Children’s Rights in Romania in the pre-accession phase

Background
Since the fall of the Ceausescu regime in 1989, the care of institutionalised children in Romania has been a subject of great political and public (media) attention. The system introduced by Ceausescu in 1970 in an attempt to boost population growth was not accompanied by the requisite machinery for helping birth families or for placing children in foster care. As a result, many children were abandoned in squalid State orphanages. The EU has given political and financial support to reform child protection in Romania since 1990 (total € 160 million).

Child protection should be a responsibility of public authorities. In Romania, since the early 90s, State authorities have relied strongly on NGOs. This became very acute from 1997 onwards when control of the Romanian Child Protection authority was effectively taken over by NGOs.

Due to the high numbers of children in the institutions, in the 90s priority was given to international adoption instead of reforming the child protection system in Romania. During the period in which NGOs were in control of child protection, legislation was notably adopted which opened the way to abuses of the adoption procedures (children were made available to adoption NGOs using a points system which de facto was close to the creation of a market-based system where each child had a price). During this period the level of international adoptions increased very sharply, while national adoptions decreased. It could also be noted that the same NGOs and individuals were consistently being awarded contracts and funds. In the end of 90s, it became apparent that the adoption system had become close to a market for children.

All this exerted significant influence over the way in which childcare policies were conducted in Romania. The substantial pressure being exerted by the adoption lobby\(^1\) meant that it was difficult for the Romanian government to define child protection strategies aiming at prevention of abandonment and closing big old style residential institutions by providing alternatives.

Against this background, DG Enlargement started working very closely with the EC Delegation in Bucharest in order to reform the child protection system in Romania.

Phare Programme ‘Children First’
From 2000 to 2006, a multi-annual Phare programme ‘Children First’, with a total value of € 59.5 million, was implemented to support the efforts of the Romanian government to reform child protection and finance the closure of large old-style childcare institutions by replacing them with alternative child protection services. Some 90 large institutions were closed and replaced by over 300 alternative child protection services, ranging from family-type homes to foster care. This programme was accompanied by a large public awareness campaign to inform the public at large of existing alternatives to abandonment and institutionalisation. The majority of large, old style institutions have been closed, while there is now a large number of family type homes and most young children are placed in foster care. Also social assistance for families has improved.

The progress was significant, and Romania’s child protection was recognised by international experts as a model for the region.

Inter-country Adoption

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\(^1\) The adoption lobby was a network of groups and individuals in Romania and outside.
Romania had ratified the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption in 1994 and reformed its adoption system in 1997. The Commission’s main concern was that legislation on adoption appeared to allow considerations other than the best interest of the child to influence decisions on adoption. This system risked having a negative effect on efforts to reform the child protection system in Romania. (Regular Report 2000)

After criticism of the European Parliament and the European Commission in 2000–2001, the Romanian government temporarily suspended inter-country adoptions in order to review the legislation. This led to strong opposition from adoptive parents, adoption agencies and other stakeholders. As a result of conflicting views between these stakeholders and the EU, the Romanian Prime Minister asked the Commission for support in drafting new legislation. As a result, an Independent Panel of EU Experts on Family Law was set up by DG Enlargement in December 2002 in order to examine if the new Romanian draft legislation on children’s rights and adoption was in compliance with the UN Convention on the Rights of the Child and the European Convention on Human Rights, and with practices in the EU Member States.

The Panel provided a technical, non-political opinion in May 2004:

“Inter-country adoption cannot be considered as a protection measure. Inter-country adoption is a very last resort and should only be considered if any suitable means of foster, adoptive or residential care cannot be found in the country of origin of the child and only if it is manifestly in the best interests of the child. It must be clear that residential care comes also before (inter-country) adoption – see article 21(b) of the UN Convention on the Rights of the Child.”


Conclusion

The Commission’s Regular Reports on Candidate countries progress towards accession reported, over the years, on progress made in the area of child protection in Romania:

In 1998, it was reported that the Government had continued to take measures, with Phare support, to improve the protection of the nearly 100 000 abandoned children in state orphanages.

In 1999, the Composite Paper regretted that the situation of over 100 000 children in institutionalised care had seriously deteriorated. Therefore, the Commission recommended to the European Council to conclude that the opening of accession negotiations with Romania would be conditional of effective action announced by the Romanian authorities to provide adequate budgetary resources and to implement structural reform of child care institutions before the end of 1999.

In 2000, it was noted that the Government had shown a political commitment to addressing the problems of institutionalised children and progress had been made.

In 2001, the Commission welcomed the moratorium on inter-country adoption as a mechanism to end practices that were incompatible with Romania’s obligations under the UNCRC and which risked opening opportunities for trafficking in children and other forms of abuse. It was also reported that the budget allocated to childcare had been substantially increased.

Since 2002, progress reported was qualified as significant, although it was acknowledged that large regional differences still existed in the implementation of the new measures.

In 2003, it was reported that more than half of the 86 000 children in public care were now placed with families (extended family, foster care), while 37 000 children remained in residential care.
(including special schools). A methodology for the closure of large residential institutions had been developed and was being implemented. The majority of the remaining 120 large institutions had been restructured into family-type modules and material living conditions were noted to be generally appropriate.

In 2004, the Strategy Paper noted that strict rules on inter-country adoption, which appeared to be in line with the UN Convention on the Rights of the Child (UNCRC), should further improve the protection of children’s rights.

In 2005, it was noted that most of the 85 large institutions had been closed. In general, the progress achieved in the field of child protection had been widely acknowledged by the Independent Panel of Experts of Family Law of EU Member States in May 2005 and was regarded as satisfactory in relation to Member States’ best practices.

Finally, in 2006, the Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania noted that the 2005 legislation on children’s rights and adoption had brought Romania’s legislation in line with the UNCRC and on a par with the Member States. Living conditions in the remaining institutions had improved substantially and were now generally of a good standard. The Commission’s 2006 Monitoring Report on Romania concluded that significant progress had been made in the area of child protection, except for one outstanding issue, related to sufficient provision of social work assistance for mothers in difficulty during pregnancy and to ensuring their adequate access to maternity hospitals.

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The new approach on inter-country adoption taken by the Romanian government, to strongly limit inter-country adoptions, complemented the general progress in child care and brought Romania’s situation in line with practices in EU Member States, where inter-country adoptions, if at all, are the extreme exception. The number of children in institutions steadily decreased over the years², while the demand for national adoption exceeded the number of adoptable children.

The fact that Romania halted inter-country adoptions led to increased pressure on the other countries for adoptable children. Therefore, as DG Enlargement pointed out in April 2005, there was an urgent need for a consistent approach of the Commission among the different countries of the region in line with international instruments such as the UN Convention on the Rights of the Child (see Contribution of DG Enlargement on Children’s rights and enlargement process to the Group of Commissioners on Fundamental rights, Anti-discrimination and Equal opportunities).

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References:

² From about 100 000 in the early 90s to 31 107 in June 2005 (EC Monitoring Report on Romania, May 2006).


