

## Introduction

The Romanian Office for Adoption answers to the questions in this questionnaire reporting the period of 2001 – 2003 (the statistics in the annex refer to this period as requested) as well as the period of 01.01.2005 till present.

We mention that the Emergency Government Decision no. 121/2001 modified by G.D no. 161/2001 and Law no. 347/2002, E.G.D no. 25/1997 on the legal system of adoption, G.D. no.26/1997 on the protection of child in difficulty subsequently modified and completed, Government Decision no. 502/1997 on the organization and function of the Romanian Committee for Adoptions, Government Decision no. 245/1997 regarding the criteria of authorising private bodies that develop activities in the field of protecting child's rights by adoption were applicable during 2001 – 2003. Presently those normative acts are abrogated by the new legislation entered into force since 01.01.2005.

Law no.273/2004 on the legal system of adoption, Law no. 274/2004 on the establishment, organization and function of the Romanian Office for Adoptions, Law no. 272/2004 on the protection and promotion of child's rights, G.D. no. 1435/2004, G.D. no. 1441/2004 have entered into force since the 1<sup>st</sup> of January 2005.

1. A) During 2001 – 2003 Romanian was an origin state. On the basis of E.G.D no. 121/2001 modified by E.G.D no. 161/2001 international adoptions were suspended. Law no. 161/2001 was subsequently approved and international adoptions could be approved by the court only “in exceptional situations enforced by the superior interest of the child” and on the basis of a previous analyse and approval of the Government.

Until the 1st of January 2005, Romania has mainly been an origin state. On this date the Law no. 273/2004 entered into force, and art. 39 of this Law specifies: ”The international adoption of the child whose domicile is in Romania may only be approved in case the adopter or one of the spouses in the adopting family who have the domicile abroad is the grandparent of the child for whom the petition for internal adoption initiation has been approved.”; therefore, from this moment onwards our country can only be an origin state for the adoptions performed by second degree relatives of Romanian children.

1. B) Not applicable, Romania has ratified the Hague Convention by Law no.84/1994.

1. C) Not applicable

2. A) Not applicable

2. B) We suggest the following themes for the future chapters of the Best Practice Guide:

For the chapter: Central Authority Practice : « Initial and ongoing training of the staff at all levels with attributions regarding the adoption cases »

2. C) Not applicable.

2. D) Not applicable.

3. A) As Romania did not confronted this problem during 2001 - 2003 the legal provisions mentioned below were applicable excepting those in art. 59 of Law no. 272/2004.

This problem has not occurred as the legislation specifically regulates, without leaving room for interpretation, the way in which the child's domicile is established, i.e. : With regard to the child's domicile the provisions of **art. 100 of the Family Code** are applicable "the minor child lives with his/her parents. If the parents do not live together, they will jointly decide with which one of them the child will live. In case there is a disagreement between the parents, the court will decide, by hearing the tutelary authority as well as the child, if the child is over ten years old, and by having regard to the best interests of the child", as well as the provisions of **art. 25 of Law no.105/1996 on the population record and ID, para (2)** "The child's domicile is with his/her parents or with the parent with whom the child lives on a stable basis". **(3)** The domicile of the minor who has been entrusted by the court to a different person will remain with his/her parents, and, in case the parents have different domiciles and do not reach an agreement, the court will decide with which one of them the child's domicile will be. **(4)** The minor's domicile is with his/her legal representative if only one of the parents represents the child or if the child has a legal guardian.

And the provisions of **art. 59 of Law 272/2004**, according to which „Throughout the entire duration of the placement measure, the domicile of the child is the same with that of the person, family, maternal assistant or the residential service who is legally responsible for the child”.

3. B) The adopters' domicile was clear from the application, social enquiry, passport .

3. C) During 2001 – 2003 the child could go abroad as a tourist, for studies or medical treatment only by the agreement of the legal representative and this journey was not made for the purpose of adoption according to the Romanian law. The international adoption of the child as a Romanian citizen had to be approved by the Romanian law court in the conditions provided by E.G.D no. 121/2001 subsequently modified and completed.

We would like to mention that according to the Romanian law, Romanian children cannot be adopted by persons who have the domicile abroad, unless they are grandparents to the child for whom the initiation of the internal adoption procedure has been approved.

In all the other cases the provisions regarding the situation of Romanian children who are unaccompanied on the territory of other states are applicable:

Law no. 272/2004 on the protection and promotion of the rights of the child :  
art.3. (b) „children with Romanian citizenship, located abroad benefit from the provisions of the present law”:

art. 18. – „(1) Children who are not accompanied by parents or by a person who is legally responsible for the child, or are not under the legal supervision of any persons, have the right to have their return to the legal representatives ensured, as soon as possible”

Art. 2. of the Government Decision no.1443/2004 specifies: “according to the present decision, an unaccompanied child is the Romanian citizen under the age of 18, who does not have full capacity of exercise, and who has arrived on the territory of another state unaccompanied by any of his/her parents or by a legal representative, or who is not under the legal supervision of another person. The same legal regime applies in the case of the child who is left unaccompanied after having entered the territory of the respective foreign state or of another state”.

4. A) During 2001 – 2003 E.G.D no. 26/1997 was applied. Art. 7 of the mentioned law regulated the measures that The Commission for the protection of the child in difficulty could establish:

- entrust of the child to a family, a person or an authorised private body;
- entrust of the child in view of adoption;
- provisory entrust of the child to the specialised public service;
- placement of the child to a family or a person;
- placement of the child to the specialised public service or an authorised private body;
- placement of the child as an emergency measure and
- placement of the child to an assisted family.

4. B) During 2001 – 2005 this aspect is emphasised by art. 9 paragraph 8 in the E.G.D 25/1997 that provided: “If a person or a family with Romanian citizenship and a person or a family with foreign citizenship request for the entrust of the same child in view of adoption, the possibility of entrusting the child to the person or family with Romanian citizenship will be taken into consideration by the Commission for child protection as a priority” and by G.D. no. 502/1997 that in art. 1, paragraph 3, letter c) provided that the international adoption represents a way of assuring a harmonious development of the child personality to the child who lacks his natural parents’ protection if his/her entrust in view of adoption in the country or his/her adoption by a family or a person whose domicile or residence is in the country are not possible.

Presently this aspect is emphasised by the news brought up by the existing legislation into force in the field of adoption.

**Child protection- Law no.272/2004 on the protection and promotion of the rights of the child** contains the following regulations regarding the special protection of the child:

**Art. 50.** -The special child protection is made up by the all measures, assistance and services aimed at the care and development of the child who is deprived, either temporarily or definitively, of the protection of his or her parents, or of the child who, in view of protecting his or her best interests, cannot be placed in the care of his or her parents.

**Art. 55.** The special child protection measures are:

- a) placement;

- b) emergency placement;
- c) specialized supervision.

**Art. 56.** The beneficiaries of the special child protection measures established by the present law are:

- a) the child whose parents are deceased, unknown, deprived of the exercise of parental rights or have been enforced the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law and for whom no legal guardianship could be established;
- b) the child who, in view of protecting the his or her best interests, cannot be left in the care of the parents, for reasons for which the parents cannot be held accountable;
- c) the abused or neglected child;
- d) the foundling or the child who has been abandoned by the mother in a hospital ward;
- e) the child who has committed an act stipulated by the criminal law and who is not criminally liable.

**Art. 40.** - (1) The legal guardianship is established when both parents are deceased, unknown, deprived of the exercise of parental rights or were enforced the penalty of denial of parental rights, placed under interdiction, declared dead or missing by a court of law, as well as when, upon the termination of the adoption, the court of law rules that this is in the best interests of the child.

(2) The legal guardianship is established in accordance with the law by the court of law in whose territorial range the child have the domicile or has been found.

