

# International adoption of Romanian children and Romania's admission to the European Union (1990-2007)

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## Abstract

*The adoption of Romanian children abroad, which began under Ceaușescu and continued until the 2000s, has constituted a significant issue for Romania's positioning in Europe. The period of negotiation of the country's admission to the European Union constitutes a kind of paroxysm of the phenomenon. The article is a contribution to the history of representations, to the history of international relationships, and to the very recent history of Europe. Carried out from institutional, press, and oral sources, the survey demonstrates how international adoption, as a phenomenon of transnational society, has played a foreground part in anchoring Romania in Europe. Indeed, the issue crystallizes most European questions regarding Romania's capacity to integrate in the EU in terms of public policy, stabilization of its internal functioning, and protection of the most vulnerable.*

*Key words:* intercountry adoption, children, Romania, European Union, diplomacy

## 1. Introduction

International adoption, which must be understood as the overall adoption of children whose nationalities are different from those of the adopters, has developed since the 1960s on and has become a phenomenon of transnational society. It is estimated that 100,000 children have thus been adopted since 1945.) The movements of this peculiar migration were first directed from South to North then from East to West, in Europe, since) the 1990s on (Trillat, 1993). In Romania, in the 1980s, under Ceaușescu's communist regime, Romanian children were adopted by French, Italian, Israeli parents...

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While many protagonists intervene in this particular type of international relationships, each developing his own logic (Denéchère, 2009), the transnational adoption is first a business between the States, whether they are departure States (Source-States) or arrival States (Welcome States). Within their foreign policy, whether bilateral or multilateral, States integrate adoption between countries as an element likely to help them achieve their objectives. The contrary is also true: Source-States, as well as Welcome States, depend on the pressure their partners can exert on them.

The question of Romanian children is a good instance of this phenomenon. Since 1980 on, date at which the problem began to increase in scale, until Romania's admission to the European Union (EU) in 2007, the adoption of Romanian children has constituted an important stake for the country's position in Europe, and in its relationships with Western States. Until 1989, the adoption of Romanian children by Europeans was part of Ceaușescu's foreign policy toward West. He is indeed the one who holds the advantage, though in terms of Romania's external image, the effect proves disastrous at the end of the regime (Galaïenena, 1992). Since 1990 on, things have obviously changed radically. Romania alone doesn't seem able to determine a policy regarding international adoption, internal difficulties being so great and the pressure of European States and institutions so high. The question of what to do with Romanian children and of their adoption is at the core of the discussions between the EU and Romania. Brussels and Strasbourg urge Romania to go one way, while Paris, Rome... and Washington try to protect national interests.

Representation of Romania in Western Europe, in particular in France, with which it maintains special relationships since its creation as a State in the 19<sup>th</sup> century, seems much linked to the question of Romanian children's fate. This reflection catches up with a more general questioning of the nature of the connections, not only between Romania and France, but also between the societies of both countries, and on how they may have facilitated Romania's anchorage in Europe<sup>1</sup>. Sources available to carry out this survey are numerous: public archives in Romania and in France, material from the European institutions (parliament, commissions). The press in European countries, as well as oral sources (adopters, associations), were also profitably approached. The most obvious fact which the exploitation of the sources brought to light is of course the neat chronological break which the beginning of the negotiations for the admission to the EU represents.

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<sup>1</sup> PhD thesis in progress by Béatrice Scutaru: *Conditions et perspectives de la Roumanie à l'Europe. Les relations entre les sociétés roumaine et française (1960-2000)*, thesis co-trusted by the Universities of Angers (Professor Yves Denéchère) and of Iași (Professor Florin Platon).

## 2. The 1990s: abuses and attempts at regulation

### 2.1. A lawless period

During the last months of Ceaușescu's regime, hundreds of families vainly wait for the Council of State to allow the children –whom they have sometimes known for years – to come and join them (Robert, 1989). At the collapse of the Regime at the end of December 1989, Georgina Dufoix, former Minister of Family and chairwoman of the French Red Cross, leads a mission in Bucharest on behalf of President Mitterrand<sup>2</sup>. The new authorities of the country accept that the children whose files were complete and who were just waiting for the green light of the Council of State leave for France. The associations France-Roumanie and EFA, Enfance et Familles d'Adoption, (Childhood and Adoptive Families) contribute to the organisation of transfers co-ordinated by the French Red Cross (Interview, A.). On the sixth of January 1990, a first especially chartered plane takes 63 children to their adopting parents. Some have been waiting for three years (Servan-Shreiber, 1991). Other children then leave for Italy, Belgium, Switzerland. The media coverage is impressive: TVs, radios, and print media follow the children's arrival, the official declarations, and the parents' relief<sup>3</sup>.

