC). Ionela's age (six years by then) qualified us as an exception case under the moratorium imposed by that time. Yet we waited another 18 months to receive final approval to complete the adoption by former Prime Minister Nastase. Rather than the long hoped for approval, I received a letter from Gabriela Coman stating that our case had been suspended as a result of new legislation now in place restricting international adoptions to parents of second degree relation to a child. I am Ionela's godmother, sponsor and advocate. However, I will not stop until I become her forever mother and give her the permanent family she deserves.

Sincerely,

IRENE COSTELLO
Brookline, Massachusetts

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: We are a waiting family for a little boy named Robert Balan. We were first introduced to Robert in October 2002. He, at 6 months old, was abandoned, living with a foster family and was available for adoption. We happily agreed to give this sweet little boy a permanent home. At that time, we were told by our adoption agency, New Hope Christian Services in Concord, NH, that there was a moratorium on adoptions but it would be settled soon. We began our wait for Robert, falling more in love with him with videos and pictures.

At this point, what happened next is well known. We still consider ourselves waiting parents because we have come to love this little boy very much. Still, we have not had any word about him for over two years. We wanted to visit him and "sponsor" him (meaning, supporting him with clothes, toys necessities), but were told by our agency that would not be possible.

We have held onto hope that the pending cases would one day be resolved and that Robert would be able to join us and that he would have a permanent home. We still hope the Romanian government can find a way to resolve this, for all the children who have been left behind.

We thank you for your time in considering this letter.
Sincerely,

BONNIE DIBENEDETTO
STEVEN APPELBAUM
Monroe Township, New Jersey

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Our name is James and Jamie Fankhauser. We started our adoption process in Romania in January 2001. We were told on Father's Day of that year that there was a moratorium for one year in Romania. If we would wait, that we would get the little boy picked for us.

We are still waiting.

His name is Nicholae Bolocan. He is currently in Foster Care in Romania. We have visited the family several times. He knows us well. He tells us, "I wait for you."

During our wait, we continue to make trips to see him but also we have started a non-for-profit organization called City on the Hill for Gaesti, Romania. Our vision is to restore the village he was brought to when he was abandoned. We have raised thousands of dollars for the local orphanage and pediatric hospital. We also support a local pastor there in Gaesti.

One thing we believe that wait has shown for our family, is the commitment we have to Romania and this child and his heritage. It is not just the love on one beautiful boy but for his people.

Please consider releasing our case. We have been waiting almost five years. His foster family would love to see him adopted but us. Again, our work will continue in his country so that he will have a solid foundation of who he is as a Romanian.

Thank you for any consideration and effort on our behalf.
Sincerely,

JAMES AND JAMIE FANKHAUSER
Kouts, Indiana

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: My husband asked me to send you an email giving you some background on the little girl that we have been waiting for to become an official part of our family. I say official because she has been a part of our family for almost 2 years now in our hearts and in our daily conversations—she just isn't physically here with us yet. We are hoping you can help us with that part.

To start . . . it all began back in January of 2004. Both my husband and I had talked about adopting for a couple of years prior

to that and agreed when we both felt we were ready in every way to help some little one find a forever home we would begin the process. In January 2004 we talked and thought it was the right time to begin searching for our daughter. We each visited a website (www.precious.org). On this website you could add the children you were interested in to your own personal page. I had searched for hours when I came across this one picture and I just knew that “she was the one”. I added her to my page. I eagerly ran downstairs to tell Vince I had found our daughter. He told me he had searched the website too and he too felt as though he had found the little girl that was meant to be a part of our family. I told him he could go first and share the picture and information with me. When he showed me the picture I just smiled and laughed. Each of us had picked the same child without the other knowing it!!

I sent the initial email to the adoption agency that she belonged to on January 17, 2004. We were told that she was available and that she was from Romania. They informed us that Romania’s laws were changing so in essence everything was put on hold and in many cases many children would not be able to be adopted, but that the little girl we were interested in was considered a pipeline case. That eventually the pipeline cases would probably go through but it might take awhile.

The agency we are dealing with is:

Adopt An Angel

Located in Georgia

Mike and Lisa Collins

We completed our homestudy in Rochester NY

March 12, 2004 approval papers signed

Hillside Children Center

Marge Stevens completed our homestudy

This is the information that Adoption An Angel gave us in regards to our daughter:

(Although her birth name is Diana—we will be legally changing it to Joelle—which means Jehovah is Lord or The Lord is Willing)

Birth Name: Diana

DOB: December 5, 2000

Mother’s Name: Lacatos Ecaterina

Family Name: Lacatos

Father’s Name: Unknown

She was born in Zalau maternity hospital. Mother gave her consent for adoption of Diana. She lived in Zalau and she moved in SatuMare district and there are no official informations about her new address. From birth until 2/1/01 Diana was in the Maternity Hospital. From 2/1/01 until 3/7/01 she was in Placement Center Cehu Silvaniei. From 3/7/01 until present Diana has been in foster care with a family in Zalau district.

We have already been blessed with 2 boys (my stepson Vinny ** 12 years old ** and our son Sammy **6 in November **) now we want our little girl to complete our happy home.