**Art. 41.** - (1) The legal guardianship may be entrusted to natural persons or jointly to the husband and wife who have the domicile in Romania and who are in none of the incompatibility situations stipulated by the law.

(2) The natural person or the family who are to become legal guardians must be evaluated by the general department for social security and child protection with regard to the moral warranties and the material conditions which they have to meet in order to receive a child in placement. The evaluation is conducted by the general department for social security and child protection in whose territorial range is located the domicile of the natural person or family, and the members of the child's extended family are given priority

**Art. 42.** - (1) The court of law gives priority in appointing as legal guardian, if no justified reasons are opposing this decision, a relative or a friend of the child's family, who is capable of fulfilling this task.

(2) The natural person, or the couple, respectively, who are to become legal guardians, are appointed based on the presentation of the report concerning these persons made by the general department for social security and child protection. The proposal will be made taking into account the personal relations, the proximity of the domiciles, as well as the child's opinion.

(b) Vă rugăm specificați procedurile sau altă măsuri pentru a asigura că este acordată atenție posibilităților de plasare a copilului în statul de origine înaintea luării în considerare a adopției interțări (principiul subsidiarității – vezi articolul 4 b) și preambulul, paragrafele 1-3).

**By the changes brought by the new legislation in the field of adoption:**

- The adoption is dealt with as an institution of civil right and not as a protection measure (as it was regulated in the previous legislation) meaning that it doesn't address automatically to all children that need a protection measure, but only to those cases where such a legal operation corresponds to the particular needs and situations of the child,
- The parent deprived of parental rights or upon whom was enforced the penalty of prohibiting parental rights maintains his/her right to consent to the child's adoption under the new legislation,
- The situations where domestic adoption intervenes, which is explicitly encouraged, are expressly stipulated,
- The situations where international adoption may be taken into consideration are distinctly established: "international adoption of the child who lives in Romania may be approved only in cases where the adopter or one of the spouses of the adopting family that lives abroad is the grandparent of the child for whom was approved the procedure of internal adoption".
- Law no. 47/1993 regarding the judicial declaration of abandonment that was criticized because it had not stimulated the activities of child reintegration in the family, the child being declared adoptable, thus giving priority to adoption and not to the return of the child to his/her family, is abrogated,

Through the ratification of the UN Convention on the Rights of the Child by Romania, through Law no.18/1990: **art.21 lit.b)** "Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin"

4. C) During 2001 – 2003 the child was adoptable in the following situations: if the consent of the parents or, by each case, of the parent or the tutor to adoption exists in its authentic version as well as if the parents of the child have been deprived of parental rights, are deceased, under interdiction, declared legally deceased, unknown or were in any situation that induced the impossibility to manifest their will, and if the child was legally declared abandoned by definitive legal decision - situations where the consent of the natural parents was no longer necessary.

**According to Law no.273/2004 and Law no.272/2004**

- Specifically regulates the situations and the procedure through which a child becomes adoptable, i.e. when the child's individualized protection plan specifies internal adoption as final aim; this final aim can only be specified if the actions for the reintegration of the child in his/her birth family or for his/her integration in the extended family have failed;
- The initiation of the internal adoption procedure is done only by the court and only after the court has conducted a rigorous control of the actions taken with a view to reintegrating the child in his/her birth family or to integrating the child in the extended family;

**4. D)** During 2001 – 2003 Art. 8 in the G.D. no. 25/1997 was applied:

- (1) The consent of the parents can be expressed only after 45 days since the birth of the child;
- (2) The parent can revoke the consent in 30 days since the date of the authentic entry that expressed the consent
- (3) After the expiry of the term provided in paragraph (2), the parental consent becomes irrevocable.

and art. 7 which provided that in view of approving the adoption the consents of the person who adopts, of his wife or her husband, of the child who is 10 years old and when necessary of the legal representative are needed according to the Decision of the Constitutional Court no. 308/2002.

**Law no.273/2004-** contains the following provisions regarding the consent to adoption of the birth parents, of the child and of the adopters:

**Art. 11. - (1) (1)** The individuals who must consent to adoption are the following:

- a) The biological parents, or, if the case, the legal guardian of the child whose parents are deceased, are not known, have been declared dead or missing or under interdiction, according to the law;

- b) The child who has reached the age of 10 years old;
- c) The adopter or, if the case, the adopting family.

(2) The consent given while considering a promise or service in return, which should be granted previously or after the consent, and regardless of its nature, is not regarded as legally binding.

**Art. 12. - (1)** The child's biological parents must give their consent for adoption. In the case when the spouse of the adopter is also willing to adopt the child, the consent must be given by the spouse who already is an adoptive parent of the child.

(2) The parent or parents who have been deprived of parental rights or upon whom was enforced the penalty of prohibiting parental rights maintain their right to consent to the child's adoption. The consent of the legal guardian is compulsory.

(3) If one of the biological parents is deceased, unknown, declared deceased or missing in accordance with the law, under interdiction, as well as if the biological parent is incapable to express his or her will under any circumstances, the consent of the other parent is sufficient.

(4) The consent of the biological parents of the child is not necessary, if both of them are subject to any of the situations stipulated under paragraph (3), as well as in the case of the adoption stipulated under art. 5, paragraph (3).

**Art. 13. -** In exceptional cases, the court may bypass the refusal of the parents or, if the case, of the legal guardian to consent to the adoption of the child, if it is proven by any method of evidence that they are abusively refusing to give their consent for adoption and the court considers that adoption is in the child's best interests, taking into account the child's opinion given as stipulated under article 11, paragraph (1), line b), and, in this regard, the court provides a specific motivation for the decision.

**Art. 14. -** The child's biological parents or, if the case, the child's legal guardian must consent to adoption freely, unconditionally, and only after they have been properly informed on the consequences of adoption, especially on the termination of all kinship relations of the child. The department in whose territorial range the parents are living, must provide counseling and information to the parents or, if the case, to the legal guardian, before they express their consent for adoption, and must draft a report in this sense.

**Art. 15. - (1)** The consent of the biological parents or, if the case, of the legal guardian, will be given in front of the court of law, at the time of ruling the petition for the initiation of the adoption procedure.

(2) In the case of the adoption of the child by his or her parent's spouse, the biological parent's consent shall be expressed in a certified form, through a notarized document



(3) While requesting the consent stipulated under paragraph (1), the court will also require the department to present the report which confirms the accomplishment of the obligation stipulated under art. 14.

**Art. 16. -** (1) The consent of the child's biological parents for adoption, or if the case, the consent of the legal guardian, may be given after 60 days from the date when the child was born, as indicated in the birth certificate.

(2) The biological parent or if the case the legal guardian can cancel their consent within 30 days since the consent was issued according to the law.

**Art. 17. –** (1) The consent for the adoption of the who has reached the age of 10 years old will be given in front of the court of law, at the time of ruling the petition for the adoption approval.

(2) The adoption will not be approved of without the consent of the child who has reached the age of 10 years old.

(3) Prior to giving his or her consent, the department in whose territorial range is located the child's domicile, will advise and inform him or her, taking into consideration the child's age and degree of maturity, especially on the consequences of adoption and of his or her consent for adoption and will draft a report concerning this issue.

**Art. 18. -** (1) The consent of the adopter or of the adopting family is given in front of the court of law, at the time of ruling the petition for the adoption approval.

(2) If the individual who wishes to adopt is married, the consent of his or her spouse is also necessary, with the exception of the cases in which the spouse is unable to express his or her will. The provisions stipulated under paragraph (1) will be properly enforced.

4. E) The Romanian legislation does not regulate and does not use a “certain model of statement of consent to adoption”; the consent expressed during the various stages of the adoption process, mentioned above, is written down at the end of the court session. The consent must include the essential elements: ID data of the signatory and of the child and the clear intention to adopt”.