After those grouped departures of Romanian children which, to some degree, put an end to the Ceaușescu era, Romanian borders are widely opened. Between January 1990 and July 1991, the UNICEF estimates that 10,000 Romanian children left abroad (Selman, 2008a). Orphanages open their door but the number of adoptable children proves insufficient in front of the exploding demand in rich countries. Many candidates to adoption “try their luck in Romania”. “Thus, the rules of a post-war paucity market set in: everything was for sale and everything could be bought” (Trillat, 1993, p.20).

On August 1, 1990, the Law No. 11 changes the legal frame of adoption and the 73<sup>rd</sup> and 74<sup>th</sup> Articles of the Family Code (which stipulated that only the Guardianship Authority could grant adoptions) were abrogated. The courts are now responsible for granting adoptions (Zugravescu, 1995, p. 41). But this Law also abrogated Decree 137/1956, which had imposed that the Romanian child's adoption must be authorised directly by the country's leader. After the abrogation of the Decree, the international adoptions have been carried out without any condition or restriction. This new system had deprived the adoption of its social protection of the child character, which comes against the provisions

<sup>2</sup> Written question no. 09346 from Mr. Edouard Le Jeune, *Journal Officiel Sénat* from the 28<sup>th</sup> of December 1989, p. 2154; Retenus depuis plusieurs années, quatre-vingt sept enfants pourront rejoindre leurs parents adoptifs en France, *Le Monde*, December 31, 1989.

<sup>3</sup> Bienvenue aux enfants roumains, (cover title), *Paris-Match*, n°2121, January 18, 1990; Christiane Chombeau, L'arrivée des enfants roumains dans leurs familles adoptives françaises, *Le Monde*, January 9, 1990.

of Article 21 of the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations (November 20, 1989) and ratified by Romania (September 28, 1990). Moreover, the Romanian Penal Code didn't punish the obtaining of financial profits from an adoption and this led to child traffic and great affluence of profits for those who conducted adoptions, in Romania and abroad (Zugravescu, 1995, p. 42).

A ministerial memo explains that there is still "a concentration of interests on Romania, a traditionally French-speaking country" and deplores that "numerous associations, NGOs, journalists and individuals have gone there and contributed to the feeling that international adoption was the survival solution for many children". In November 1990, French Ministries of Foreign Affairs, of Justice and of Social Affairs were forced to intervene so that the private TV channel TF1 renounce in extremis to the production of a Telethon entitled "1000 Romanian children to adopt", which had become a week of special operations, "help to the abandoned children from Romania" (from the 26<sup>th</sup> of November to the 1<sup>st</sup> of December). The French authorities have avoided the worst but still denounce the confusion between humanitarian aid and adoption, and the risk of "loss of control in the solicitation of the audience and particularly of the families willing to adopt"<sup>4</sup>.

Maybe the vigilance of French authorities is the factor which limits the number of Romanian children to be adopted in France in 1990 (311 visas issued), compared to other European and American countries: Greece (200) Canada (400), Italy (520), Great Britain (600), United States (914); not mentioning countries, like Germany, where entry permits are not compulsory for children and for which no reliable statistics exist. Poorly prepared for this situation, Romanian authorities were powerless to stop all kinds of traffic denounced by international organizations such as Defence for Children International (DCI, 1991). Between January and June 1991, the number of Romanian children adopted abroad explodes: 688 in France, 1 009 en Italy, 2 594 in the United States – Romanian children representing 28% of foreign children adopted by the Americans (Selman, 2008b). The European press publishes surveys on the adoptions in Romania. In April 1991, under the title "One week only to adopt a Romanian child", one can read an apocalyptic picture: children sold by their parents or other persons, foreign candidates for adoption ready for anything, mafia markets, crooked go-betweens, etc. <sup>5</sup>

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<sup>4</sup> Centre des Archives Contemporaines de Fontainebleau (hereafter CAC) funds 1996 0121, box no. 42, note for the MAE, June 27, 1991; note for the Secretary of State in charge of Family Matters, November 21, 1990.

<sup>5</sup> Sophie Brocas, Le supermarché de l'adoption, *Le Nouvel Observateur*, April 18, 1991, pp. 114-116.