My family is so excited about the addition to our family—just not our immediate family but our extended family too, not to mention teachers, neighbors, friends, etc. I didn’t realize how much love could be in our hearts for a child we have never met yet, but there’s no denying how much we love her already. Sammy talks

about his sister all the time. He adds her to all of his school pictures and she's in his prayers every night.

We have tried to be so patient and let things just fall in to place, but it's getting frustrating to just sit back and not see any progress.

January 19th Adopt An Angel sent us information about our little one

February 18, 2004 we got an email from Adopt An Angel that they had spoken with Marvin Lane (from their team in Romania). "He gave us the approval to allow you to proceed with a contract for the little girl if you wish. All of his contacts in Romania all assuring him all is going to be fine."

March 2004—our homestudy was completed and approved

April 13, 2004—received a letter from Embassy of the United States of America—Bucharest Romania stating that they received that US federal authorities have approved your adoption of one orphan overseas.

Many months of us just being patient . . .

November 29, 2004 I sent an email to askci@state.gov per Lisa Collins of Adopt An Angel just letting them know that we were a family that was involved in a pipeline case from Romania and that we were still interested in proceeding with the adoption.

December 22, 2004 got a response back from Gloria Laguna regarding my email dated November 29, 2004. Gloria works in the Bureau of Consular Affairs; Overseas Citizens Services; Office of Children's Issues. Gloria stated that "our records from the US Embassy in Bucharest do not indicate that you previously identified a Romanian orphan for adoption." She asked us if we received a dossier number from the Romanian Government.

I contacted Adopt An Angel and they said they would try and get me that number. To date, we still have not received any dossier number from anybody.

February 22, 2005 I wrote an email to President and Mrs. Bush urging President Bush (who was going to be meeting with the leader of Romania in the beginning of March) to finalize the pipeline cases so each of the 200 and some children who are waiting to be adopted to US families can finally be united with their forever families.

I wanted to get a hold of anyone and everyone who would listen to me, but I was advise to "not make waves"—to let the process take it's course. So we waited, and waited and waited . . . and we are still waiting.

Now we know that the new President of Romania took office (which was supposed to be a good thing), we know that Romania was or is on it's way to be accepted onto the European Council, and were told after those two things happened the pipeline cases would be taken care of quietly.

Now this brings us up to this point. We know the US is trying it's hardest to make Romania keep it's word. We know the last meeting didn't go so well. We as parents feel helpless. If there is anything that we can do to help make this process go quicker, please feel free to contact us at ANY TIME. You can get a hold of us as follows:

Vince and Lori Giglio

North Chili, NY 14514

We will do whatever it takes to get our daughter home. Please let us know if we can help.

God Bless,

LORI GIGLIO
North Chili, NY

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: My wife, Maria Margarida, and I have been hoping to adopt two Romanian children since before the moratorium began. Our adoption process began in September 2000, with us quickly becoming “paper-ready” by March 2001. With the moratorium on international adoptions in 2001, we were told to be patient, and that things would soon be back to normal. We hadn’t been assigned any children at this point, but we were twice sent videos of children in 2002 who weren’t right for us. With the serious lack of progress with adoptions from Romania, our hopes were nearly exhausted, and we turned to Russia for our adoptions, starting the whole adoption process over.

Shortly thereafter, we received optimistic news about Romanian adoptions and were persuaded to continue with our original plan. We agreed to do so and were soon rewarded with the videos of two beautiful children, Robert and Gabriela, in January 2003. We immediately set out to Romania to meet these children, determined to be part of their early lives as much as possible. We returned to Bucharest every few months for about a week at a time over the course of a year. We spent many days with them, often having them both together with us as we got to know and bond with each other. One of the greatest joys was to be there right when both Robert and Gabriela began to walk, experiencing those first steps as only proud parents could.

It wasn’t too long after our fourth visit with our children when we were told that Robert was domestically adopted by his grandparents. A short while later, we were told that Gabriela was also domestically adopted by a Romanian woman. We never received official confirmation of either adoption, leaving us wondering whether these adoptions really took place. We were also highly suspicious that our children had been “cherry-picked” for domestic adoption as a way to silence us because we were actively pursuing these adoptions and were involved with For The Children—SOS. Despite thousands of other Romanian children being available for domestic adoptions, ours were supposedly chosen and domestically placed in minimal time.

When the draconian new laws came into effect, it seemed all hope was really lost. However, I felt it was important to continue fighting for all the Romanian children who need loving, forever families, so I redoubled my efforts and continue to work diligently

with Linda Robak and the many other members of For The Children—SOS who selflessly devote themselves to this cause.

My wife and I still consider ourselves to be waiting parents, even though our children might no longer be available. We've devoted enormous amounts of our love and time to these children, and we'd be ecstatic if we could adopt either or both of them. After being with them so much in their early lives and staying in touch as long as was possible during this time, we've been extremely heartbroken at the turn of so many events.

Now, it appears that another opportunity is here to do what is right for a number of Romanian children and their waiting parents and families. I hope with all my heart that the pending cases will finally be completed. It's such an absolute shame that so many Romanian children languish and suffer needlessly, never able to regain these lost, formative years of youth, as politicians and interlopers wrangle about personal, national, and international agendas. Truly, the heart of the matter remains: Permanent, loving homes are in the best interest of each of these children. If domestic homes aren't available, international homes quite obviously are. The sheer numbers of abandoned and orphaned Romanian children indicate there are more than enough children to be placed, and time is of the essence.