4. F) Not applicable.

G) During 2001 / 2003 the provisions of art. 6 in E.G.D. no. 25/1997 were applied. They establish regarding the domestic adoption: Art. 6 – (1) Only the persons or the

families that prove the existence of material conditions and moral warranties necessary for assuring the harmonious development of the child may adopt

(2) The Commission for the child protection from the territorial range where the domicile of the person or of the family who wishes to adopt is located ascertains the existence of the conditions and of the warranties provided in paragraph (1) and attests that the person or the family is suitable to adopt.

(3) The certificate is issued by the Commission for child protection at the request of the interested person or family in 90 days from the date of the application based on the reports and proposals of the specialized private service for child protection in the county or in the district of Bucharest or of any other authorized private body.

(4) The Commission for child protection can issue the certificate provided the reports mentioned in paragraph (3) show that the person or the family presents the warranties and meets the conditions stipulated in paragraph (1).

During 2001 – 2003, art 11 in E.G.D. no. 25/1997 regulated this aspect in the field of international adoptions

2) The requests of the persons or families whose domicile or residence is located on the territory of other state and wish to adopt will be transmitted to the Romanian Committee for Adoptions only by the central authority that act in that state in the field of children protection and cooperation in international adoption or by the private bodies authorized by the person/family and by the Romanian Committee for Adoptions. Default of a central authority the requests will be transmitted to the Committee only by the public authority in that state that has attributions in the field of adoptions and concluded collaboration agreements with the Committee or by the private body authorized by it and by the Committee.

(3) In the situation provided in paragraph (2) the requests will be accompanied by the following documents:

a) an act issued by the foreign authorities provided in paragraph (2) of which follows the warranties needed for the entry and living of the infant in the foreign state in case the adoption was approved as well as for monitoring his/her post-adoption evolution;

b) an act issued by the foreign authorities provided in paragraph (2) of which follows that the person or the family is suitable to adopt under the provisions of their national law;

c) the rapport on the psychosocial inquiry carried out by the competent foreign authorities or by the private bodies authorized by those at the domicile of the person or family. The rapport should present their opinion regarding the adoption;

d) birth and marriage certificates of the person or the family as legalized copies;

e) certificates regarding the health condition and penal antecedents of the person or of the family.

For internal adoption - law no.273/2004

**Art. 19. - (1)** The evaluation of the moral warranties and material requirements of the adopter or of the adopting family is conducted at their own request, by the department in whose territorial range is located their domicile, and must focus on:

- a) the personality, health condition and the economic situation of the adopter or of the adopting family, the family life, living conditions, and the capacity to educate a child;
- b) the reasons for which the adopter or the adopting family wish to adopt;
- c) the reasons for which, in case when only one of the two spouses files a petition to adopt a child, the other spouse does not join up the petition;
- d) the obstacles of any kind which are relevant to the capacity to adopt.

**(2)** Based on the results of the evaluation stipulated under paragraph (1), the department in whose territorial range is located the domicile of the adopter or of the adopting family, will decide within 60 days from the date when the evaluation request was submitted by the adopter or by the adopting family, whether they have or not the capacity to adopt. In case of a positive result of the evaluation, the department shall issue a certificate for an adoptive person or family able to adopt.

**(3)** The certificate issued by the department in whose territorial range is located the domicile of the adopter or of the adopting family, is valid for a period of one year. The validity of this certificate can be extended on a yearly basis, on condition of upholding the same conditions stipulated under paragraph (1) and following an application for the renewal of the certificate, filed by the adopter or by the adopting family.

**(4)** In case of a negative result of the evaluation, the adopter or the adopting family have the right to request that the department perform a re-evaluation, within 30 days from the date when the initial result was presented to them.

**(5)** The negative result of the re-evaluation can be appealed against, within 15 days from the date when its result was presented, in the competent court of law in whose territorial range is located the domicile of the adopter, and which is authorized to rule in adoption cases.

**Art. 20..** Obtaining the certificate is not mandatory in the following cases:

- a) for the adoption stipulated under art. 5, paragraph (3);
- b) for the adoption of the child by the spouse of his or her biological or adoptive parent.

**Art. 21. -**During the evaluation process, the department in whose territorial range is located the domicile of the adopter or of the adopting family, must provide them

with the preparatory/counseling services that are necessary in order to assume the role of parent fully aware and in the appropriate manner.

**For international adoption: SECTION 2 of Law no.273/2004 regulates this issue.**

The certification of the adopter or of the adopting family from the receiving state

**Art. 43. - (1)** The petitions filed by individuals or families who have the domicile on the territory of another state, which is a signatory of the Hague Convention, and who wish to adopt a child from Romania, are forwarded to the Office through the competent central authority from the receiving state or through its accredited organizations.

**(2)** In the case of the receiving states who are not signatories of the Hague Convention, the petitions stipulated under paragraph (1) are forwarded to the Office through the appointed authority which has responsibilities in the field of international adoption or through the accredited organizations from the receiving state.

**(3)** The accredited organizations stipulated under paragraphs (1) and (2) must also be authorized by the Office, in accordance with the methodology approved through a Government Decision

**Art. 44. -** The petition of the adopter or of the adopting family is recorded by the Office only if the competent central authority from the receiving state or its legally accredited and authorized organizations certify that:

- a) the adopter or the adopting family meet the adoption eligibility conditions and are suitable to adopt, in accordance with the applicable legislation of the receiving state;
- b) the adopter or the adopting family have received the necessary adoption counseling in the receiving state;
- c) a post-adoption survey of the child's evolution is provided for a period of time of at least two years;
- d) post-adoption services are provided for the child and the family in the receiving state.

**Art. 45. - (1)** The petitions forwarded to the Office must be accompanied by the following documents:

- a) a report drafted by the competent authorities from the receiving state, which should include information regarding the identity of the individuals who wish to adopt, their capacity and ability to adopt, their personal, family, financial and medical situation, the social environment, the

reasons which have determined them to adopt a child from Romania, as well as information regarding the children whom they may receive for adoption; the report's conclusions will be supported by the documents issued by the competent authorities from the receiving state;

- b) legalized copies of the birth and marriage certificates and of the identity documents of the individuals who wish to adopt, along with a legalized translation into Romanian;
- c) the police records of the individuals who wish to adopt;
- d) a separate medical report for each of the adopters;
- e) the document which certifies that there is a warranty to the fact that the adoptee has the possibility to enter and permanently live in the receiving state.

(2) The documents stipulated under paragraph (1), lines a), c), d) and e) will be original documents and will be accompanied by a legalized translation into Romanian.

4. H. The Romanian law does not distinguish between the evaluation and counseling conducted for internal adoption and for the adoption regulated by art. 42 of Law no. 273/2004 (when the adoptee has the domicile abroad and the adopter or adopting family has the domicile in Romania)

Thus, the following legal provisions apply in both cases:

**GD no.1435/2004 on the approval of the Methodological Norms for the implementation of Law no. 273/2004 on the legal framework of adoption**

**Art. 5. -** (1) The process of evaluation of the adopting person/family includes:

- a) social evaluation;
- b) psychological evaluation;
- c) preparation for taking on the parent role in an informed way.

(2) The process of evaluation of the adopting person/family includes both meetings and discussions with the person or married couple, as well as individual meetings with members of the adopting family and with the other persons specified under art. 4.

(3) The minimum number of meetings is 6, the maximum number being established by the case manager together with the psychologist in the adoption service, function of the availability of the adopting person/family during the

evaluation process period; the meetings take place both at the domicile of the person/family and at the headquarters of the directorate.

