

- **Petition 2468/2013 [REDACTED] on the practice of forced adoptions in the United Kingdom.**

The petitioner calls for the European Parliament to look into the matter of "forced adoptions" in the United Kingdom. "Forced adoption" is a term used by concerning the practice of removing children permanently from their parents, without due process or consent and the subsequent adoption of those children, following intervention by the local education authority in the United Kingdom. The government of the United Kingdom states that children are only removed and adopted out without parental consent when it is in the child's best interests to do so. However, the practice of "forced adoption" has drawn significant criticism from various quarters, including MPs and MEPs amongst others. In this context, the proponent would welcome the outcome of a "national apology" from the UK government

**Information:**

- Several other petitions have been received on this issue including 1707/2013, considered as an urgency during the March 2013 Committee meeting

**Recommendations**

- Declare admissible;
- consider with Petitions 1707/2013 and 2287/2013 and others

Or. en

## **Petition 2468/2013**

**Petitioner Fullname** [REDACTED]

**Nationality** [REDACTED]

### **Title**

NATIONAL APOLOGY for forced adoptions (UK)

### **Document**

NATIONAL APOLOGY are asking for a active debate in the European Parliament to discuss the found evidence and relevent submissions related to (forced adoptions) based on fictional opinion in the UK.

HER MAJESTY THE QUEEN has acknowledged and responded to this plan which entails stopping all

UK adoptions and to reverse the british government plan to forms of illegal save over £1BLN in foster care fees which in my view is gross underestimated and therefore work towards returning up to 6,000 children back to their birth parents and or relatives by a matter of human rights urgency.

Supporting this case is active listed at the Royal Court of Justice and a request for activation to the Supreme Court on academic grounds and archived at the International Criminal Court in the Hague.

NationalApology@groups.facebook.com technical have 500 x 200 x 200 international members.

Yours sincerely - [REDACTED]

## **Petition 2468/2013**

### The Petition

Annexed to the petition is the reply of 17 July 2014 of MP Edward Timpson the Parliamentary Under Secretary of State for Children and Families to a 3 July 2014 letter written by Erminia Mazzoni on behalf of the Committee on Petitions on the alleged discrimination of authorities responsible for children's social services. MP Timpson clarifies that according to law, children should live with their parents wherever possible. In situations where a child is identified as suffering, or at risk of suffering, significant harm, the local authority has a duty to intervene to undertake child protection enquiries and to take action to safeguard and promote the child's welfare. Mr Timpson stresses that the ultimate decision to remove a child from his or her family rests with the court, and that they are independent and outside of government or local authority influences, and offers the Committee his assurances that the welfare of the children is the paramount consideration in any decision.

### The Commission's observations

As already recalled during the meeting of the Petitions Committee on 19 March 2014, the Commission is aware of the specificity of the adoption policy in the United Kingdom. The UK maintains a policy of adoption without parental consent as one of the possible care options for children without appropriate parental care. Adoption without parental consent is not prohibited under the UN Convention on the rights of the child or the UN Guidelines for the alternative care of children.

There is currently no European Union legislation on adoption, which is regulated by national laws and by some international Conventions.

Under the Treaties<sup>1</sup> on which the European Union is based, the European Commission has no general powers to intervene with the Member States. It can only do so if an issue of European Union law is involved.

The facts described by the petitioner relate to interventions by the relevant UK authorities on issues of parental responsibility and decisions on adoption as well as the placement of a child in foster care. However, EU law as it currently stands - notably Regulation (EC) No 2201/2003 ('the Brussels IIa Regulation') - only governs issues of jurisdiction and of recognition and enforcement of judgments given in another Member State. In particular, the granting of custody and visiting rights, the arrangement for their exercise and the role of the social and child protection authorities are not governed by EU law. Moreover, this Regulation explicitly excludes adoption from its material scope of application.

Finally, in individual cases, concerned parents should seek redress at the national level through the competent national authorities. It is possible to invoke the Charter of Fundamental Rights of the European Union only where Member States are implementing EU law, which is not the case here for the above mentioned reasons. In the absence of any link with EU law, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations. In case the parents concerned believe that the cases of

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<sup>1</sup> Treaty on European Union and Treaty on the functioning of the European Union

adoption without parental consent may imply a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (for instance Art.8- Right to respect for private and family life), they may wish to address the European Court of Human Rights, after having exhausted all the domestic remedies available in UK and within six months of the domestic decision becoming definitive.

The Commission does not have competence on issues of child protection systems, nor the power to urge Member States to issue "national apologies" for alleged misconduct in this remit.

### *International standards on child protection/adoption without parental consent*<sup>2</sup>

Bearing in mind international standards, the Commission underlines the importance of clear and evolving guidance to social workers and child protection workers on measures to safeguard the child's rights and in particular the child's best interests. On 15 December 2014, the Commission wrote to the UK authorities asking for clarifications in general terms on safeguards in place to avoid discrimination against non-UK EU parents and their children, on safeguards to guarantee the best interests of the child, on information provided to parents and children on the role of social services, on situations where the use of English might be imposed during access visits, or the use of other languages prohibited, etc. A response is still pending.