I thank you for your consideration of what I've expressed here. May you have the courage and conviction to move forward in helping to resolve this urgent matter. It's more important than ever that the pending cases be completed as quickly as possible.

Sincerely,

THOMAS H. HAAR
Guilford, Connecticut

—waiting parent of

Cristea Robert Catalin (RAC#3794), born Sept. 5, 2003, in Bucharest, and

Gabriela Burghilea (RAC #3799), born Oct. 6, 2003, in Bucharest

September 11, 2005

The Honorable SAM BROWBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: It is my understanding that you will be participating in the upcoming Helsinki Commission meeting that is to examine Romania's adoptions policy.

I am writing to inform you about how the Romanian ban on inter-country adoption has affected the life of a specific child, my foster son, Florin Nita.

Florin is a special child. His mother abandoned him at birth because he has a spinal deformity called spina bifida. Florin lived his entire life in a Romanian orphanage called House of Angels. House of Angels is an "emergency baby shelter" that is supported by philanthropic Romanian and American organizations. Florin's "emergency" stay was prolonged because no Romanian citizen offered to

adopt him and because the local Romanian Child Protection Committee could not find a medical foster home for him.

In hopes of adopting Florin, my family completed a dossier that was accepted by the Romanian government. We were issued a registration number by the Romanian Adoption Committee to adopt Florin. But his case was caught up in the European Union-driven Romanian inter-country adoption ban and was never allowed to be completed.

In February of 2005, Florin came to the United States on a medical visa. The medical visa was obtained through the efforts of the Romanian organization Cara Bella and the U. S. organization Healing the Children. (Both are philanthropic organizations not involved with adoptions.) His medical care has been donated by the Scottish Rite Hospital for Children in Dallas.

Until Florin came to Texas in February, he had never received any specialized medical therapy. He had never walked because he had never been provided with physical therapy or assistive devices. He had never had a family.

Florin's medical visa has provided all those things and more. It has allowed him to receive medical care in a renowned hospital that specializes in the care of children with spina bifida. It has allowed Florin to flourish in a specialized educational program that is provided by all U. S. public school districts (the Preschool Program for Children with Disabilities). And of course it has allowed my family (and community) to know and love Florin.

But unless Romania changes its laws, Florin's stay in the U. S. will be temporary. Eventually his medical visa and any extensions will expire. Florin will have to return to a country where there are no specialized medical or therapy services for him and where there is no family willing to take him in.

I respectfully request that you advocate for the proper care and treatment of the orphaned children of Romania.

Sincerely,

JERRY A. HALL, MD
Temple, Texas

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: We are American citizens living in Romania. We moved here in April of 1999.

On October 12, 2001, we accepted a little girl into our home at the age of 10 days since the birth-mother was not able to keep her and the birth-mother didn't want her to go to an orphanage. The birth-mother's step-father also threatened to throw the baby out into the street. We realize that research (as well as raising 4 genetic children of our own) has shown that the earlier a child becomes part of a good permanent family, the better adjusted that child is and will be. As an adoptee myself, I realize the value of

early attachment and bonding. So we accepted the child into our home.

After much hoop-jumping and bureaucracy, we were officially allowed to have her in plasament (placement—foster care) in May of 2002. From the very start, adoption by us was the preferred option for us and for the birth-mother, as well as by our social worker (other “powers that be” had other things in mind). After several months of CPS/DPC trying to get the birth-mother to visit the child in our home, they finally realized that she had no interest in having the child in her care.

Following the necessary procedures, we were finally able to file all the documents in Bucharest in November of 2003 under the exceptional case clauses of the emergency ordinances then in force. We received a registration number and in January of 2004, the National Adoption Authority requested the final recommendation letter and last psychological study from our local DPC. One week later, even the registered cases/ exceptional cases were blocked and we were stuck.

THIS CHILD HAS BEEN IN OUR HOME FOR ALMOST 4 YEARS NOW (THE FIRST FOUR YEARS OF HER LIFE) AND KNOWS NO OTHER PARENTS. WE ARE HERS AND SHE IS OURS FROM THE PERSPECTIVE OF BONDING AND ATTACHMENT.

Furthermore, we do not think that the new law should be allowed to make us retroactively guilty for acting in the best interests of the child. Nor should it make us retroactively guilty for all the things we have done in the past which were perfectly legal and in Larisa’s best interests. Frankly, that’s communism—the very thing that Romania purportedly has repudiated.

Please do all you can to see that these registered cases get resolved honorably and that these children can officially have the permanent family they were promised to. Please help us to be able to adopt our little (and rapidly growing up) Larisa (Gaita). Please!

PETER & JULIA HEISEY
Timisoara, Romania

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Just about three weeks ago we left our son, Brandon Kelly, at NC State University to start his freshman year. A few days later while reorganizing the room that he shares with his younger brother, I came across a paper he had written for his senior year English class. Of course being his very proud mother, I thought he did a great job of summarizing our situation. That paper is copied below.