**Art. 6. - (1)** The social evaluation with a view to certifying whether a person/family is capable to adopt is adapted to the specifics of the person/family and it includes at least the following stages:

**a)** informing and counseling regarding the adoption procedure, the methodology for evaluation and preparation, and the development of a relationship based on respect and trust between the case manager and the adopting person/family;

**b)** determining the individual profile of the applicant(s), the parental capabilities and the resources of the person/family, the perception of the extended family and the role played by the community in structuring the family's attitude towards adoption; the adoption service psychologist also participates in this visit;

**c)** collecting information regarding the family structure, the marriage history and the applicants' present relationships, the family's life model, communication, education level, professional status, environment, community inclusion, relationship with the extended family, personality traits, interests, capacity to adapt; the collecting of information is also done by contacting reference persons designated by the person/family, as well as important community members; if the adopters have children, their interaction with the children is evaluated, their health, school results, as well as the children's relationships with siblings, school colleagues, local community;

**d)** informing the family regarding the preliminary conclusions, as well as the suggestions to be formulated on the granting of the certificate.

**(2)** The case manager has the duty to obtain and to register all the information in the evaluation record, which will be at the basis of the evaluation report.

**Art. 7. - (1)** The psychological evaluation includes observation, interview, questionnaires, a battery of tests aiming at determining the psychological profile of the adopting family/person.

**(2)** The outcomes of the psychological evaluation and the adoption service psychologist's recommendations are registered by him/her in the psychological evaluation record, which will be at the basis of the evaluation report.

**Art. 8. - (1)** Preparing the person/family for taking on the parent role in an informed way is targeted at the development of their capacity to meet the adopted child's needs and consists of providing information regarding the presentation of the reasons for institutionalization and its effects on the child, possible reactive attachment disorders, ways of interaction, non-discriminatory attitude and acceptance of the child's identity and background, as well as acceptance of the difference between the image of an "ideal" child and the child who will be considered theoretically compatible with the adopting person/family.

(2) During this stage, the applicants' feelings and parental capacities are assessed: own childhood, understanding of the child's needs and development, maturity, acceptance of parental tasks and of changes in the family life style once the child is adopted, the way in which the applicants understand to inform the child about the fact that he/she is adopted.

4. I) Law no.273/1994 provides: Art. 21. - During the evaluation process, the department in whose territorial range is located the domicile of the adopter or of the adopting family, must provide them with the preparatory/counseling services that are necessary in order to assume the role of parent fully aware and in the appropriate manner.

4. J) During 2001 – 2003 the types of post-adoption services were not expressly regulated.

. **POST-ADOPTION SERVICES** – regulated by **Order no.45/2004** of the Secretary of State of the National Authority for Child Protection and Adoption on the approval of the mandatory minimum standards for domestic adoption

#### Standard 13

„ The adoption service has in its structure a post-adoption department organized and sized in order to meet the needs of all applicants.

The clients of the adoption service are provided with quality post-adoption services, in conditions of celerity, provided by qualified staff.

The post-adoption department is organized and operates as a distinct department within the adoption service. The post-adoption department employs social workers having the necessary qualifications and at least 1 year experience in child welfare. The post-adoption department has the expertise of other categories of specialty staff required for the completion of adoption procedures (legal counselors, psychologists, etc.). The social workers from the post-adoption department attend at least once per year specialized training programs in the child welfare and/or adoption sector.

Standard 14- Counseling and support activities - The post-adoption department provides support, counseling and assistance services to adoptive families, adopted children and birth family.

The post-adoption department supports and promotes the organization of support groups for adoptive parents and birth parents respectively and provides the coordination of these groups.

The post-adoption department provides, after the adoption is granted, counseling and information to the adoptive family in respect to aspects relating to child's development, attachment and family evolution, as well as other points of interest based on the needs of the child and of the adoptive family.

The post-adoption department provides, after the adoption is granted, counseling and information to the birth family, especially in respect to the effects of adoption on family members.

The post-adoption department provides counseling and information to the adopted child in respect to obtaining information relating to his/her adoption, permitted by law to be communicated.

The post-adoption department provides counseling to the adoptive child and the adoptive individual/family in case of cancellation or annulment of adoption.

The post-adoption department analyzes the causes that have determined the cancellation or annulment of adoption and makes suggestions for the improvement of the activity of the adoption service or, as appropriate, of other departments.

Standard 15- Post-adoption monitoring - The post-adoption department tracks and monitors the evolution of the child and of the relationships with his/her adoptive parents for the entire duration indicated by law.

15.1 The post-adoption department keeps a record of granted adoptions subjected to the mandatory post-adoption tracking and creates a separate file for each individual adoption.

15.2 The post-adoption department provides the planning and coordination of interventions specific to each individual case.

15.3 The social workers of the post-adoption department pay, ex officio, quarterly visits to the home of the adopted child and create reports to this purpose.

15.4 The social workers pay visits to the home of the adopted child whenever notified about the occurrence of certain dysfunctionalities in the family or possible violations of children's rights and create reports to this purpose.

15.5 The post-adoption department collaborates, in the purpose of completing interventions specific to each individual case, with social workers from the adoption service and notify in writing to the manager of the legal entity in which it operates all situations requiring the cancellation or annulment of the adoption or the involvement of other institutions competent under the law to enforce measures exceeding its own competencies.



5. A) During 2001 – 2003 the provisions of G.D. no. 502/1997 were applicable. Art. 4 of the G.D. provided the basic attributions of the Romanian Committee for Adoptions;

a) achieves the centralized evidence of the children that can be protected by adoption based on the communications transmitted by the commissions for child protection in counties and in districts of Bucharest;

b) fulfills the legal procedures in view of identifying a family or some persons suitable for the adoption of each child registered in its evidence;

c) keeps the evidence of the requests of the families or persons who expressed their wish to adopt children and who are suitable to adopt;

d) adequately guides and supports these families or persons in view of developing the necessary procedure for adoption;

e) concludes collaboration agreements with public authorities in other states with attributions in the field of child protection by adoption, directly by the Ministry of Foreign Affairs, by exchange of diplomatic notes or letters;

f) authorises Romanian and foreign private bodies to develop activities in the field of child protection by adoption; guides and controls the activity of these bodies;

g) issues the confirmation that attests the respect of the terms and the accomplishment of the legal procedures, previous to the adoption approval;

h) transmits to the competent legal courts the requests of the families and persons who wish to adopt children registered in its evidence through the public services specialised in child protection or through authorized private bodies provided these requests are accompanied by the documents stipulated by the law;

i) participates in pending cases whose object is the solving of the requests regarding the approval of adoption;

j) assures a deontological control during the development of the procedures regarding the approval of adoption and takes measures in view of avoiding the approval of adoptions supposed to be a failure, of obtaining any material advantages and of any tentative of children traffic;

k) issues certificates that attests the adoption was approved under the provisions of the Convention regarding children protection and cooperation in the field of international adoption, concluded in Hague on 29<sup>th</sup> May 1993, based on the irrevocable order that approves the adoption of a child registered in its evidence by a person or family whose domicile is locate on the territory of other state;

l) makes its utmost in its relations with the authorities of the state whose citizen adopted a child registered in its evidence, so that he/she benefits of the guarantees and rules equivalent to those existing in case of national adoption;

- m) monitors the evolution of a child and his/her relationship with the adoptive parents during a period of at least 2 years since the approval of an international adoption;
- n) carries out other attributions in the field of adoption resulting of the legislative provisions in force, of the international treaties to which Romania is part or of the collaboration agreements concluded with public authorities in other states.