In England, when a child is taken into care the local authority must seek a care order from the court. The court must be satisfied that the child is not receiving the care it would be reasonable to expect from a parent and that this lack of care is causing the child significant harm. An appeal against the care order can be made within 21 days. Once a care order is made, the child (and where possible the parents) and the local authority must agree a written plan to meet the child's needs. This includes making arrangements for contact with parents, relatives and friends. The attached link gives details on the procedures for taking a child into care in England and Wales:

[http://www.adviceguide.org.uk/england/relationships\\_e/relationships\\_looking\\_after\\_people\\_e/children\\_and\\_local\\_authority\\_care.htm](http://www.adviceguide.org.uk/england/relationships_e/relationships_looking_after_people_e/children_and_local_authority_care.htm)

International standards do not preclude recourse to adoptions. Adoption without parental consent is one of the options for children without parental care, and it may be the best option for some children. The best interests assessment must be done on an individual basis, and the child's right to be heard must be respected. For countries that do not permit adoption without parental consent, children whose parents cannot care for them may spend their entire childhood in institutions and/or in foster care, often with multiple placements. In line with the Convention, adoption may be an appropriate long-term solution for a child.

#### Article 24 Charter:

Children shall have the right to such protection and care as is necessary for their wellbeing. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular

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<sup>2</sup> UN Guidelines for the alternative care of children

The Handbook for implementing the UN Guidelines (Cantwell et al (2012))

basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her best interests.

Article 3 UNCRC – best interests of the child shall be a primary consideration (apart from adoption where it shall be the paramount consideration). In determining the best interests of the child, the rights and legitimate interests of any other party (e.g. parents, other individuals, bodies or the state itself) should be taken into account. When a best interests decision has to be made between various appropriate and viable options for a child, it should in principle favour the solution considered to be the most positive for the child – immediately and in the longer term. Any final decision should be thoroughly compliant with all other rights of the child.

Article 7.1 UNCRC The child [...] as far as possible, has the right to know and be cared for by his or her parents.

Article 8.1 UNCRC States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.

Article 9.1 States parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

Article 16.1 No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

Article 18 UNCRC: States...recognise both parents have common responsibilities...States parties shall render appropriate assistance to parents in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children. States parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19 UNCRC – States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 21 on adoption – for adoption, the best interests of the child must be the paramount consideration.

*UN Guidelines for the alternative care of children regulate alternative care up to an adoption decision:*

The necessity principle (Is alternative care genuinely needed?) – includes prevention components around poverty, stigmatisation, discrimination, parent education, family support measures. Gatekeeping: ensure that children are admitted to alternative care only if all possible means of keeping them with parents or extended family have been examined. Discourage recourse to alternative care, (gatekeeping, parental support, prohibit recruitment of children for placement in care, eliminate system for funding care settings that encourage unnecessary placements and/or retention of children in alternative care. Reviews of placements on a regular basis.

The suitability principle – (if it is necessary to remove a child from parental care, ensure care is provided in an appropriate manner) – individual, case by case assessment, matching child's needs with one from a range of options. Priority should be given to family and community-based solutions, although residential care solutions are sometimes the most appropriate (e.g. if a child has been damaged in a negative family environment and cannot cope with a family). Formal minimum standards, e.g. compliance with human rights obligations, full access to basic services, adequate human resources, promote and facilitate appropriate contact with parents and or other family members, protect children from violence and exploitation, mandatory registration procedure for care providers, care providers cannot have primary goals of a political, religious or economic nature, establish an independent mechanism carrying out regular and unannounced visits. Ensure that the care settings meets the needs of the child: Foresee a full range of care options, assign gatekeeping tasks to qualified professionals, require the care provider's cooperation in finding an appropriate long-term solution for each child. Care settings must be reviewed on a regular basis.

#### Commission activities in the area of child protection

In recent years the Commission has targeted funding under the rights of the child priority (Fundamental Rights and Citizenship Programme 2007-2013 and Rights, Equality and Citizenship Programme 2014-2020) at capacity-building for judicial and other practitioners (such as child protection professionals) and professionals on child-friendly justice and the child's right to be heard. When designing funding priorities, international standards are referenced to ensure that EU funding serves to better implement standards in Europe, namely the UN Convention on the rights of the child, the Council of Europe Guidelines on child-friendly justice and the UN Guidelines for the alternative care of children.

At a global level, more and more focus has been put on the need for a systems approach to child protection, to ensure that the system meets the needs of all children, rather than targeting systems at specific groups of children. With this in mind, the 2015 European Forum on the rights of the child will focus on coordination and cooperation in integrated child protection systems, recalling key EU and international standards that guide our work.

#### Conclusion

Based on the elements provided in the petition, the Commission cannot pursue this case, as the matter falls outside its competence.