Just before Christmas of 1997 our daughter Rebekah was born prematurely at 5 months and died right in front of us. Her funeral was the day after Christmas. While I was still in the hospital, I saw a documentary about abandoned Romanian children in orphanages. That same Christmas a church friend visited Romania

with Samaritan's Purse. She visited the orphanages and saw many street children. Our baby had created a place in our heart and home for another child, so we felt it just made sense to give that place to a child who needed a family to love them and care for them. We began saving the money and were finally able to start the paperwork in January 2000. By March 2000 our paperwork was completed and submitted to the Romanian government. Obviously we were caught in one moratorium after another with one promise after another that adoptions would soon resume. Finally in November 2002, we were matched with Alina who was then eight months old. We were sent pictures and videos and we all instantly fell in love with her and in our hearts she became our daughter. We were told at that time that it would only be about three or four months before we could go to Romania to get her. Of course that was just one more of many disappointments. In July 2003, we were on vacation in Florida when our agency called us very excited and said they were getting ready to approve our case. Supposedly Romania had lost one of our papers and we had to find a notary in Florida and have it overnighted. We were again disappointed when nothing happened. In November 2004, I went to Romania and tried to visit her, but they would not allow me to see her.

We have waited on this almost six-year emotional roller coaster because the Romanian government had claimed up until January 2004 that international adoptions would continue after they had rewritten their adoption laws. Then as recently as March of this year the Romanian president told President Bush and many of us pending parents that he would allow the cases to be resolved after the EU Treaty was signed in April. How can the EU allow a country to break so many promises? Is there no honor even in the word of a country's president?

Alina is now 3½ years old and is still in foster care. Please do everything you can to help us give her a loving home. If we did not already love her, we would not have waited this long. Thank you so much for the help you have already given us.

Respectfully submitted,

BEVERLY KELLY

(Robert, Beverly, Brandon, Sarah, and Nathan Kelly & Alina?)

September 12, 2005

The Honorable SAM BROWNBACK, Chairman
 The Honorable CHRISTOPHER H. SMITH, Co-Chairman
 Commission on Security and Cooperation in Europe
 234 Ford House Office Building
 Washington, DC 20515

DEAR SIRs: We are one of the 200+ US families who are currently waiting to finalize an adoption(s) in Romania. Here are the details of our story . . .

- August, 2003 Homestudy and paperwork completed and sent to Romanian Government. The dossier is received and we are officially matched with Geta and Domnica. We expect a 6–9 month wait before we can bring them home. (They are still available at this time due to the “exceptions clause” that was put in place during the 2001 moratorium under PM Natase).

- Background on these girls: They are sisters—very close in age. They were placed in separate foster homes at the end of 2001. They were both very young (1 year or younger) at the time of placement in foster care. Domnica was very premature and low birth weight (1260 grams).

- These girls may be among some of the longest “pipeline cases” since they got into the pipeline in 2001 and they are still waiting for a forever home as of 9/2005.

- We were matched to these girls after the first couple from Chicago had a family emergency and could not continue with adoption.

- The girls are now 4 and 5. We have waited, prayed everyday, spent approximately \$10K on homestudy, passports, foreign attorney fees. Our wait has been 2+ years. We will continue to wait!

- Our girls are sisters, yet have not lived together for 4 years!!

- Our concerns:

The girls grow older everyday without the sense of a forever home. (We are thankful that they have not been in an institution this entire time. We hope and pray that their foster homes are good ones and not just women/families who need money).

Words cannot express the incredible emotional roller coaster that our family has experienced. The open-ended waiting, the sense of powerlessness. We have bonded with the girls in this picture—though we’ve never met them. We pray for them daily, look at their picture, yet try to go on with our lives here. Greater than our pain, however, is the absolute injustice served to these innocent children by not allowing them to come to a permanent, forever home where they will be loved unconditionally and provided for in every way. Every child deserves a permanent home—these girls have one waiting for them but their government will not allow them this fundamental right???

What medical care might Domnica need that she isn’t getting?

Years have passed and these two girls have not lived together as family as they should!

We gave our dossier (tons of personal information, references etc) to the Romanian government. It was accepted and assigned a case number. Doesn’t this demonstrate some sort of agreement on the part of the Romanian government? They have yet to fulfill their part of the agreement!

PAUL AND BECKY LUNDY

The Honorable SAM BROWNBACK, Chairman
 The Honorable CHRISTOPHER H. SMITH, Co-Chairman
 Commission on Security and Cooperation in Europe
 234 Ford House Office Building
 Washington, DC 20515

DEAR SIRS, We, Brent, Lisa, Blaine, Logan and Jeremy Ragsdale of Shawnee KS, need your help. We first submitted our dossier to Romania in February of 2001 and were registered with the Romanian National Agency for Child Welfare and Adoption. We received a referral for Georgiana under Romania’s Emergency Ordinance in September of 2002.

From the time we first saw our daughter, we were in love. She was 13 months old at the time of referral. In August of 2005 she

had her 4th birthday. We have received periodic photos of her and have watched her grow up from afar, without the love and stability of a permanent family. We have wanted to fly to Romania and show her that she has a family, that she has three big brothers that love her, and that we talk about her and want her to be with us, but it is our adoption agency's prudent policy that we must not have contact with our precious daughter. We have had to explain to our sons for 3 years, something we don't understand ourselves, that their sister hasn't gotten the final approval for us to bring her home. We know that if our son's don't understand why we can't bring their sister home, she would never understand why these people who visited her and love her, haven't come back to take her home. So, to protect our daughter, we have not flown to Romania to be with her. This has been the most difficult thing we have ever done. She needs us and we need her. For 3 years, we have held Georgiana in our hearts. We respectfully request that we be allowed to hold her in our arms.