**a) Law no. 274/2004 On the establishment, organization and operation of the Romanian Office for Adoptions**

**Art. 5.** - In order to achieve its adoption objectives, the Office has the following functions:

- a) the state authority function, through which the enforcement of the adoption regulations and the coordination of the activity conducted by the public or private legal entities in this field is ensured;
- b) the representative function, through which, in the name of the Romanian state, the representation at local and international level in the field of adoption is ensured;
- c) the regulative function, through which the drafting of the necessary legal framework in view of the harmonization of the internal legislation in the field of adoption with the norms and principles stipulated by the international treaties and conventions to which Romania is a part, as well as in view of effectively enforcing them is ensured;
- d) the administrative function, through which the management of the public and private state domain goods, which the Office is administrating or, if the case, using is ensured.

**Art. 6. - (1)** The Office has the following main responsibilities:

- a) it represents the centralized record of the children for whom the adoption procedure has been approved, in accordance with the provisions of Law no. 273 / 2004 on the legal status of adoption;
- b) it keeps evidence of the requests of the families or individuals who have expressed their intention to adopt children and who are suitable to adopt;
- c) it properly advises and supports these families or individuals in view of conducting the procedure that is needed for the adoption;
- d) it concludes cooperation agreements with the central authorities of other countries, and with the authorized or accredited private organizations which have responsibilities in the field of adoption, either directly, or through the Ministry of Foreign Affairs, via an exchange of diplomatic notes or letters;

e) it authorizes the private foreign or national organisations to carry out activities in the field of adoption;

f) it recommends families of individuals who are willing to adopt to the general departments for social security and child protection;

g) it issues the notifications and communications stipulated by the Law no. 273 / 2004;

h) it monitors the evolution of the child and of his or her relationships with the foreign adopter or adoption family, for a period of at least 2 years from the approval of an international adoption procedure, through the competent central public administration or the accredited or authorized organization from the receiving state;

i) it forwards to the competent courts of law the petitions of the families or individuals who are willing to adopt children registered in its records, in the case of international adoption;

j) it participates in the ruling of the petitions for international adoption approval, which are currently being tried by the courts of laws;

k) it establishes the measures that are needed in order to avoid the approval of adoptions which are subject to failure, the attainment of any illicit material gains and of any tendencies of child trafficking;

l) it issues the certificates which attest the fact that the adoption was approved in accordance with the norms stipulated by the Hague Convention;

m) it makes the necessary demarches with the authorities of the state whose citizen has adopted a child registered in the Office records, so that the child may benefit from guarantees and standards which are equivalent to those that exist in the case of a national adoption;

n) it keeps a centralized record of all approved adoptions;

o) it prepares draft legal acts, norms and methodologies in the field of adoption;

**(2)** The Office carries out all other responsibilities in the field of adoption stipulated by the national legislation which is currently enforced, related to the treaties to which Romania is a part, or related to the cooperation agreements which the Office concludes with the public authorities of other states.

**(3)** – For the purpose of carrying out its responsibilities and of achieving the goal for which it was established, the Office cooperates with the Romanian and foreign public authorities, with the international organizations, as well as with the foreign legal entities which conduct activities in the field of adoption, on any issues of mutual interest.

**b) According to Law no.274/2004 the structure of the Romanian Office for Adoptions (ROA) is the following:**

**Art. 8.** -(1) The Office is led by a state secretary, appointed through a decision of the prime minister.

(2) The state secretary manages the entire activity of the Office and represents it in its relations with the Government, with the ministries and the other specialized institutions of the central public administration, with the local public administrations authorities, with other public institutions, as well as with private and legal entities, be they Romanian or foreign.

(3) **In exercising its responsibilities, the state secretary issues orders and instructions.**

**Art. 9.** - The structure of the Office includes a general secretary, who is a public clerk, appointed in accordance with the law.

**Art. 10.** - The Office personnel is made up of public clerks and contractors, who are appointed and respectively contracted in accordance with the law.

**GD no.1433/2004** on the approval of the organizational structure, of the maximum number of staff, and of the Organization and Operation Regulation of the Romanian Office for Adoptions (ROA) specifies that the structure of ROA consists of: the economic, legal and human resources service (made up of the financial-accounting department, the legal department, and the human resources and administrative department), and the adoption records office.

According to the law, a service is made up of minimum 7 staff and 1 management.

The persons within the legal department have the following attributions:

**art.8 para. 4)** The legal department has the following main attributions:

a) conducts surveys, analyses and documented papers regarding the opportunity of initiating or modifying normative acts, function of the phenomena appearing in the implementation of the legal regulations in force;

b) participates in the elaboration of draft legislation in the field of adoption;

c) makes proposals for solving problems resulted from the implementation of the adoption legislation;

d) endorses, from the point of view of the legislative technique and of the correlation with the provisions of other regulations, all the draft legislation initiated by ministries and central bodies regarding the regulation of issues linked to the scope of the Office;

- e) endorses the legality of civil and commercial contracts through which the patrimony accountability of the Office is engaged;
- f) ensures the representation of the Office in the relationship with common law and administrative litigations courts;
- g) participates in the organization and monitoring of the information actions regarding adoption legislation, through training courses, symposia, mass media;
- h) provides legal consultancy in the field of adoption for interested natural and legal persons and solves any other legal papers.

At present there are 2 legal counselors employed within the legal department at ROA, with legal graduate and post graduate education.

5. B) Under the provisions of art. 3 of G.D. no.502/1997, during 2001 – 2003 the structure of RCA was the following:

-(1) The Romanian Committee for Adoptions is composed of a President and 14 members, as follows:

- a) President – the head of the Department for Child Protection;
- b) 8 representatives of some ministries and other specialised bodies of the central public administration, a representative of The Ministry of Labour and Social Protection, The Ministry of Health, The Ministry of National Education, The Ministry of Justice, The Ministry of Internal Affairs, the Ministry of Foreign Affairs, The State Secretary for Persons with Disabilities and The Department for Local Public Administration, appointed by the their leaders.
- c) six representatives of local public administration:
  - the secretaries of local councils in every county which is on the first position in the five groups of counties mentioned in the annexe which is part of this decision. These will be replaced by the secretaries of local councils in the counties that have the coming position every 3 months, respecting the alphabetical order of the counties name.
  - the general secretary of the Hall of Bucharest

Art. 12 of the GD 502/1997 stipulates that (1) The administrative services as well as the current and secretary activity of the Romanian Committee for Adoptions is assured by the Permanent Secretary of RCA that functions in the framework of the Department for Child Protection. The regulation of

organization and function of the Permanent Secretary of the Romanian Committee for Adoptions is approved by the President of the Committee.

(2) The Permanent Secretary of the Romanian Committee for Adoptions prepares its meetings elaborating specialised rapports that present the issues and the requests submitted to the Committee as well as motivated proposals regarding the solutions.

(3) The Permanent Secretary of the Romanian Committee for Adoptions is lead by an executive secretary, public servant, appointed by the president of the Romanian Committee for Adoptions, employee of the Department for Child Protection (subsequently employee of the national authority for child protection and adoption)

6.1. During 2001 – 2003 the provisions of the Government Decision no. 245/1997 regarding the criteria of authorising the private bodies that develop activities in the field of protecting child 's rights by adoption

A) During 2001 – 2003 in accordance with G.D. no. 245/1997 the Romanian private bodies as well as the foreign ones were authorised by the Romanian Committee for Adoptions to develop activities in the field of protecting child's rights by adoption on the territory of Romania if they met the conditions provided in this normative act.

Regarding the “abilities and resources of RCA” during 2001 – 2003 we mentioned these in the answer to the question no.5 letters a) and b).

According to the law, an office is made up of minimum 5 staff and 1 management.

