

**Position paper “Reflection on intercountry adoption”
for the round table discussion of the permanent commission for Safety and Justice
24 May 2017**

Background

My experience with intercountry adoption is based on my work as European civil servant in the framework of the reform of the Romanian child protection (1999/2005) and my secondment at Against Child Trafficking (2008/2014).

Romania was the first sending country that implemented the Hague Adoption Convention in practice. The result was a legalised market in children¹.

In Romania I was thus confronted with the different interpretations of the subsidiarity principle of the Hague Adoption Convention and that of the UN Convention on the Rights of the Child (UNCRC). After a heavy battle with the “vested interests”, an independent panel² ruled that (intercountry) adoption is not a child protection measure, and that European Member States are supposed to be able to care for their children and thus do not need to export children.³

Because of the influence of the “adoption lobby” I was in 2005 taken from my job, and eventually seconded to the newly set up organisation Against Child Trafficking. This secondment ended in August 2014. The re-integration into the European Commission failed. In February 2016 I have sent a whistleblower letter to the president of the European Parliament, with copy to Prime Minister Rutte, in the framework of the Dutch EU Presidency

A parallel world

The heart of the issue with the Hague Adoption Convention is that it turns intercountry adoption into a child protection measure, and not a very last option if the child cannot be cared for in any suitable manner in-country, as laid down in article 21b of the UNCRC.

The RSJ report puts the finger on the sore spot: the contradiction between the UNCRC and the Hague Adoption Convention.

“Another problem with the legal framework concerns the difference between the UNCRC and the Hague Convention where it concerns foster care. In the UNCRC it is said that growing up in a (foster) family in the country of origin has priority over intercountry adoption. In the Hague Convention intercountry adoption is seen as a substitute for in-country adoption and in-country foster care is not seen as a better alternative. A permanent solution is according to this convention to be preferred over a temporary solution (foster care). This means that a state can refer to the Hague Convention and give preference to intercountry adoption instead of organising in-country foster care.”

¹ At the request of the Scientific Research and Documentation Center of the Ministry of Safety and Justice, I wrote this article in 2008: [“The Perverse Effects of the Hague Convention”](#)

² [Opinion of the Independent Panel of EU Family Law Experts](#)

³ German TV WDR has made a documentary about this [Search a Child, Pay Cash, The Adoption Lobby](#)

Fact is thus that the vested interests of the adoption world have created a parallel convention which is in conflict with the UNCRC. This has (had) far reaching consequences for children/families in the sending countries.

Consequences

My experience with Romania, but above all my experience during my secondment at Against Child Trafficking, is that the current system of intercountry adoption equals international child trafficking. A form of organised crime, whereby again and again the same pattern can be seen. Well-meaning people with a desire to have a child, adoption agencies that want to fulfil that desire, foreign partners who actively search for children. Parents are declared dead, paperwork falsifies, children kidnapped, false promises, and often a lot of money on and under the table. When the crimes come to light, and the sending countries closes its doors, then political pressure from the receiving country follows.

The child trafficking is turned down as “irregularities” and “incidents”. And in the meantime the caravan of adoption agencies moves on: from Romania, Guatemala, Ethiopia, Uganda, to Congo⁴. And everywhere the same pattern.

While over the last 10 years intercountry adoption decreased worldwide with some 75%⁵, the EU’s embracement of the Hague Adoption Convention has led to the fact that for example in Bulgaria, Poland, Serbia and Montenegro intercountry adoption now is used as a child protection measure.⁶

KRO Reporter’s broadcast “[The Bulgarian Adoption Industry](#)” from October 2015 has shown the disastrous effects of this.

The Hague Adoption Convention has also a stimulating effect on local adoptions. Because of the interpretation of the subsidiarity principle of this convention, national adoption first need to be developed. This way adoption has become a child protection measure in sending countries. An example is India, where local adoptions are now compared to an online supermarket. Demand driven, and where there is demand, the offer will be created.

Conclusion

It is high time to see intercountry adoption for what it is for real: by the State legalised trade in children.

Therefore I underwrite the advice of the RSJ to focus on stopping intercountry adoptions and instead to offer help by setting up local child protection systems. In particular I agree to the necessity to immediately stop with adoptions from China, the US and European Member States.

If the Netherlands sets course to implement the original UNCRC subsidiarity principle (article 12.b), then its responsibility in my view does not stop with that.

⁴ In Italy and Belgium there are currently criminal investigations into adoptions from Congo.

⁵ This is also the result of the critical voices of adoptees and deep digging investigations by for example Against Child Trafficking (Ethiopia, India, Malawi, China, Congo etc.)

⁶ For background: [The EU and Children’s Rights](#)

It would be praiseworthy if the Netherlands if it would now take the lead and put this internationally on the agenda, starting at European level.

Also a solution needs to be found for those involved. The adoptees and their original families have a right to justice and (financial) support from the State.

Drs. Roelie Post
European Civil Servant and Whistle-blower
16 May 2017