Georgiana has a future with us. This child will have a soft place to fall with our family. She will have opportunities for a quality education and medical care, as well as family and extended family to provide a nurturing and stable environment. We implore you to give Georgiana a voice and urge the Romanian government to finalize our pending adoption immediately. Please let Georgiana begin her life with us.

Sincerely,

BRENT AND LISA RAGSDALE
Shawnee, Kansas

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Thank you so much for your interest in Romanian children. I speak on behalf of two little girls waiting to be adopted by our family. These 2 girls have been in an orphanage all their lives. They have 5 other siblings (at last count) also in orphanages. Their mother is of Roma (gypsy) descent and lives outside the dump in Oradea, Romania. The father is unknown. Those of Roma descent are terribly discriminated in Romania and in all reality abandoned Roma children have little hope for adoption into families.

I met these beautiful, spunky little girls on a humanitarian trip I took to Romania 2½ years ago and fell in love with them. We were approved for adoption and were ready to finish our adoption when the moratorium went into affect. I continue to visit Romania two times a year to assist with medical missions and humanitarian aid. I love Romania and the people there.

Pamela and Gabriela will join their two older brothers who were adopted in 2000 from Romania. The boys were abandoned by their parents, one at 8 days old. The boys are very proud to be Romanian and want to return there someday.

I strongly agree that better laws and more guidelines need to be in place for adoptions to continue. But how important it needs to be to not punish the children for inappropriate laws, let's fix the laws.

With sincere thanks and appreciation for your work,
LAVERNA SOUCIE ALONG WITH TONY, ANDREW AND
ALEXANDER

Message: Please read the below message we sent to the Romanian President. No response as of yet, but we feel that people are not revealing that we have the twins' biological sister who is thriving here in the U.S. Springer twins

DEAR MR. PRESIDENT: We would greatly appreciate your help in allowing us to adopt our daughter's biological twin sisters who are currently in Iasi. In December 2002, we were contacted and told about our daughter's siblings. Immediately, we agreed to adopt these children and provide a wonderful family environment. Due to the new law, as you well know, our adoption process was stopped (we are considered to be one of the true "pipeline" cases). It is our understanding that we are the only case in America that has a biological sibling of the children who are stuck in the pipeline cases.

It is with our utmost concern and belief that these children should be brought to live together, to run and play together, and to be loved by a family who has loved them from the day they learned of their existence.

We would appreciate any help you can offer to this very difficult and heartwrenching situation.

Very Truly Yours,
RICHARD W. SPRINGER AND KAREN A. CHILDERS
Lake Worth, FL

Attached please find the article in today's paper that explains our situation.

There are about 80,000 children in Romanian orphanages . . .
including these twin girls who will never know their sister

(By Shelley Emling)

[Palm Beach Post—Cox Newspapers, Monday, July 25, 2005]

BOTOSANI, Romania—Richard and Karen Springer of West Palm Beach were on top of the world seven years ago when they were allowed to bring their adopted daughter, Gabriella, home from Romania.

Six days shy of her first birthday, Gabriella had lacked so much stimulation in a Romanian orphanage that she was unable to maneuver her fingers well enough to pick up a Cheerio.

But under the Springers' care, she has blossomed into an inquisitive squirt of energy who, like any 8-year-old, loves to play with dolls and pepper her parents with scientific questions they find tough to answer.

In December 2002, the Springers got word from their adoption agency that Gabriella's natural parents had had twin girls—news that put the family over the moon.

"Those girls were only 18 months old at the time, and we started doing everything we could to adopt them," said Richard Springer, 55. "The girls' father was in Italy doing construction work, and the court wanted us to fly him back to Romania so he could confirm he didn't want the girls.

"We flew him back, and the father confirmed he didn't want them, and the adoption was being finalized."

Or, so he thought. Last year, a letter arrived out of the blue from the Romanian government. It said the adoption process was being terminated as part of the country's preparations to join the European Union.

Gabriella had been playing with twin dolls to practice being a big sister. The Springers had even built an addition on the back of their house.

"We were absolutely in shock," Richard Springer said. "We didn't know what to do. We're still hoping the government will allow this to go forward."

But the chances of the twins ever being brought to the United States are slim.

In an urgent bid to join the European Union by 2007, the Romanian government implemented a ban on international adoptions last January as part of new child-welfare legislation. The government, with the EU's prodding, hopes to encourage Romanians to adopt Romanian orphans—or at least sign up to be foster parents.

Rarely has the prospect of EU integration packed such an emotional wallop for a population's youngest members—or on American families.

Across the country, smaller "placement centers" have replaced many of the gargantuan impersonal orphanages that delivered notoriety to Communist Romania some 15 years ago.

GOVERNMENT ACTS

In response to criticism that orphans were being raised in uninspiring institutions, the Romanian government has mandated that no child under age 2 can be placed in one.

But the ban has left the Springers and at least 200 other American couples—as well as some 1,500 European and Israeli couples—mourning the families they might have had.

All were in the throes of the adoption process when the ban took effect.

Tim and Nitza Rosario of Boca Raton have been trying for 2½ years to bring the daughter they think of as their own—now 4—home from Romania.