## 2.2. Cooperation with the NGOs and the States

By autumn 1990, French authorities offer to bring technical support to Romania on the question of international adoption. They find it to their advantage, as the adopters sometimes abandon the children to the French social services before having legally adopted it in France. Experts go to Romania in November. They are to assess the situation there and in no way to “exchange a humanitarian aid for children to adopt”. The mission’s report insists on “the gap between the findings (even incomplete) and the much dramatised way the situation of the Romanian children is presented in France”. European and American public opinions have indeed been shocked by the thoroughly selected images of the worst institutions in Romania (Post, 2007). As regards the adoptions, the experts confirmed that “many of them were in reality children purchases”. In front of “the Romanian authorities’ lack of knowledge regarding the basic principles of international adoption”, they have recommended to “favour adoption projects for which the choice of the family was done jointly by an authorized adoption organisation and the persons in charge of the child”. Indeed, an experimentation is in progress in the region of Hunedoara with the association Médecins du Monde (MDM)<sup>6</sup>.

As soon as 1990, several associations have refused to serve as go-betweens for candidates to adoption in Romania. It’s the case for Les Amis des Enfants du Monde (Friends of the Global Children – interview Galozzi) and for MDM, which began at the time to develop an “adoption” sector. These associations have also warned private individuals to be cautious. In June 1991, a French memo acknowledges the decision of the newly created Romanian Commission for Adoption (RCA) to suspend all adoptions by foreign nationals from the 1<sup>st</sup> June, “to put an end to the trade of Romanian children – especially Gypsies – who, for a sum that could reach \$10,000 per child, are bought by go-betweens and delivered to American, Belgian, Swiss, Swedish or French tourists”. The chairwoman of the RCA, Mrs Zugravescu, is expected in France at the time a bill is being considered. According to the memo, it corresponds to the suggestions made by the French mission of November 1990 and to the advices given by MDM<sup>7</sup>. The law is passed on the 8<sup>th</sup> of July and comes into effect on the 17<sup>th</sup>, and constitutes a first attempt at regulating international adoption by the Romanian State.

MDM is the first association to sign a protocol with the RCA within the scope of the new law, as relationships of mutual trust have been established between the NGO and the Romanian officials (Hertz, 1993, pp. 79-81). In April 1992, the adoptions start again, very restrictedly, toward France: 21 children for the whole year of 1992, among which 16 through MDM (Interview Anzieu).

<sup>6</sup> CAC 1996 0121, no. 42, report of the mission, November 25-28, 1990.

<sup>7</sup> CAC 1996 0121, no. 42, note for the MAE, June 27, 1991.

Other agreements are concluded between the RCA and other European partners, for instance in July 1992, with the French community of Belgium. To do so, a Community Authority for International Adoption in charge of every relationship with Romania is created<sup>8</sup>. In 1993, Romania subscribes to the European Convention regarding children adoption drafted in 1967 by the Council of Europe. But it indicates that “it will not apply the provisions of article 7, according to which the adopter should not be less than 21 or more than 35 years old, in Romanian legislation, the minimum age being 18, with no maximum limit”<sup>9</sup>. The subscription to the European convention is a significant progress, but the Romanian reservation maintains a specificity which had already been highly praised under Ceaușescu (Robert, 1989). Some candidates to adoption, too old to adopt elsewhere, turn toward Romania, very determined to obtain result...

### **2.3. “Reorganisation era” (Greenwell, 2000)**

Mr and Mrs B’s experience reveals the limits of the regulation getting into place. In November 1994, they contact MDM. Having travelled to Romania in the 1980s, and having friends there, they immediately subscribed to the idea of adopting two Romanian siblings. Very soon, they get in touch with a representative of MDM in Satu Mare and receive the photo of two children whom they are promised to adopt. A few weeks later, one of them is adopted by an Italian family who had previously established a file! The siblings are thus separated. According to MDM’s representative on the spot, in 1994, out of 2200 international adoptions made in Romania, two third were made by Italians, that is to say 1500, of which only 710 had presumably gone through the RCA. Mr and Mrs B are then approached by the director of an institution for children, who assert that going through MDM would get them nowhere, and that other solutions might exist... But they persevere, and in 1995, MDM entrusts two brothers to their care and undertake successfully every step. In May 1996, Satu Mare’s court pronounces the adoption. After the legal delay allowing the biological parents to turn up and once the formalities regarding the passports and visas were done, Mr and Mrs B bring the children back to France (interview, B).

Obviously, this kind of procedure has nothing to do with the lax *laissez-faire* policy of 1990-1991. Nevertheless, not all candidates go through an authorized organism such as MDM. Most take individual steps which are more likely to be submitted to abuses in spite of the continuing reforms of the system.

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<sup>8</sup> Agreement between the RCA and the executive of the French Community of Belgium regarding the cooperation in the domain of international adoption, signed in Bucharest on July 15, 1992, CAC 1996 0121, no. 43.

