



INTERCOUNTRY ADOPTION FROM ROMANIA

The big test

Interview: Nigel Cantwell

In April 1992, after a nine-month moratorium, Romania is due to resume consideration of intercountry adoption as a solution for those of its children who cannot be appropriately cared for within its borders. Those nine months have been used to revamp and strengthen the Romanian Committee for Adoption (RCA) and to prepare for the implementation of new procedures designed to ensure that there is full control over the practice. All eyes will be on that country, trying to determine whether or not the new system effectively prevents a resurgence of the sale and other illicit acts that too often characterised adoption of Romanian children by foreigners over the past two years. DCI spoke with Dr Alexandra Zugravescu, who presides the RCA, when she was representing her country at the February meeting of the Special Commission on Intercountry Adoption in the Hague.

▲ *As of April, all requests to adopt a Romanian child abroad will have to be channelled through agencies recognised by both the RCA and the competent authorities of their base country. Have many agencies applied for recognition?*

▼ So far, we have received 156 applications, almost two-thirds of which are from agencies in the USA. Of the remainder, 46 are Europe-based, five are Canadian, two are from New Zealand, and one from each of Australia and Israel¹.

▲ *That is a huge number. Does the number of children whom you expect to be in need of adoption abroad justify so many agencies?*

▼ Naturally, not all of them meet our

criteria, for example the requirement that they follow up the adopted child for at least two years. We are in the process of selecting a number of agencies and inviting them to sign an agreement with us.

On the other hand, it is impossible to say how many children will require adoption abroad in the future. We are giving priority to national adoptions. They made up a quarter of all adoptions last year, and in the period during which intercountry adoptions have been suspended, we have never discontinued our efforts to place children in Romania. Indeed, the number of Romanian families wishing to adopt is increasing steadily, and we currently have offers from nearly two hundred on our files.

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▲ *In 1990, and even as recently as the middle of last year, the media in traditional receiving countries were constantly citing the figure of 150,000 children in Romanian institutions, but we know that this included all children up to age 18, both the orphaned and permanently abandoned as well as those temporarily placed, seriously ill and/or handicapped. What is the situation today?*

▼ The total numbers of institutionalised children have plunged by over fifty per cent in two years. According to the latest figures available, there are 7,649 in the 0 to 3 age-group, 29,150 in pre-school and school-age homes, and 30,540 in homes for the handicapped. It is admittedly not always easy to obtain precise information as to whether a given child has been permanently abandoned, but we are constantly improving our cooperation with the directors of institutions and partners at the local level in order ensure that we receive the data required.

As far as intercountry adoption is concerned, we are giving priority to finding homes for totally abandoned hard-to-place children, in other words older children and the seriously handicapped, and we are in fact reintroducing this kind of adoption as of this month already. The vast majority of prospective adopters are looking for very young children, but I do not imagine that in future many under the age of three will need to be adopted abroad. On the basis of a recent survey carried out with the help of UNICEF, it would seem likely that at present only two or three hundred children in the 0 to 3 age-group could be considered as needing adoption, and many of these could presumably be adopted by Romanian families. The new law stipulates that six months have to elapse between the moment a child is registered and the time when adoption may be considered. This will give us time to look for proper solutions for our children within Romania itself.

INTERCOUNTRY ADOPTIONS FROM ROMANIA: THE FIGURES

In the past two years some 10,000 Romanian children were adopted abroad, the vast majority during the twelve months between mid-1990 and July 1991. Nearly 3,000 adoptions were recorded for the whole of 1990. This figure more than doubled in 1991, even though in principle intercountry adoptions could only be carried out regarding children whose dossiers were notified to the courts before 17 July of that year. The following table gives a breakdown by receiving country of the 7,328 intercountry adoptions authorised from Romania in 1991:

USA	2,450
Italy	1,106
France	748
Canada	663
Belgium	363
Germany	343
Ireland	294
Great Britain	225
Greece	172
Malta	148
Spain	134
Switzerland	125
Israel	110
Sweden	98
Cyprus	91
New Zealand	85
Norway	39
Austria	30
Australia	24
Netherlands	23
Denmark	18

TOTAL FOR 1991 7,328

Source: Romanian Committee for Adoption (RCA).