The Rosarios habitually replay a video of her; photographs of the girl adorn their home.

"She's with a foster family, but no one there will adopt a child who is 4, so we just have to have great faith that we'll be able to bring her home someday," Nitza Rosario said.

EU officials allege that Romanian orphans were winding up in the human organ trade or in the hands of pedophiles due to profound corruption in Romania's adoption system.

Baroness Emma Nicholson, a member of the European Parliament who until recently acted as the EU observer on Romania, argues that Americans should adopt the 750,000 or so unwanted children in their own country.

“We are no longer going to give up our children because we are developed economies in Europe, and we can find our own solutions for children who are in trouble,” she said. But the economic situation of the vast majority of Romanian families isn’t in any mood to oblige.

Most important is the vast number of orphans who continue to live with little hope of finding parents.

A new UNICEF survey carried out in more than 150 medical institutions found that around 4,000 newborn babies were abandoned in Romanian maternity hospitals immediately after delivery in 2004—or 1.8 percent of all newborns. UNICEF estimates that about 80,000 children are currently in the state’s care.

“The abandonment situation has not improved in the last 10 or 20 or 30 years,” said Pierre Poupard, head of the UNICEF office in Bucharest. But Poupard argues that adoption should be encouraged only as a last resort. “It’s just not good for any child to be rejected by his or her family and then spirited away somewhere.”

Others disagree, citing a laundry list of reasons as to why international adoptions should be allowed.

“Romanians only want to adopt young, healthy babies, and they certainly don’t want to adopt gypsy children,” said Ani Manea, who until recently ran a home for abandoned babies in Galati, Romania, adding that “foster families want kids at least 6 months old, so any younger than that have to be kept in hospitals.”

The traditionally discriminated-against gypsy—or Roma—people make up 10 percent of the population but account for 60 to 70 percent of abandoned children.

Another problem, said Manea, is that Romanian foster families often keep children until they are 18 but won’t consider adoption because the families don’t want to lose out on a government subsidy that often generates twice as much income as the average wage of about \$220 a month.

READY TO GO

At a small home for abandoned children in Botosani, an eight-hour drive north of Bucharest, at least one-third of the 15 orphans in residence had received all the necessary approvals to be adopted by American couples when the ban was finalized.

The potential of what could have been a life-changing move is not lost on the children.

The orphans, between the ages of 2 and 7, greet the arrival of any and all strangers as a rare and spectacular miracle.

They scream. They jump up and down. They tug at ears and peer under skirts. The older ones are so fascinated by watches they take turns grabbing a visitor’s arm to press it against their cheeks.

Acuta Constantinescu is one irrepressible whirl of energy who needs no encouragement to show off where she sleeps.

The knobby-kneed 6-year-old bounds up the stairs to the barren bedroom she’s shared for four years with a mishmash of other kids.

She hoists herself over a railing and into a crib—her bed. A beach towel serves as her blanket. There's not a pillow in sight. The room is enlivened only by a few worn stuffed animals and a broken See-'N-Say on an otherwise empty shelf.

Anytime a visitor tries to leave the room, she yells "No, no, no." It's the only English word she knows.

Under Romania's new child-welfare legislation, the home should have no more than 12 children—although the director can't imagine throwing three children out onto the streets.

Proponents of the law argue that it keeps families together by forcing the government to seek biological family members who would be willing to care for the child. If that doesn't work, foster families are found and paid a subsidy of about \$250 a month to care for an abandoned child. The subsidy jumps to more than \$400 if a child is labeled "special needs."

"We don't have abandoned children anymore here in Romania," said Cristiana Ionescu, an attorney and children's advocate in Bucharest. She said that Romanian families have been charged with caring for their own children—or the community is obligated to do so. "The new law is good because we had much corruption before."

But even some government officials admit there are weaknesses to the new legislation.

"Many women aged 40 to 50 want to be foster parents simply because they can't find other jobs," said Hagi Danut-Mirel, vice director of the government office that facilitates adoptions and foster care in Galati, east of Bucharest. "Another problem is that most Romanian families only want newborns that are girls with blond hair and blue eyes."

Doina Ivas, a talkative, energetic woman in Botosani, has cared for 12 foster children over the past several years—10 of whom have been adopted by American couples and two by French couples.

For the past three years, she's cared for Sabina, a 7-year-old gypsy girl with a learning disability who obviously won't be adopted internationally due to the ban. But she's also not likely to be adopted domestically, either.

As a toddler in an orphanage, Sabina refused to make eye contact—only now is she learning to say a few words.

"If there hadn't been this ban on adoptions, Sabina would be in the United States right now," Ivas said. "But no one here is going to adopt a girl like her. And we're not going to adopt her because if we did, we'd lose the (foster-care) money we're getting now."

DICTATOR'S LEGACY

Passage of the child-welfare legislation—and even the ban on international adoptions—is all part of Romania's continuing battle against the legacy of the Communist dictator Nicolae Ceausescu, who was ousted from power and killed on Christmas Day 1989. His government had tried to swell the country's population by banning contraception and abortions for all women until they each bore five children. During his time in power, there were massive electricity outages, and food was scarce.

It has been 15 years since news reports of some 130,000 orphans living in often squalid conditions shocked the world. Graphic im-

ages of children who had received almost no stimuli—not to mention food—became a catalyst for humanitarian action.