<sup>9</sup> Law no. 15 of the 25<sup>th</sup> of May 1993, no. 67 of the 31<sup>st</sup> of March 1993, *Moniteur Officiel de la Roumanie*.

In 1996, a Romanian Department for Child Protection is established. Officially, adoption procedures are undertaken within the limits of the Convention for child protection and cooperation regarding international adoption signed in Den Haag on May 29, 1993, and ratified by Romania in 1995. Four guiding principles must be respected: the supreme interest of the child; the principle of subsidiarity which stipulates that international adoption is a last resort; the compulsory passage through an authorised organism; the prohibition of unjustified profits.

Nevertheless, doubtful practices remain. Romania being unable to cope with the cost of the charge of abandoned children, the RCA grants to approximately a hundred foundations quotas of adoptable children proportionate to their financial contribution to the running of the system of child protection, and in particular to the orphanages. Thus, international adoption keeps on playing a central part in the system of child protection (Dickens, 2002). One can easily imagine from this the competition between the foundations and the price they demand to the adoption candidates coming to them. For their part, the States central authorities (the MAI, in France, for instance) and the authorised organism (like MDM) are only offered the oldest, the most ill, or the most disabled children. Therefore, parallel markets continue to exist in Romania, allowing well-off adopters to purchase healthy adoptable babies by avoiding – once paid considerable amounts of money – the official system of international cooperation (Gouzes, 2001).

In 2000, MDM advises adopters not to pay more than \$5000 (32,500 Francs), but according to Claude Hertz, Chairman of the association: “for that sum, they only get children over five”. American adopters offer twice that price (not mentioning the incidental expenses) and get the youngest children. While in 1999, 300 children leave for France (a “Den Haag” country), 1000 go to the United States, who haven’t ratified the Convention<sup>10</sup>. The number of Romanian children adopted in France increases again regularly until reaching 370 in 2000, which has Romania again at the first rank of Sources-States for France. More importantly, while Romania begins negotiations with the EU for its admission, the question becomes a considerable stake for the country.

### **3. A symbolic question in the opening of the negotiations with the European Union**

#### **3.1. European financial aid**

All observers of Romanian realities underline that adoption brings to light certain prevailing features of the country’s political life, social organisation and administration, as well as a certain laxness on the part of the governmental authorities. It is as an enlightener of insufficiencies and of laborious reforms that

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<sup>10</sup> Philippe Demenet, L’offre et la demande, *Le Monde Diplomatique*, June, 2000, p. 9.

the question of adoption is to be at the heart of the negotiations for the admission to the EU (Gouzes, 2001).

Since 1990 until 1997, 400 million Francs have been invested in Romania by Brussels for the protection of children but the results are long to come. The Commission's official in charge of Eastern countries reminds Romania that the countries admission in the EU is conditioned by the solution brought to the problem of abandoned children. After some discussions, the Commission decides to grant an additional emergency aid in favour of Romanian orphans. But, in order to have it, according to Fokion Fotiadis, the European Commission's delegate in Romania, Bucharest must accept several conditions, among which "the creation of a sole authority able to carry out a coherent reform". In order to help Romania, France has already released 4 million Francs that will go to the NGOs present on the field, and the World Bank prepares to release a sizeable aid<sup>11</sup> (Pirotte, 2006).

Despite the repeated pressure of the European Commission, the process of reform of Romania's system of child protection evolves slowly and only begins to accelerate in 1997, when the new government creates a Department for Child Protection<sup>12</sup>. Even though foundations like the Solidarité Enfants Roumains Abandonnés (SERA – solidarity for abandoned Romanian children) association and its French chairman, François de Combret, are highly influential, they would have other economic activities. The infiltration of "private interests" at the highest level of the political and administrative structure is illustrated by the proposal made by Christian Tabacaru, Secretary of State for Child Protection in charge of the RCA, and previously Romanian chairman of the SERA foundation (Gouzes, 2001 ; Post, 2007).

### **3.2. The launching of the admission process linked to the question of adoption**

In the annual evaluation report on the States willing to join the European Union, published on the 13<sup>th</sup> of October 1999, Romania's admission is conditioned by several evolutions, among which the improvement of the institutionalised children's situation (Arvatu, 2004, p. 76). Following the adoption by the European Parliament of a resolution recommending the delay of the launching of the negotiations for Romania's admission (Romania-EU), the Romanian government passes an emergency ordinance creating the National Agency for the Protection of Child Rights<sup>13</sup>. The bill is adopted just before the

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<sup>11</sup> Mirel Bran, 147 000 orphelins en situation d'urgence, *Le Monde*, August 30, 1999.