The persons within the adoption records office have the following attributions

**Art. 9. - (1)** The adoption records office has the following main attributions:

a) ensure the verification of the compliance to deadlines, procedures and documents specified by the adoption legislation in force;

b) ensure the records of the applications of persons or family wishing to adopt;

c) draw up and update the National Register for Adoptions;

d) ensure and monitors the implementation of the provisions of **Law. no. 273/2004** on the legal framework of adoption;

e) verify if the adoptee will benefit in the foreign country from the guarantees and norms equivalent to those existing in the case of an internal adoption;

f) communicate to the general directorates of social assistance and child protection the centralized list at national level of the adopting persons and families who are certified and registered in the National Register for Adoptions;

g) monitor the child's evolution and the relationships between the child and the adoptive parent(s) through the competent central authority or through the

accredited or authorized organization in the state of residence of the adoptive parents;

h) draw up the document certifying that the adoption is in accordance with the norms imposed by the Hague Convention;

i) centralize and send the post-adoption reports for the adopted children to the competent child protection commission;

j) support the adoptee in obtaining information regarding the identity of his/her birth parents, under the conditions of the law.

(2) The office specified under para. (1) performs any other tasks received hierarchically from the management of the Office.

At present there are 5 persons employed within the adoption records department at ROA, with legal and socio-humanities graduate and post graduate education.

B) During 2001 – 2003 a series of authorised private bodies were authorised by RCA:

Foreign authorised private bodies:

2001 – 31

2002 – 29

2003 – 33

Romanian authorised private bodies:

2001 – 69

2002 – 37

2003 – 28

C) During 2001 – 2003 the criteria of authorising the foreign private organizations were regulated by art. 4 in G.D. no. 245/1997 that stipulated: “Foreign private bodies that can be authorised to develop activities in the field of protecting child’s rights by adoption on the territory of Romania should meet the following conditions:

a) to be a legal entity in the origin states;

b) to have social residence on the territory of a state that ratified the Convention on the protection of children and cooperation in the field of international adoption concluded in Hague on 29<sup>th</sup> May 1993 or whose competent authority concluded collaboration agreements with the Romanian Committee for Adoptions;

c) to have as representative a Romanian legal entity authorised by the Romanian Committee for Adoption;

- d) to benefit of the consent or the authorization to develop activities in the field of protecting child's rights by international adoption from the competent authorities of the state where their social residence is located;
- e) to have non-working purposes in the conditions and limits fixed by the competent authorities of the state
- f) to be run and administered by qualified persons with moral integrity, professional training or experience in order to act in the field of international adoption;
- g) to be under the surveillance of the competent authorities of the state where their social residence is located regarding their structure, function and financial situation.

The Romanian private bodies were authorised by the RCA under art. 6 in G.D. no. 245/1997 that stipulated: "The Romanian private bodies that can be authorised to develop activities in the field of protecting child's rights by adoption should meet the following conditions:

- a) to be Romanian legal entities
- b) to develop non-working activities;
- c) the purpose of the activity noted in the status should be of protecting child's rights in accordance with the Romanian legislation provisions and of the U.N. Convention regarding child's rights and of other applicable international rules;
- d) the methodology of developing an activity in view of accomplishing the statutory objectives should be correct and adequate to the protection of child's rights;
- e) to have the material and human resources necessary to develop the activity;
- f) to benefit of multidisciplinary teams formed of competent professionals with experience in the activity of protecting child's rights;
- g) to be run and administered by qualified persons with moral integrity, professional training or experience in order to act in the field of protecting child's rights by adoption;
- h) the employed staff should not simultaneously develop other activity in the public area in fields related to the objectives of the private body;
- i) the employees should be obliged to keep the confidentiality of the information to which they have access regarding the adopted children and adopters.

D) During 2001 – 2003 the process of authorisation was the following under the G.D. no. 245/1997:

Art. 5 – (1) foreign private bodies that meet the conditions provided in art. 4 will address to the Romanian Committee for Adoptions in order to be authorised.



(2) The following documents will be annexed to the request of authorisation:

- a). the status, properly registered in the state where the social residence is located;
- b) the proving document of the personality and capacity of the applicant to develop activities in the field of protecting child's rights by international adoption issued by foreign competent authorities (consent or authorisation);
- d) documents regarding the organizational and staff structure;
- e) the list of the staff that will carry out services in the field of adoptions, including professional data;
- f) the description of the planned activities and of the working methodology;
- g) the commitment to present to the Romanian Committee for Adoptions only the requests of those families and persons that concluded an agreement (contract, agreement) with the private body regarding the post-adoption monitoring of the child by qualified persons during at least 2 years since the child entered the territory of the foreign state;
- h) the commitment to present to the Romanian Committee for Adoptions annual activity rapports in order to renew the authorization as well as periodical rapports at its request.

Art. 7. – The following documents will be annexed to the requests of authorisation addressed to the Romanian Committee for Adoptions:

- a) the status of the body
- b) the document proving the legal personality of the body;
- c) documents regarding the organizational and staff structure
- d) the list of the staff that will carry out services in the field of adoption including personal and professional data;
- e) the description of the planned activities and of the working methodology that guarantees the respect of the principles and rules in the field of adoption;
- f) a document that states the principles and the calculation according to which it will cash the expenses derived of the developed activities from the applicants to whom they will offer services;
- g) the annual budget of incomes and expenses indicating the amounts received from the applicants to whom the body will offer services in the field of adoption;
- h) a document stating that the financial surplus resulted from the encashment of the amounts mentioned at letter g), according to the account statement of the previous year constituted a funding meant to support the requests of adoption that cannot face all the expenses that derive of the adoption formalities;
- i) the commitment to present to the Romanian Committee for Adoptions annual activity rapports in order to renew the authorization as well as periodical rapports at its request.

D) During 2001 – 2003 the surveillance was done on the basis of annual activity rapports of the foreign private organizations and by periodical rapports requested by the Romanian Committee for Adoptions

According to art. 11 in G.D. no. 245/1997 “The Romanian Committee for Adoptions can decide the suspension or retreat of the authorisation, the limitation of the activities that were object of the authorisation as soon as the body stops meeting the demands and conditions provided in this decision, respecting legal rules or instructions of the Romanian Committee for Adoptions or does not comply any adoption file in 6 months since the authorisation was issued”.

5. C) Not applicable

5. D) Not applicable

5. E) Not applicable

5. F) Not applicable

5. I) Not applicable

5. J) During 2001 – 2003 the conditions of renewing the authorisation were provided in art. 10 in G.D. no. 245/1997 that stipulated: “The authorisation will be annually renewed following the analyse of the activity rapport of the applicant body during the previous year, rapport that will be presented to the Romanian Committee for Adoptions at least 30 days before the terms of the authorisation expires.

6. Foreign bodies authorised to fulfil intercountry adoptions

6.1. Law no.273/2004 - art. 69. ,, **(1)** The participation of private institutions in the international adoption procedure in Romania is forbidden. The prohibition also applies to their members or staff, with the exception of the case when they are in the position of adopter or adopting family.

**(2)** The Romanian authorities may cooperate in international adoption cases with private institutions which are conducting their activity on the territory of the receiving state, only if these institutions are accredited by the respective state and are authorized in accordance with the provisions stipulated under art. 43, paragraph (3).

**(3)** In case it is observed that the provisions stipulated under paragraphs (1) and (2) are violated, the National Authority for the Protection of the Rights of the Child must request to the court of law to dissolve the legal entity involved.

(4) The services and activities which can be conducted by the foundations, association or federations during the national adoption procedures are established through a Government decision.”

Art. 43. from Law no.273/2004 provides: – (3) The accredited organizations stipulated under paragraphs (1) and (2) must also be authorized by the Office, in accordance with the methodology approved through a Government Decision.. ”

We would like to mention the fact that according to the Romanian legislation in the field of adoption, the foreign private bodies are accredited by the authorities of the (foreign) receiving state and, in order to operate in the field of international adoption, they are authorized by the Romanian state through the Romanian Office for Adoptions.