DCI/Paulo David

▲ *When they realised that intercountry adoption had in many cases become a veritable trade in babies, some Romanians called it a "national tragedy". Looking back, how do you feel about what happened?*

▼ I would not want any other country to go through the tragic events that we have experienced. I said this in my statement at this session of the Special Commission. We felt great suffering when we saw that our children were being taken

out of the country in exchange for payment. Clearly, such practices can never, under any circumstances, be in the best interests of the child. In this context, it was first and foremost vital that we put a stop once and for all to "private" adoptions, so that we could offer our children a secure future without them being the object of all sorts of deals and transactions. ■

As at mid-March, 16 agencies had been accredited by the RCA: USA (4), France (5), Denmark (2), Sweden (2), Canada (2) and Netherlands (1).

Nigel Cantwell is Director of the International Monitoring Unit at DCI.

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HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

The dangers of adoptability

At its third and final meeting from 3 to 14 February 1992¹, the Special Commission drawing up the Hague Convention on Intercountry Adoption had to come to grips once and for all with one of the most fundamental — and certainly the most hotly-debated — issues that needed to be tackled in this treaty: so-called “independent” or “private” adoptions. In other words, should the convention give Contracting States the possibility of determining whether or not, and under what conditions, to authorise intercountry adoptions that are not processed by accredited agencies?

“Of course”, said an expert from one receiving country², “the best way would be for all countries to prohibit private adoptions”. But at present, this is clearly not a realistic proposition, as the expert himself recognised with apparent regret. Indeed, a small but influential number of countries, it was constantly highlighted, would have “difficulties” with a convention that did not allow for discretion in this regard on the part of individual States. In other words, they would never ratify it. “Independent adoptions”, stated another expert, but this time from a country of origin, “are a fact of life, but they must be controlled and therefore covered in this convention”.

The result of the lengthy debate was, not surprisingly, an attempt at compromise designed to make the convention potentially adoptable by all. On the one hand, a provision was inserted essentially banning contact between prospective adopters and the child they wish to adopt until the child had been declared in need of adoption and the prospective parents had been authorised to adopt him or her. On the other hand, Contracting States would be able to allow persons or bodies other than accredited agencies to act in intercountry adoptions under certain conditions — including the agreement of the authorities of the country of origin

concerned. This represents the “flexibility” demanded by some experts. The problem is, of course, that flexible standards allowing certain existing procedures and activities to continue may also mean flexibility in the degree to which the rights of the child are protected.

CONFLICTING APPROACHES

The conflicting approaches to intercountry adoption were exemplified — albeit symbolically, perhaps — by a debate on the use of the word “adoptable” referring to a child. Together with International Social Service and the International Federation “Terre des Hommes”, DCI had proposed that this term be deleted from the Convention, arguing that it has a connotation of “being available” that runs counter to the philosophy that should be underlying the text. The three NGOs suggested a substitute formulation such as “a child in need of adoption”, which is based on the requirements of the child rather than reflecting his or her availability. Most of the experts who spoke on the question expressed agreement with this stance, whereas others could see no reason to change the wording. The issue was sent to the Drafting Committee, but the latter failed to find an alternative expression

that, in their opinion, would be acceptable in a legal text.

DCI firmly believes that further consideration must be given to this matter, especially because it views this treaty, just like the Convention on the Rights of the Child, not only as a legal instrument but also as an educational tool. The notion of “adoptability” puts over a message that is contrary to the internationally-accepted aim of first trying to maintain a child in his or her family, and then seeking appropriate national solutions before having recourse to intercountry adoption in those cases where it is consonant with the best interests and rights of the child concerned.

In the coming months, DCI will be preparing a full commentary on the draft text as it stands at present, the main points of which will be published in the *Monitor* later this year. The text of the draft convention is now to be circulated to all governments involved in the exercise (some fifty) for their comments. The latter will be discussed at the Diplomatic Conference at the Hague, scheduled for 10-29 May 1993, where the final text should be approved and opened for signature and ratification. (N.C.) ■

¹ See *Monitor* Vol.71/2 and Vol.8 for previous progress reports. Maria Josephina Becker, Section Coordinator of DCI-Brazil and Nigel Cantwell, Director of International Monitoring at the DCI Secretariat, were DCI's representatives at this meeting.

² Since the meeting of the Special Commission are not public, we have chosen not to identify countries in this report.

ARGENTINA: TRAFFICKING IN CHILDREN

A baby-trafficking ring was discovered in a clinic for the mentally retarded in Montes de Oca, a Buenos Aires suburb, as the result of an official judicial inquiry. Almost 1,400 persons, including children, have disappeared in the last fifteen years. According to reports, babies born to mentally handicapped parents were sold to buyers outside the institution. Source: AFP