<sup>12</sup> Une nouvelle aide de l'Union européenne en faveur des orphelinats roumains, *Europolitique*, July 7, 1999.

<sup>13</sup> *Moniteur Officiel de la Roumanie*, n° 599, December 8, 1999; Mama mea e Europa ! [My mother is Europe!], *Evenimentul zilei*, June 1, 2001.



meeting of the European Council in September. Romanian leaders yield to a double pressure: internal and international. The creation of a new institution was one of the EU's requirements in order to open the negotiations with Romania<sup>14</sup>. Internally, the pressure of the public opinion is high as national elections are to be held in 2000. The government knows perfectly well that it has no chance of emerging victorious if Romania is the only country not to begin negotiating with the EU.

The European Council of December 1999 decides to open the admission process for Malta, Bulgaria, Latvia, Lithuania, Slovakia and Romania. Among the conditions imposed by the Council to the candidate states, appears the question of the protection of institutionalised children (Romania-EU). In the course of 2000, the Commission finds that other interests than those of the children prevail in Romanian legislation and practices regarding adoption. Action must be taken, and quickly<sup>15</sup>.

Important hopes are set on the National Agency for the Protection of Child Rights which must ensure proper management of the assistance programs, audit international organisations and apply a policy against the abandonment of children within the scope of the Hague Convention<sup>16</sup>. In order to support this policy of reform of the legislation and of the assistance system, the EU decides to grant an aid of 25 million Euros in September 2000<sup>17</sup>; on the 14<sup>th</sup> of December 2000, the RCA stops the grant of quotas of adoptable children to international foundations. The authorities assert that the question of child protection is "a governmental priority in the context of Romania's admission process". According to the European Commission's delegate for Romania, the exorbitant prices charged by the foundations would mainly have helped to enrich their leaders (Gouzes, 2001).

### 3.3. Baroness Nicholson's reports to the European Parliament

Adoption is an issue discussed within the European Parliament, which, according to the Treaty of the Union, has the right of veto in the admission process. European parliamentarians are thus much listened to when they give an opinion<sup>18</sup>. In February 2001, Baroness Emma Nicholson (reporter of the European Parliament for Romania) asserts that the main obstacles to the

<sup>14</sup> World-Romania-orphans, *Libération*, November 19, 1999.

<sup>15</sup> P2001E2240 – Written question 2240/01 by Maria Rodriguez Ramos, Rosa Diez Gonzalez and Raimon Obiols i Germa to the Commission. Suspension of international adoptions in Romania, *EUR-Lex*, June 6, 2002.

<sup>16</sup> EU/Romania-Problem of children in Romania, *Europolitique*, April 8, 2000; 92001E0817 – Written question E-0817.01 by Gian Gobbo to the Commission. Children condition des enfants in Romania, *EUR-Lex*, December 4, 2001.

<sup>17</sup> Romania, the stake of the orphans, *Libération*, September, 2000.

<sup>18</sup> Elargissement-les pays candidats sous la loupe du Parlement, *Europolitique*, September 1, 2001.

integration of the country are corruption, the problem of institutionalised children, the implication of the political into public administration. Even so, she declares herself confident as far as the capacity of the Romanian government to carry out the reforms demanded by the EU is concerned. Following the same conclusion, the EU-Romania Association Council asks Bucharest to provide a solution to the problem of the children fostering in the institutions (Romania-EU, pp. 229 et 232).

The report drafted in April 2001 by the Commission for the External Affairs of the European Parliament is widely taken up by the Romanian press. The reporters ask for the suspension of the negotiations because of the poor economic performances, of the insufficiency of the reforms, and of the failure in solving the problem of abandoned children. According to Emma Nicholson, the Romanian State encourages the abandonment of children, government officials being connected with international agencies practicing adoption<sup>19</sup>. Even if the Romanian authorities reject the comments upon the situation of institutionalised children, they are aware that the suspension of the negotiations would greatly reduce the EU-financed programs. In reply to her report, Adrian Năstase, Romania's Prime Minister, presents Emma Nicholson an action plan. The European deputy then promises to improve her text regarding the situation of institutionalised children, but maintains that international adoptions have been made with the implication of some Romanian senior officials. Even if she denies having proposed the suspension of the negotiations with Romania, Emma Nicholson suggests that the report has proved efficient in urging Bucharest to take measures<sup>20</sup>. Thus, on the 21<sup>st</sup> of June 2001, the Romanian government decides to suspend international adoption for a year. The suspension only concerns the cases for which children appointments have been made by the RCA after the 14<sup>th</sup> of December 2000. This decision is taken in the expectation of a new legal framework for child protection.