A cavalry of American families swooped in and scooped up thousands of Romanian children to take home and call their own—some 2,600 children received visas to be adopted by Americans in 1991 alone.

To be sure, many well-meaning programs for children have cropped up and have gained traction across Romania since that time. At an SOS Children's Village in Bucharest set up by an Austria-based charity, some 85 children have been divided into groups of seven or eight, each living in a separate house with their own so-called SOS mother.

Although the conditions are clean, personal belongings and sometimes even attention are rare.

But the SOS mother in one house, Manuela Patriche, says she thinks of the seven children under her care as her own.

"A few call me by my first name, but others call me Mom and the youngest calls me Mommy," says Patriche, who has no biological children. She receives five days off every month—during which time an SOS "aunt" comes to stay with the children.

When faced with a wide range of options, whether it be an SOS home or a foster family, many orphans themselves insist that adoption—even international adoption—is the best solution for an abandoned child.

Andra Gheorghiu is an 18-year-old art student in Bucharest who lived in an orphanage until she was adopted by a Romanian family at the age of 7. "A permanent family is always the best solution for a child," she said. "And it shouldn't matter where the permanent family is from."

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
 The Honorable CHRISTOPHER H. SMITH, Co-Chairman
 Commission on Security and Cooperation in Europe
 234 Ford House Office Building
 Washington, DC 20515

DEAR SIRs: I wanted to take a moment to thank the commission for looking into the conditions that the abandoned children of Romania are facing daily. My husband and myself adopted our oldest daughter from Romania in 1998. She was 3 years and 2 months old when she came home. She is now 10 years old. She is in the 5th grade, plays the french horn, is a competitive Irish Dancer, loves basketball and is a very socialiable and funny 10 year. She has travelled to many exciting places and seen some wonderful sights. But, take all of that away, she has the most important factor of life, she has a Mother and Father, who SHE KNOWS will be there for her always!!

All children should have this most basic right: a Forever family. Knowing that they have a mom and dad, a home that is theirs.

My daughter would love to have a Romanian sister, and yes, we are one of the families caught in the "pipeline". I would like to tell you that I have had in my heart, an almost (now) 4 year old little girl for over 3 years. Yes, it is possible to love a child that you have

not held or even met. I pray everyday that she will be able to come "home".

I beg the commission to please look closely at the conditions that these children must live in. Rocking themselves to sleep because no one is there to do this for them. Please look at the national adoption rate in Romania and compare that to the ratio of children being abandoned every year. Please discuss how wrong this ban on international adoptions is when there are loving families all over the world who would love these children and give them the opportunity for a wonderful, fulfilled life. Please look at the discrimination of the Roma population and discuss what kind of opportunities these children will be given.

As this commission meets on Wednesday, please look at some of the photos that I am sure are available. Look into their eyes, and make a pledge that the "right and moral" decisions will be made for the CHILDREN.

I will pray that each and every member of this commission is blessed with the wisdom and understanding and compassion that is needed for the heart wrenching situation.

If you would like to see a photo of my beautiful Romanian daughter, I would be delighted to email the commission a few pictures.

Thank you for your time.

DARLENE SULLIVAN
Palos Park, Illinois

September 11, 2005

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: We are waiting to adopt our children, Daniela Canalas DOB 7/22/2001 and Florin Teraci DOB 7/30/2001 for over two years now and are heartbroken that Romania has halted adoptions including the pending cases. These children are missing out on a wonderful home with a mommy and daddy, a good education, and lots of love. Can you please do your best on our behalf and all the other families who are in our situation.

We cannot have our own children and love these children very much already. Please don't make us wait any longer to have our family. If there is anything we can do please do not hesitate to contact us. We wish you a productive meeting and hope our children are allowed to come "home" soon. I would have loved to participate in this hearing, but was just informed by our adoption agency.

Respectfully,

PHILLY AND MICHAEL TAVOLILLA
Tuckahoe, NY

September 10, 2005

The Honorable SAM BROWNBACk, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: Our daughter, Andrea, had her 11th birthday in July of this year. This is the fifth birthday she has had since March, 2000 when we began the process to adopt her. Andrea only asks for one present every birthday and Christmas because that is all she is allowed to have in her orphanage. She did not ask for the usual presents this year—she wanted to be with us. Andrea had no other request for a present. Unfortunately, she asked for the one present we are prevented from giving her, due to the new laws encouraged by some in the European Union. Regardless of the complications of European politics, the Romanian government has the authority to let our daughter come home to her parents.

You may think it strange that we can call Andrea our daughter since her adoption has not been finalized. However, we adopted her in our hearts years ago and she has considered us her parents for over 2 years. We talk to Andrea every Saturday and on special occasions such as holidays, birthdays, and when we are visiting our other family members. Andrea loves every chance she has to talk to her “big brother.” She likes that we have a big family waiting for her, and she told us over a year ago that she has “studied the family well.” We send letters and packages often. She loves to receive these. She has sent us letters and drawings, as well. All of these hang on our refrigerator, reminding us that she should be at home with us too.

We have been to Romania twice to be with Andrea. Last year we went for a family vacation and to celebrate her 10th birthday. We were with Andrea for 2 weeks, and we had a wonderful time, but we also saw the needs that she has. Although she lives in a wonderful institution, it is still not a family. The workers are very busy caring for the needs of the babies and smaller children. Although the workers try to do as much as they can for each child, they are so occupied with the neediest of the children that they simply cannot provide the attention and parenting that the older children need.

