

## **SUMMARY**

Surveys were impartially and scientifically conducted throughout the entire European Union based on the questionnaire developed with and approved by the European Commission. The experts conducting the surveys selected representative panels of adopted children, adopters, representatives of the competent authorities, Ministries, Judges and administrative authorities in charge of adoption in each country. However, we want to highlight that even if we obtained the expected result, which is to say the number of surveys and the sampling required by the Commission, some of our experts encountered major difficulties to find participants to the survey. Indeed, in some countries such as Denmark, Sweden and the United Kingdom, the interviewees often hid behind confidentiality and protection of private life to avoid answering certain questions. Moreover, some interviewees could not answer all questions because of insufficient judicial knowledge or lack of experience in some fields. The interviewees generally wanted to insist on a specific point of the questionnaire or of their personal experience.

Although the majority of people interviewed in most countries highlighted the dramas arising in cases of adoptions outside of Europe and in countries which did not sign the Hague Convention, they all pointed out loopholes in their national legislation demonstrating that a supranational intervention was necessary. These loopholes are referred to in the comparison tables and in the policy option. The insistence of interviewed citizens throughout all Europe on common loopholes in most legislations show that a European intervention is required.

We also stress that although a number of interviewees considered their national procedure as adapted to the child's best interests and the selection criteria for adopters and children as appropriate, they still mentioned major improvements which they described as expected and necessary when answering other questions.

Furthermore, when we specifically asked questions about adoption between Member States of the European Union, the interviewees answered that their country had of course not developed yet a specific European adoption procedure. However, European citizens stressing that there was no specific European procedure or that their national law did not contain any provision on this particular status did not mean that it was not wished or necessary. On the contrary, many citizens were very positive as to the interest showed by the Commission towards international adoption. This demand for a European intervention towards a European adoption procedure came not only in our study but also on the websites of parents associations consulted by our experts.

Moreover, we note that the European Parliament and in particular Mrs. Claire GIBault and Mr. Jean-Marie CAVADA come to the same conclusions as we do and that they among others pleaded on 9 November 2007 for a European adoption policy at the occasion of a colloquium organised by the European Parliament. The conference of 9 November 2006 on "a European adoption Policy?" brought the most famous experts on international adoption together to ask a fundamental question for the future of Europe: "Does Europe protect its children?" The situation in orphanages and the different European legislations were discussed. The responsibility of the European Union towards these children was highlighted. We also note the press release of Claire GIBault and Jean-Marie CAVADA on 19 February 2008 in Strasbourg, where Mrs. GIBault presented a joint declaration inviting the Member States of the European Union to develop a European adoption procedure.

Our experts and the European citizens who took part in the survey are thus not the only ones to think that the child's best interest must always be the first consideration and that this calls for the need to create a common adoption procedure in all Member States of the European Union, in line with the recent approval of the report on the rights of the child recommending an appropriate instrument to favour international adoption in the absence of a national solution.

Our experts consulted national and international reports and contacted the Ministries and competent authorities at several occasions to obtain the statistics, which are here presented per country. All countries agreed to provide the statistics, but some countries did not have all figures. All reliable statistics we received are included in the report.

To conclude this study, we have developed tables comparing the different countries based on their legislations and the surveys we conducted.

Although the adoption procedures, as we have seen, are not really similar within the European Union, these law systems have already been harmonised to some extent, as most of these countries have signed the Hague Convention. One of the first requirements would be to define the concept of adoption itself, its conditions and consequences. Several countries foresee various types of simple or plenary adoption, fully covering different procedures for adopters and adoptees in different conditions with legal consequences with regard to parentage, heritage, etc., as we explained earlier. Furthermore, the case of an orphan or a fully abandoned child might be approached differently than the case where parents were deprived of their authority. In this last case, the privation of the parents' authority must be coordinated. Our study showed that even ungrateful parents showing no interest for their children and possibly maltreating them, can always oppose the adoption procedure even after a long-