Emma Nicholson's modified report specifies that "the European Parliament supports the Romanian government's strategy regarding institutionalised children and recommends the adoption of a single law for those children" (Romania-EU, p. 245). Then, the European Commission also pays tribute to the Romanian decision and stipulates that international adoption should only be a safeguarding alternative for the child, when the latter cannot neither be welcomed by a family, nor taken in charge decently in his native country<sup>21</sup>. In France, the newspaper *Libération* affirms that this measure was

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<sup>19</sup> Suspendarea României de la negocierile pentru aderare la UE [Romania's suspension to the negotiations for the admission to the EU], *Evenimentul zilei*, May 31, 2001.

<sup>20</sup> Emma Nicholson își modifică raportul în bine [Emma Nicholson changes positively her report], *Evenimentul zilei*, June 16, 2001.

<sup>21</sup> P2001E2240 – Written question– 2240/01 asked by Maria Rodriguez Ramos (PSE), Rosa Diez Gonzalez (PSE) and Raimon Obiols i Germa (PSE) to the Commission. Suspension of

taken by Bucharest to anticipate possible sanctions upon its policy regarding international adoption<sup>22</sup>. The expert appointed by the Commission to the Romanian Ministry for Employment and Social Solidarity justifies the suspension of international adoptions as follows: “Romania had a system which transformed officially the child into a market value, not mentioning the paedophile and organs trade networks. It had to be stopped and a new legal framework had to be created”<sup>23</sup>. Romania’s closing is clear: 3 035 international adoptions in 2000, 1 521 in 2001, 47 in 2002.

#### 4. The contradictory pressures of the European Union and of the States

##### 4.1. On the moratorium

The suspension of international adoptions decided by the Romanian government gives rise to various reactions on the part of the United States and of the member states of the EU<sup>24</sup>. On the 23<sup>rd</sup> and 24<sup>th</sup> of July 2001, French Prime Minister Lionel Jospin is on a visit in Romania. According to Romania’s foreign affairs secretary, Mircea Geoană, it is the first official visit by a senior European leader in months, and a “trustful partner” for Romania (Geoană, 2005). Lionel Jospin wishes to be informed of the fate of the 5000 adoption procedures which were in progress at the moment of the interdiction, and some of which implied French associations<sup>25</sup>. The Prime Minister meets the French NGOs’ representatives specialised in child protection, some of which plead for the pursuit of international adoptions. Among the agreements signed between the two states, one concerns child protection<sup>26</sup>.

In December 2001, following the pressures against the moratorium, the Romanian government adopts the 161/2001 Ordinance: the procedures of international adoptions, which had already been opened or which were in progress before the moratorium, must be completed. The government is thus exceptionally authorized to pass on these cases to the courts (article 11)<sup>27</sup>. Several European Spanish deputies ask for the help of the European Commission for Spanish families who had begun adoption procedures after 1999 and

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international adoptions in Romania, *EUR-Lex*, June 6, 2002; Mirel Bran, Lady Nicholson: Une baronne anglaise en guerre contre l’adoption internationale *Le Monde*, October 5, 2002 (She goes back over her action by 2000).

<sup>22</sup> Renaud Dély, Jospin encourage les désirs européens de Bucharest, *Libération*, July 25, 2001.

<sup>23</sup> Bucharest doit faire face à un nouveau scandale de l’adoption internationale, *Le Temps*, August 7, 2001.

<sup>24</sup> Mirel Bran, La Roumanie tente de réformer l’adoption d’enfants abandonnés, *Le Monde*, October 5, 2002.

<sup>25</sup> Roumanie France Jospin, *La Presse Canadienne*, July 23, 2001.

<sup>26</sup> Renaud Dély, Jospin encourage les désirs européens de Bucharest, *Libération*, July 25, 2001;

Mirel Bran, Lionel Jospin s’occupe des enfants roumains, *Le Monde*, July 26, 2001.

<sup>27</sup> *Moniteur Officiel de la Roumanie*, no. 780, December 7, 2001.

denounce the interruption of the process. They are answered that all those cases should be addressed according to the rules provided for in the 161/2001 Ordinance<sup>28</sup>. In front of the pressure, it can be considered that Romania has adopted this measure so as to offer guarantees to its partners. Children become a political stake for Romania.