**GD. no.1441/2004 on the authorization of private bodies to operate in the field of international adoption** is the normative act which regulates the authorization of the accredited foreign bodies.

6. A) According to **GD no.1441/2004 - art. 2.** – “The Romanian Office for Adoptions is the Romanian authority designated to authorize foreign private bodies with the headquarters on the territory of another state, which are accredited according to the legal provisions in the origin states”.

6. B) Since the 1<sup>st</sup> of January 2005, when the new legislation in the field of child protection and adoption entered into force, no foreign private organization has been authorized by ROA.

6. C) The criteria for the authorization of foreign bodies are specified under **art.3** of **GD. no.1441/2004**

**Art. 3.** – Foreign private bodies with the headquarters on the territory of another state, which can be authorized to cooperate with ROA in the field of international adoption have to fulfill the following conditions:

- a) to be legal persons legally set up in the origin states;
- b) to have the headquarters on the territory of a state which has ratified the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded at the Hague on the 29th of May 1993, ratified by Law no. 84/1994, or the authorities of which have concluded cooperation agreements with the Office;
- c) to be accredited by the competent authorities of the state where they have the headquarters, in order to operate in the field of international adoption;

**d)** to follow non lucrative purposes, under the conditions and within the limits established by the competent authorities of the state where they have their headquarters;

**e)** to be led and managed by qualified persons, from the point of view of their moral integrity, professional training and experience, in order to operate in the field of international adoption;

**f)** to be under the supervision of the competent authorities of the state where they have their headquarters, with regard to their structure, operation and financial situation.”

The criteria for the authorization of foreign bodies are specified under art.3 of GD. no.1441/2004

Art. 3. – Foreign private bodies with the headquartes on the territory of another state, which can be authorized to cooperate with ROA in the field of international adoption have to fulfill the following conditions:

**a)** to be legal persons legally set up in the origin states;

**c)** to have the headquarters on the territory of a state which has ratified the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded at the Hague on the 29th of May 1993, ratified by Law no. 84/1994, or the authorities of which have concluded cooperation agreements with the Office;

**c)** to be accredited by the competent authorities of the state where they have the headquarters, in order to operate in the field of international adoption;

**d)** to follow non lucrative purposes, under the conditions and within the limits established by the competent authorities of the state where they have their headquarters;

**e)** to be led and managed by qualified persons, from the point of view of their moral integrity, professional training and experience, in order to operate in the field of international adoption;

**f)** to be under the supervision of the competent authorities of the state where they have their headquarters, with regard to their structure, operation and financial situation.”

**6. D)** The processus for authorization is the following:

**art. 4. of GD no.1441/2004** “**(1)** Foreign private bodies which fulfill the requirements specified under art. 3 will address the Office for authorizing.

**(2)** The following documents will be enclosed in the authorization application:

**a)** the status, adequately registered in the state where the headquarters is;

b) the document certifying the legal personality and the applicant's capacity to operate in the field of international adoption, issued by the competent foreign authorities (agreement/authorization/accreditation);

c) documents regarding the organizational structure and the staff;

d) background of the performed activities and recommendations from partners as well as from the supervisory foreign authority;

e) list of staff who will perform services in the field of international adoption, with professional data;

f) description of planned activities and work methodology;

g) commitment to submit to the Office only the applications of those persons and families with whom the respective body has concluded an agreement (contract, understanding) regarding the post-adoption monitoring of the child by qualified staff for a period of at least 2 years since the child's entry on the territory of the foreign state;

h) commitment to submit to the Office annual activity reports for the renewal of the authorization, as well as regular reports upon its request;

i) commitment to submit to the Office quarterly post adoption monitoring reports requested by the latter;

**Art. 5.** – The Office can request additional information which it may consider appropriate and pertinent for solving the authorization application, from the competent authorities of the origin state.

**Art. 6. - (1)** Following the analysis of the submitted application, the Office will authorize the applicant foreign private authority for a period of one year, if the conditions specified under the present decision are met, as well as those imposed by the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, concluded at the Hague on the 29th of May 1993, and/or by the bi-lateral cooperation agreements in the field of adoption.

**(2)** The application will be solved by the Office within 30 days from the registration date, deadline which can be extended by 30 days at the most, if the documentation needs to be completed.”

6. E) Not applicable

6. F) The supervision is done based on annual activity reports of the foreign private bodies and the regular reports requested by the Office.

According to **art.8** of **GD no.1441/2004** “Function of the gravity, the Office can decide to suspend or to withdraw the authorization when it notices that the foreign private body no longer meets the requirements imposed by the present decision, the legal norms in the field and the commitments made”.

6. G) Not applicable for the moment

6. H) Not applicable for the moment

6. I) Not applicable for the moment

6. J) The conditions for the renewal of the authorization are specified under art. 7. of GD. no.1441/2004 – “The authorization can be renewed annually following the submission of the documents mentioned under art. 4 and the analysis of the activity report of the applicant foreign private body for the preceding year, report which will be submitted to the Office at least 30 days before the expiry deadline of the authorization”.

6. K) Not applicable for the moment

6. M) We consider that standard accreditation guidelines would assist countries in developing appropriate safeguards/procedures.

6.2. During 2001 –2003 the foreign bodies were authorised to fulfil intercountry adoptions

Since the 1<sup>st</sup> of January 2005, when the new legislation in the field of child protection and adoption entered into force, no foreign private body has been authorized by ROA.

6.2. A) The necessary steps for the authorization procedure and the applicable legal framework have been explained above.

6.2. B) As mentioned before, the supervision is done based on annual activity reports of the foreign private bodies and the regular reports requested by the Office. According to **art.8** of **GD no.1441/2004** “Function of the gravity, the Office can decide to suspend or to withdraw the authorization when it notices that the foreign private body no longer meets the requirements imposed by the present decision, the legal norms in the field and the commitments made”.

6.2. C) Not applicable for the moment

6.2. D) Not applicable for the moment

6.2. E) Not applicable for the moment

6.2. F) Romanian legislation in the field of adoption does not regulate and does not use the notion of “recognized persons or bodies”, only the notion of “authorization” is used for foreign private bodies and the notions of “accreditation” and “licensing” for Romanian private bodies.

7. Procedural aspects

7.1. Not applicable for any letter.

7.2. During 2001 –2003 the provisions in art. 11 in G.D. no. 25/1997 were applicable. They stipulated “the requests of the persons or families whose domicile or residence is located on the territory of other state and wish to adopt will be transmitted to the Romanian Committee for Adoptions only by the central authority that act in that state in the field of children protection and cooperation in the field of international adoption or by private bodies authorised by this and by the Romanian Committee for Adoptions. Default of a central authority the requests will be transmitted to the Committee only by the public authority in that state, with attributions in the field of adoption that concluded collaboration agreements with the Committee or by the private body authorised by this or by the committee.

7.3. Not applicable

7.4. Not applicable

7.5. We believe that such a recommendation would be useful.

7.6. During 2001 – 2003 as well as now-a-days the AND testing is used as a proof in establishing the paternity of the child.

8.1. A) Not applicable

8.1. B) Not applicable

8.2. Not applicable

9. Recognition and effects

9.1. During 2001 – 2003 the provisions in art. 20 in E.G.D. no. 25/1997 were applicable. They mentioned: "In case of the adoption of a child by a person or a family whose domicile or residence is located in other state on the basis of the irrevocable order the Romanian Committee for Adoptions will issue a certificate to attest that the adoption is according to the provisions of the Convention on the children protection and cooperation in the field of international adoption concluded in Hague on 29<sup>th</sup> May 1993.