Our daughter was abandoned at birth in a dingy, under-staffed “maternal hospital.” We were able to visit this hospital when we went to Romania and Andrea showed us the meager baby crib she slept in until she was 5 years old. When she was 4 years old, the government sent her back to her biologic Roma family, presumably due to overcrowding of the hospital. Perhaps because they had no better way to provide for her or perhaps because they simply did not want her, Andrea’s family left her alone in the dark in their small shanty house, without adequate food and attention, for a month. Eventually, Andrea was then taken back to the hospital because she was dying in that unsafe and unhealthy environment. At age 5, she was moved into her current orphanage.

Our daughter was very traumatized by this experience. She does not mention or remember the details now, but she told one of the workers at the hospital some of her experiences when she returned.

She still bears the results of that trauma. She is afraid to be in the dark and at night we have to leave bright lights on for her. In addition, she is petrified to be alone. When it is getting close to time for bed, it is heartbreaking to watch how afraid she becomes. She still sucks her thumb when she is afraid, but she sucks both thumbs when she is very frightened.

We know the European Union wants children to return to their biological families. However, in our daughter's case, this would be cruel and inhumane. She has been rescued from her biologic family that abandoned her at birth and would not or could not take care of her at age 4. Other relatives have also refused to care for her. Traditionally, ethnic Romanian families do not choose to adopt Roma children and the majority of economically disadvantaged Roma families are unable.

Andrea considers us her parents and she says, "I want to come in America with you." As recently as this week, she asked us when she can come to America with us. As much as our daughter loves her home and the workers there, she wants a family of her own, as do all abandoned children. We do not want Andrea to lose her Romanian heritage. That is why we have learned the Romanian language and about her country. We have family and friends who go to Romania several times a year. In fact, we are friends with several Romanians who live in our city, including 2 adopted children. A family of former missionaries to Romania also lives in our city and they all speak Romanian. All are eagerly hoping our daughter will come home to us soon.

Our daughter has missed the opportunity to live in a family for 11 years. We have had a room in our home and much love in our hearts waiting for her for over 5 years. Every day is critical in a child's life, and we do not want to miss one more day of being a real family and giving Andrea the things only parents can give. Please unite us with our daughter soon.

Sincerely,

CLAUDIA AND WILLIAM TOLLESON
Little Rock, Arkansas

The Honorable SAM BROWNBACK, Chairman
The Honorable CHRISTOPHER H. SMITH, Co-Chairman
Commission on Security and Cooperation in Europe
234 Ford House Office Building
Washington, DC 20515

DEAR SIRs: We are writing on behalf of our daughter, Casiana, whose adoption is mired in the political morass of Romania.

My wife and I were blessed with two biological children. I am a government employee and, after the tragedy of 9/11, was deployed overseas to Eastern Europe. Rather than be separated for a period of time, my wife and kids accompanied me during the tour of duty. After falling in love with the people of Eastern Europe and learning there were many children in need of a home, we as a family decided to add to our family and adopt a child.

Upon our return to the United States in 2002, we attempted to adopt from Romania. In January, 2003, we received a referral with photos and a video for Casiana. We immediately fell head over

heels in love with this precious little girl! We learned through the hospital records that Casiana's birth mother was unable to care for her and signed away her parental rights before leaving the hospital. We received approval from Romania and were provided a registration number of 2252 dated 02/06/2003.

My wife visited Casiana and her foster family in January, 2004. Although this visit was wonderful-Ellie formed an enduring bond with this precocious toddler-the hole in our hearts has grown as we now personally know and feel connected to this child we have been dreaming of. Casiana's pictures adorn our refrigerator and desk tops and Casiana has a photo album of our family. We send gifts and cards on Christmas and birthdays and have been so appreciative of the letters we have received in return. These updates have helped us to stay connected to Casiana's life even with the great distance between us.

It had been a long year of waiting prior to Ellie's trip to Romania and now more months passed as we continued to wait even more anxiously for the word that Romanian adoptions could resume. We waited and prayed as the date of the resumption of International adoptions was repeatedly delayed until, to our great shock and horror, we learned that Romania was planning to outlaw all international adoptions. Worse too, was the possibility that even the cases accepted and registered could be abruptly. This had never been conveyed by the Romanian Adoption Committee or the government at any time during the past years since we had petitioned Romania to adopt Casiana.

In September of 2004 we were blessed with the addition of our now 2.5 year old son from Ukraine. Even the joy Elijah has added to our home cannot fill the void in our collective hearts as we await Casiana's arrival. Our seven year old daughter and nine year old son routinely pray for and ask when Romania will allow their sister to come home to join our family. Outgrown clothes hang in the closet and toys and other clothes are stored in anticipation of her homecoming. We as a family will not be at peace or feel complete until Casiana is home.

It is our hope and prayer that through your intervention in this process you can help to clear the political wrangling that has eviscerated the international adoption process from Romania and help to bring our Casiana home—where her waiting family can nurture and love her.

Sincerely,

MATTHEW, ELLIE, JONAH, ISABELLA AND ELIJAH WITT

Fenton, Missouri



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