Each country tries to convince Romania to favour it. In January 2002, the American mission to the European Commission asks the European officials to put pressure on Bucharest to release international adoptions. The USA directly condition Romania's admission to NATO to the settling of this question. The Commission in Brussels denounces this attitude and doesn't play the game of the United States. Romania is also submitted to contradictory European pressures. In the European Parliament, while Baroness Emma Nicholson is pressing for the suspension of international adoptions "in brandishing the threat of a negative report on the respect of human rights in Romania", Spanish deputies regret that 1000 Spanish families are still waiting for Romanian children. At the same time, within the Commission, Eneko Landaburu, Director for Enlargement, takes the question in a curious manner: "I am neither for nor against international adoption"<sup>29</sup> ! On the 28<sup>th</sup> of January 2002, it is the European Council's turn to take position in encouraging Romania to maintain the moratorium on international adoptions until the new legislation is adopted and implemented. Willing to join the EU and NATO, Romania endures high pressures on its foreign policy (Ivan, 2009). It must determine its position toward adoptions in evaluating the European and American pressures. Eventually, Romania yields to the EU. Contrary to the USA's wishes, Bucharest extends the interdiction of foreign adoptions until the 15<sup>th</sup> of November<sup>30</sup>.

#### **4.2. Toward the end of adoption in Romania**

In 2003, the newly created National Authority for Child Protection and Adoption reports the pressure exerted by the United States on the lifting of the Moratorium on adoption. The same type of pressure would also come from "Italian, Spanish and French Senators"<sup>31</sup>. In December 2003, Silvio Berlusconi, President of the Council of Italy and actual president of the EU, intercedes with

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<sup>28</sup> 9200E1000 – Written question E-1000/2 asked by José-Maria Gil-Robles to the Commission. International adoptions of Romanian children, *EUR-Lex*, April 12, 2002; 92001E1485 – Written question P-2485/01 asked by Daniel Varela Suanzes-Carpegna to the Commission. Suspension of international adoptions in Romania, *EUR Lex*, June 6, 2002.

<sup>29</sup> Mirel Bran, La Roumanie tente de réformer l'adoption d'enfants abandonnés, *Le Monde*, October 5, 2002.

<sup>30</sup> Emergency Ordinance no. 123 of October 2, 2002, *Moniteur Officiel de la Roumanie*, no. 734, October 8, 2002.

<sup>31</sup> Etienne Boisserie, Roumanie : pressions internationales à l'adoption, *Regards sur l'Est*, December 11, 2003.

Adrian Năstase, his Romanian counterpart, for the quick lifting of the moratorium. At the same time, an Italian parliamentary delegation presses the Romanian authorities to accept “urgently” some one hundred adoptions of Romanian children by Italian families<sup>32</sup>. For Emma Nicholson, Romania infringes the Moratorium in giving the green light to 105 Italian adoptions and asks again for the suspension of the negotiations for Romania’s admission<sup>33</sup>. But according to the testimony of Gabriela Coman, Secretary of State for Child Protection, Italy is not the only country to pressurise. Despite the Moratorium, hundreds of minor Romanians have been adopted by Spanish, Italian, French, American and Israeli couples. Richard Trigano, an expert sent to Bucharest by the European Commission, describes accurately the contradictory movements of European pressure: “on one hand, the European Parliament and the Commission have asked Romania to respect a Moratorium prohibiting international adoption. On the other hand, the Member States of the EU put egoist and hypocritical pressure on Romania to obtain adoptions. Children are no merchandise, but the Romanian State is asked to treat them as merchandise”<sup>34</sup>. In February 2004, the French Embassy in Romania reveals that 73 minor Romanians have been adopted by French couples since the establishment of the Moratorium, and that 1115 international adoptions have occurred for the past two years and a half. Bucharest specifies that it mostly concerns the settlement of cases that had been opened before the implementation of the Moratorium, in accordance with the 161/2001 Ordinance<sup>35</sup>.

In front of the risk of decoupling the Bulgarian and Romanian admission processes (report from February 2004)<sup>36</sup>, the Romanian government presents a bill drastically reducing the possibility for foreigners to adopt Romanian children; it is passed on June 26, 2004 (law 273/2004) and comes into effect on January 1, 2005. Article 39 limits international adoption to the only cases when there is a family tie – at the grand-parents degree – between the adopter and the adopted. This clause precludes de facto the adoption of Romanian children by foreigners. French Prime Minister Jean-Pierre Raffarin proposes on the 18<sup>th</sup> of October 2004 the creation of an international commission which would settle the cases of Romanian children’s blocked adoptions. It is estimated that there are

<sup>32</sup> Arielle Thedrel, Adoptions: Bucharest attend le feu vert de Bruxelles, *Le Figaro*, January 6, 2004.

<sup>33</sup> UE/Elargissement/Roumanie. Emma Nicholson demande la suspension des négociations d’adhésion, *Agence Europe*, February 5, 2004.