„Based on the irreversible adoption approval decree, the Office issues a certificate which attests that the adoption is in accordance with the norms of the Hague Convention, within 3 days from the date of being informed about the adoption decree.”

Provisions regarding the certificate of conformity are specified under chapter.VI of GD no.1435/2004 on the approval of the Methodological Norms for the implementation of Law no. 273/2004 on the legal framework of adoption

**Art. 40.** – The document which certifies that the international adoption approved by the Romanian court is in conformity with the provisions of the Hague Convention is an authenticated paper and is issued by the Office.

**Art. 45. - (1)** The certificate is issued upon the request of the adopting family or person.

**Art. 47. - (1)** The certificate specifies the fact that the adoption has been done in conformity with the provisions of the Hague Convention, mentions who and when has given the agreements specified under art. 17 letter. c) of the Hague Convention, as well as the fact that the adoption has as effects the breaking of the filiation and kinship relationships between the child and the child's birth parents, and the child's relatives respectively, thus being a full effects adoption.

**(2)** The Office will also send a certified copy translated into the foreign language to the central authority or accredited foreign body in the receiving state.

We would like to mention the fact that the certificate of conformity is not used by the courts in Romania; it is issued by ROA after the court decision to approve the adoption has become irrevocable.

The format of the certificate is specified under annex 3 of GD no.1435/2004 on the approval of the Methodological Norms for the implementation of Law no. 273/2004 on the legal framework of adoption



9.2. Not applicable

9.3. Not applicable

9.4. Not applicable

## 10. Payment of reasonable charges and fees

10. 1. During 2001 –2003 the provisions in G.D. no. 245/1997 were applied. Art. 12 provided: “The Romanian private bodies authorised to develop activities in the field of protecting child’s rights by adoption can cash only the necessary amounts for solving the requests regarding the adoption from those who are interested.

Law no.273/2004 art. 67. – „**(1)** The Office takes all measures that are necessary, in accordance with the provisions of the Hague Convention, in view of preventing unlawful profits, be they financial or of a different kind, which may be achieved as a result of adoption, and in order to discourage any practice contrary to the objectives of this convention and of the present law.

**(2)** The Office establishes an exclusive flat tax, which is based on the maximum costs corresponding to all services provided for the completion of the international adoption procedure, with the exception of those regulated through special laws.

**(3)** The tax stipulated under paragraph (2) is divided by expense categories and is approved through a Government decision.

**(4)** The payment of the tax is made by the adopter or by the adopting family via a bank transfer to the Office and to the central authority or the accredited or authorized organization from state of domicile of the adopting parents. The taxes charged by the Office become incomes to the state budget within 5 days from the date they are collected”

GD no.1436/2004 on the breaking down into categories of expenditures of the single and fixed tax for the services provided by ROA in fulfilling the international adoption procedure on the territory of Romania specifies:

**Art. 1.** – Upon submission of the international adoption application, the grandparent or grandparents, respectively, will pay a single and fixed tax representing the amount of the expenditures due to the provision of the international adoption services by ROA on the Romanian territory.

**Art. 2. - (1)** The expenditures due to the provision of the international adoption services by ROA on the Romanian territory take into account the following costs:

**a)** costs of notifying the foreign central authorities and private bodies, embassies, consular sections, other Romanian and foreign institutions and authorities, Romanian and foreign natural and legal persons, with regard to every stage and information regarding the international adoption procedure;

**b)** costs regarding the issuing and the flow of documents regarding the adoptable child: birth certificate, health certificate, evidence of adoptability, psycho-medical-social report, other documents issued by the general directorate for social assistance and child protection during the international adoption procedure;

**c)** costs of taxes and fees paid for authorized translation and certification of the documents specified under letters a) and b), as well as the post taxes for the correspondence with foreign central authorities and private bodies, embassies, consular sections, other Romanian and foreign institutions and authorities, Romanian and foreign natural and legal persons.

**(2)** The single and fixed tax is established based on the maximum costs specified under para (1), by order of the president of ROA.

**Art. 3. - (1)** The payment of the amount mentioned under art. 1 will be done by bank transfer into the account of ROA.

**(2)** Following the confirmation of the transfer, ROA will start the international adoption procedures.

**Art. 4. –** The tax received by ROA will become revenue for the state budget within 5 working days from its reception.

We would like to mention that until now the amount of the single and fixed tax has not been established.

Yes, the information regarding the amount of the single and fixed tax will be accessible for the grandparent or grandparents, respectively.

10. 2. Not applicable

10. 3. Not applicable

10. 4. Not applicable

10. 5. Not applicable

10. 6. Not applicable

10. 7. The tax received by ROA will become revenue for the state budget

10. 8. Not applicable

10. 9. Not applicable

11. Improper financial gain

During 2001 –2003 the provisions of art. 26 in G.D. no. 25/1997 were applicable. They provided: “(1) The deed of the parent, tutor or legal protector of the child who pretends or receives for himself or somebody else money or any material advantages in view of adoption of the child is punished by prison from 1 to 5 years. (2) The deed of the person who intermediates or facilitates the adoption of a child is sanctioned with the same punishment provided in paragraph (1). (3) The money, value and any other goods received will be confiscated and if those cannot be found the person who committed the deed is obliged to pay their equivalent in money.

11. 1. Law no. **273/2004** :

**Art. 70. - (1)** If the parent or the legal representative of a child requests or receives, either for himself/herself or for another individual, money or other material profits, given in return for the adoption of the child, they face a punishment of 2 to 7 years in prison and deprivation of certain rights.

**(2)** The same punishment is given to the individual who, without having any such right, intermediates or facilitates the adoption of a child, for the purpose of gaining material profits

**art. 68. -** Donations and sponsorships are forbidden, and so is the offer coming from the adopter or the adopting family, either in their own name or through intermediaries, either directly or indirectly, to provide any unlawful material profits to the Office, to the departments involved or to the physical persons working in the public institutions involved in the adoption process.

11. 2. Our institution does not have the competence to monitor and to analyze the results obtained following the enforcement and execution of sanctions.

11. 3. We don't know.

11. 4. Not applicable

11. 5. Not applicable

11. 6. Not applicable

12. Relative adoptions

12. 1. No

13. Children with special needs

13 According to the Romanian legislation in the field of adoption, the same regulations, the same legal framework applies for children with special needs as for all the other children; no legislative derogations are specified for this category, according to the principle specified under art. 6 letter. **b)** “equal opportunities and non-discrimination” of Law no.272/2004 on the protection and promotion of the rights of the child, which entered into force on the 1<sup>st</sup> of January 2005.

14. Other forms of cross-border child care

14. 1. The Romanian legislation does not regulate “the international placements of children, others than those having as aim the adoption”.

14. 2. Not applicable

14. 3. Not applicable

15. Avoiding the Convention

15. Not applicable

16. Additional safeguards and bilateral arrangements

16. a) Not applicable

16. b) Not applicable

17. Limits on number of States with whom co-operation is possible

18. No, Romania manifests its availability to cooperate in the field of international adoption.

19. We prepare a project that aims to develop the supporting services before and post adoption for the adopting families. This project will assure the human, material and financial resources for the development of these services, including the adequate training of the involved professionals in view of increasing the quality of the services offered to the adopting families. In order to implement this project, ROA has in view the identification of some international funding as there are no internal financial resources for financing such project.

20. We suggest the following themes for the future Chapters in the Guide of Good Practices:

- the possibility to achieve the practical matching between the child and the adopting foreign family
- concrete modalities of supporting the families and the adopted children in case of failure of an international adoption
- aspects related to the difference of age between the child and the adopting family
- the initial and continuous training of the staff at all levels with attributions in dealing with the adoption cases.