term placement of the children in an institution. Moreover, the criteria applicable to the adopting parents are totally different from one country to another. It seems that many countries are desperately calling for training sessions to prepare parents to the realities of adoption. In many countries also, numerous interviewees were complaining about the lack of training of all staff representatives at all levels of the adoption follow-up: social workers, psychologists, people managing the process. Possible education provided to the staff is often too general and not specific enough. The people in charge are unable to meet the parents' expectations with regard to the adoption process. They cannot counsel and coach parents either. The same problem arises for the parents' ability to be good adopting parents, as the persons in charge of "assessing" them are not sufficiently trained and informed to the realities of adoption. These criteria thus need to be coordinated through education of parents and staff.

We also note that private adoption is a major problem, in particular in countries which did not sign the Hague convention. Many interviewees consider that private adoption leads to child trafficking in poor countries. In order to limit this trafficking, in the countries which signed the Hague convention, private adoption should be forbidden; adoption should only be accepted through the channels of associations.

The provision of a maximum age for the adopting parents was highly stressed in our study. When parents are too old, social problems can appear. Moreover, for biological reasons, a minimum and maximum age between the children and their adopting parents should be set and harmonised, once more to avoid social problems.

A post-adoption follow-up is as well demanded in the countries where such a follow-up does not exist yet. This follow-up should favour the dialogue between children and adopting parents and the integration of adopted children. Once more, this follow-up should be conducted by professionals with a specific educational background to the realities of adoption. Moreover, listening (proximity) centres should be opened so that parents sometimes living difficult situations can talk without being judged. This follow-up should start from the matching period onwards. The duration and conditions of this period must of course be harmonised at the European level and, at this stage, parents must be helped rather than judged in particular when they are confronted to older children who already encountered great difficulties.

We could also conclude that some really capable parents who truly want to adopt give up the procedure because of a lack of means. It is indeed so sad and regrettable that the price of an adoption procedure be redhibitory and do not allow capable parents to adopt children in need. We note that throughout Europe, money is one of the first reasons for giving up the adoption procedure, together with the case where the mother gets pregnant during the procedure. We can also conclude from our study that citizens complain about bureaucracy, the duration of the procedure and the disparities in case law. In some countries, indeed, the Courts and tribunals have no constant case law, even at national level. This leads to very clear discrimination. The adoptability criteria also need to be harmonised. Our legal study also shows that the procedure can be so long that both parents and children get older, sometimes too old to adopt or to be adopted.

In general and throughout Europe, the reasons for giving up the procedure are the following:

- Financial reasons;
- pregnancy;
- the age of the parents ;
- divorce.

Main reasons for refusal are:

- the age of the parents;
- inadequacy of parents;
- an application for a second child too shortly after the adoption of the first one;

The main difficulties in adoption procedures mentioned both in our empiric and legal study are the following:

- Incomplete or incorrect information on the children, in particular about their health;
- Lack of information on the child's habits and development;
- Language problems arose but only when parents adopted in countries which did not sign the Hague Convention;
- Risks for child trafficking were feared but only in countries which did not sign the Hague Convention;

- An insufficient coordination was noted between the different adoption-related services, both at national and international level, even in countries which signed the Hague Convention;
- The lack of access of adopted children to their cultural and biological origins and to related information is generally considered as a negative and disturbing aspect for the children;
- Several interviewees from several countries mentioned the "Kafala" issue. Islamic codes and in particular the Moroccan code consider the adoption code as null and void. "Kafala" is thus more a placement than an adoption. Often "Kafala" is not recognized in European countries, which triggers issues of private international law and recognition of the above-mentioned placement in Europe.
- The lack of training provided to the social services and psychologists, but also the shortage of money and staff are often stressed as obstacles to the adoption procedure;
- No preparation course to adoption;
- The majority of parents wish to adopt children aged less than 2 years and children aged more than 6 are often very difficult to place;
- Handicapped or special children are often very difficult to place as well;
- In some countries, the consent of biological parents who do not at all take care of their children is considered as excessive.