<sup>34</sup> Mirel Bran, Adoption d’enfants. La Roumanie est critiquée par l’UE... pour avoir cédé aux pressions des Etats, *Le Monde*, February 11, 2004.

<sup>35</sup> Arielle Thedrel, Imbroglia autour d’un millier d’adoptions, *Le Figaro*, February 27, 2004.

<sup>36</sup> UE/Roumanie - M.Cox met en garde Bucarest contre le risque d’un découplage de son processus d’adhésion de celui de la Bulgarie, si les problèmes politiques ne sont pas rapidement résolus, *Agence Europe*, February 26, 2004.

about 30 cases concerning French families. The French political leader wishes to “pour hope” into this “particularly difficult and particularly painful” case<sup>37</sup>.

Despite the implementation of the new law, the European Parliament’s attention remains sharp. Emma Nicholson and Olli Rehn (Commissioner in charge of the Enlargement) consider that the legislation adopted by Bucharest complies with the Community standards and with the United Nations’ Convention on Child Rights. Regarding the cases left in abeyance, Romania creates in August 2005 a workshop in charge of taking a decision before the 27<sup>th</sup> of March 2006 and to communicate the decision to each concerned family<sup>38</sup>. A few months before Romania’s entry in the EU, several European deputies organise a hearing “so as to allow parliamentarians to become aware of the most serious situation of the abandoned children or of the orphans in Romania”. They denounce the Romanian freezing of adoptions, and the situation of the children (becoming older) whose adoptions had been suspended since 2001. In June, the chairwoman of EFA, *Enfance et Familles d’Adoption*, (Childhood and Adoptive Families) organises a press conference which goes the same way<sup>39</sup>. The AFAENER, *Association des Familles adoptives d’Enfants nés en Roumanie* (association for the adoptive families of children born in Romania), created in 2001 in response to the Moratorium, continues its lobbying actions<sup>40</sup>. The great enlargements of the EU of 2004 and 2007 set the question of a better “intra-Community cooperation” to better harmonise the flow of adoptions between Source-States and Welcome States. (Colombani, 2008).

## 5. Conclusions

The images of the Romanian revolution of December 1989 and of the orphanages have deeply marked European opinions. There follows an extraordinary public interest which leads to the explosion of the number of Romanian children adopted by foreigners. Elements within the Romanian society, history and system are unquestionably responsible for the lawless situation which imposes itself in 1990-1991, and the way out of which is long and laborious. But external elements, in particular the private foundations and the way they function, have weighed a lot on poorly-established structures and child policies, while the demand for children kept on growing in developed countries. The question has been at the heart of the problematic of Romania’s

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<sup>37</sup> Roumanie/Adoption-Raffarin propose une commission internationale, *Reuters*, October 18, 2004.

<sup>38</sup> Elargissement : la loi roumaine sur l’adoption dénoncée au Parlement européen, *Europolitique*, April 26, 2006.

<sup>39</sup> Press release by Claire Gibault and Jean-Marie Cavada, European Deputies, April 25, 2006; La situation des enfants en Roumanie et Bulgarie, press conference by Janice Peyré, chairwoman of EFA, June 13, 2006 at the European Parliament.

<sup>40</sup> Rafaële Rivais, Pétition en faveur des familles victimes du moratoire roumain sur les adoptions, *Le Monde*, July 5, 2006.

admission to the EU, revealing the country's fragility, and its dependence upon external pressures, in particular those of the European States and of the institutions of the EU. The Moratorium and then the almost definitive cessation of international adoptions have allowed the diminution of that pressure, though not its elimination. Today, as a boomerang, some young Romanians, for whom the process of foreign adoptions was stopped in 2001, complain about the policy of their State. They consider asking for compensations, judging their lives would have been and would be better if they had been able to join an American or a European family. Regularly in Europe, articles, declarations or reports urge Romania to reopen its doors to international adoption. In March 2010, an Italian association has submitted a petition to the European Parliament asking that the Romanian Government liberalise its procedure regarding international adoption.

The thousands of adoptions of Romanian children that have been made since 1980 in France, Italy, Spain and elsewhere concern hundreds of thousands of persons: first the adopted and their adopters, but also their families and the people around them. All, more or less, feel concerned with Romania, and are interested in its evolution. Some have committed themselves plainly to relations such as twinning and all sorts of initiatives (Scutaru, 2010). Mr and Mrs B's children have found an elder sister in 2008, a sister who considers their adoptive parents as her family; she has given the name of the father – whom she calls *papa* – to her youngest son. Some learn the Romanian language, adopted persons find each other on discussion forums, many have returned several times to their native country. Links have thus been created between the Romanian society and other European societies, which build the future of Europe day after day.

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