Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1443 (2000)[1]

International adoption: respecting children's rights

Parliamentary Assembly

1. The Assembly affirms that all children have rights, as set out in the United Nations Convention on the Rights of the Child, and, in particular, the right to know and be brought up by their parents in so far as this is possible. The purpose of international adoption must be to provide children with a mother and a father in a way that respects their rights, not to enable foreign parents to satisfy their wish for a child at any price; there can be no right to a child.

2. The Assembly therefore fiercely opposes the current transformation of international adoption into nothing short of a market regulated by the capitalist laws of supply and demand, and characterised by a one-way flow of children from poor states or states in transition to developed countries. It roundly condemns all crimes committed in order to facilitate adoption, as well as the commercial tendencies and practices that include the use of psychological or financial pressure on vulnerable families, the arranging of adoptions directly with families, the conceiving of children for adoption, the falsification of paternity documents and adoption via the Internet.

3. It wishes to alert European public opinion to the fact that, sadly, international adoption can lead to the disregard of children's rights and that it does not necessarily serve their best interests. In many cases, receiving countries perpetuate misleading notions about children's circumstances in their countries of origin and a stubbornly prejudiced belief in the advantages for a foreign child of being adopted and living in a rich country. The present tendencies of international adoption go against the UN Convention on the Rights of the Child, which stipulates that if a child is deprived of his or her family the alternative solutions considered must pay due regard to the desirability of continuity in the child's upbringing and to his or her ethnic, religious, cultural and linguistic background.

4. In 1993, the international community adopted a set of ethical standards and rules in the form of the Hague Convention on Adoption, in which the guiding principle is that of subsidiarity, that is to say international adoption may be considered only if domestic solutions are not available. The Assembly is forced to recognise that there is insufficient awareness of the scope of this convention and that few of the member states have ratified it.

5. The Assembly therefore calls on the Committee of Ministers of the Council of Europe to give a clear indication of its political will to ensure that children's rights are respected, by immediately inviting the member states to:

5.1. ratify the Hague Convention on Adoption if they have not already done so, and undertake to observe its principles and rules even when dealing with countries that have not themselves ratified it;

5.2. conduct information campaigns to give professionals and couples contemplating international adoption a full understanding of the commitments entailed in the Hague Convention and their implications;

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1. Assembly debate on 26 January 2000 (5th Sitting) (see Doc. 8592, report of the Social, Health and Family Affairs Committee, rapporteur: Mr About; Doc. 8626, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Wohlwend; and Doc. 8600, opinion of the Committee on Migration, Refugees and Demography, rapporteur: Mrs Vermot-Mangold). Text adopted by the Assembly on 26 January2000 (5th Sitting).

5.3. develop the bilateral and multilateral co-operation essential for the convention's effective application;

5.4. help those countries from which foreign children come to develop their own adoption laws and to train the relevant personnel in public authorities and properly accredited agencies and all other professionals involved in adoption;

5.5. ensure that prospective adoptive parents are eligible and suited to adopt, provide them with compulsory, in-depth preparation for international adoption and ensure that the situation, and particularly the psychological well-being, of foreign adopted children is monitored;

5.6. ensure that in an event such as the divorce of the adoptive parents, the desertion of the foreign child or the emergence of difficulties with the adoption procedure, the child's fundamental rights, such as the right to a name and to citizenship, will be respected;

5.7. ensure the right of adopted children to learn of their origins at the latest on their majority and to eliminate from national legislation any clauses to the contrary.

6. The Assembly also calls on the Committee of Ministers to invite the member states to co-operate more closely by every possible means, and notably through Europol, in order to combat trafficking in children and eliminate mafia-type or other criminal networks, and to ensure that in the field of international adoption no abuses, however minor, go unpunished.

7. Moreover, the Assembly asks the Committee of Ministers to:

7.1. assert more firmly the Council of Europe's necessary role, as a guarantor of human rights, in the protection and promotion of children's rights;

7.2. pursue that role in the arena of inter-governmental co-operation - particularly in relation to the new member states - by developing child-friendly social and family policies designed to prevent children being abandoned and to keep them in their families of origin, and, failing that, to develop family-based alternatives and to promote domestic adoption in preference to placement in institutions;

7.3. revise the European Convention on Nationality of 6 November 1997 in order to make it easier for foreign children to acquire the nationality of the receiving country in the event of the adoption falling through or the adoption procedure breaking down.