



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE

Directorate C: Fundamental rights and Union citizenship
Unit C.1 : Fundamental rights and rights of the child

[REDACTED]

09 SEP. 2014

Brussels,
JUST/C1/[REDACTED]/[REDACTED](2014)s3201892

Mr [REDACTED]

[REDACTED]
[REDACTED] Sofia
BULGARIA
[REDACTED]

Dear Mr [REDACTED]

Thank you for the letter you sent to Commissioner Reicherts on 12 August 2014.

In your letter you explain the difficulties you have been facing with regard to Bulgarian adoption procedures. You request the European Commission to intervene with the relevant Bulgarian authorities to improve legislation relating to the national adoption process.

As much as it saddens me to read about the circumstances of your case, I must inform you that under the Treaties¹ 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. On the basis of the information provided in your letter, it does not appear that the matter to which you refer is related to the implementation of European Union law.

The facts described in your letter concern primarily Bulgarian authority procedures for reaching decisions on adoption. 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 existing judgements in another Member State. Moreover, this Regulation explicitly excludes adoption from its material scope of application.

For this reason, I have to inform you that it is not possible for the European Commission to follow up on your individual case.

¹ Treaty on European Union and Treaty on the functioning of the European Union

In such cases, 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. As you mention, you are currently seeking redress at the national level through the competent national authorities, which is the appropriate course of action.

Should you have concerns over potential cases of child trafficking, however, please note that the EU has adopted Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. In recital 11 thereof it is stipulated that "the definition also covers trafficking in human beings for [...] illegal adoption or forced marriage in so far as they fulfil the constitutive elements of trafficking in human beings". The European Commission is currently assessing the implementation of this Directive in all EU Member States and will bear in mind the issues you raise. However, the Bulgarian authorities are responsible for implementation of the Directive. Should you wish to contact the responsible anti-trafficking authorities in Bulgaria, you can find all relevant information on the EU Anti-Trafficking Website: <http://ec.europa.eu/anti-trafficking/National+Rapporteurs/Bulgaria/>

In more general terms, however, I can inform you of the fact that recently the Commission has launched two public consultations which may be of interest to you.

On 10 April 2014 the Commission launched a public consultation on child protection systems in the EU. Through an online public consultation (<http://ec.europa.eu/eusurvey/runner/EU-guidance-on-integrated-Child-Protection-Systems>) which ran until early July, the Commission sought to consult a wide range of stakeholders on a variety of issues concerning the functioning of child protection systems. The aim of the consultation is to feed into the development of guidance for Member States on integrated child protection systems and to provide information on EU legislation and policies relevant to these systems.

The Commission also launched a public consultation on the review of the abovementioned Brussels IIa Regulation (<http://ec.europa.eu/eusurvey/runner/BXLIIA>) which ran until mid-July.

I would invite you to consult the reports resulting from these public consultations, which will be published in the coming months, as they may provide relevant information on the functioning of child protection authorities in Bulgaria.

Yours sincerely



to:

Eurocommissioner Martine Reicherts

and:

Mrs. [REDACTED]
member of cabinet

ref: signal of trade with Bulgarian orphans

date: 12.08.2014

Dear Madam Eurocommissioner, Dear Mrs. [REDACTED],

My name is [REDACTED]. I am a [REDACTED] citizen, living in Bulgaria with my wife and 5 year old daughter. Our wish to adopt a small boy from an orphanage in Sofia has lead us to a series of scandalous discoveries.

With this letter I want to ask your attention for the fact that in Bulgaria children, orphans, are being sold on a massive scale. The laws in Bulgaria are being bent and manipulated in such way, that couples, unable to have a child of their own, are inevitably forced into paying large amounts of money to be granted a child for adoption. For several months we are fighting against this practice, but from the side of the government we find few allies on our way. This vile system of corruption is very profitable to a small circle of corrupted officials and they are very reluctant to give up their business.

Please help us.

My wife worked as volunteer in an orphanage for newborns and young children in Sofia. In the end of November of last year, a new baby arrived. He was very ill upon his arrival. At three weeks old he had endured a very intensive medical treatment for syphilis. He was infected as unborn baby, by his mother. He is the 5th or 6th child that his mother has left behind. The start of his life is a very long and sad story, but I will not elaborate on that. I may not disclose his name as well, so I will call him Fynn.

Very few workers in the orphanage wanted to even touch the little boy, afraid of contracting syphilis themselves. Apart from the specialized professional staff in the orphanage, only my wife took care of him during the first months. She fed him, bathed him, cuddled him and played with him – very much as she would do with her own child.

As you understand there has grown a very strong emotional bond between the boy and my wife. Realizing that his illness, although said to be cured, may have a very serious impact on his later life and that he might need special care, we decided to file for adoption. From this moment our little daughter and I, joined my wife on many

occasions to help in the orphanage. It is clear that we all have grown to love this little fellow very much.

The Bulgarian law allows us for applying for adoption of a particular child, when there is an existing emotional bond or when the child has health problems. In our case, the two requirements apply. So, we got all documents together, went to courses and interviews and finally filed the paperwork. We were informed that we were approved as adoptive parents and that we were listed in the database of candidates for adoption. We now had to wait. Our request to adopt Fynn is part of our file. If the interest of the child are taken at heart, we should easily qualify as the best candidates to adopt our little boy. If not, matching Fynn to future parents, by Bulgarian law, is a random affair. In practical terms, however, Fynn will most probably go to the highest bidder.

At the moment when the different institutions understood that we wish to adopt the boy, things became very grim. We understood that the helpless children in the orphanages are just merchandise. The best buyers seem to be the volunteers that are lured into this scrupulous trade, many of them willing to pay a high price for the child they have come to love.

It was made very clear to us, on many occasions, that if we want to adopt this child, we would have to pay. We would have to pay to the commission, or committee, that decides on the fate of these helpless children, in order to "select" us as the most suitable parents for Fynn. This fee was initially set to 10.000 Euro, but was quickly raised to 15.000 Euro, being the cost for a son of one of the people involved in the scheme, to study at the university of Tilburg in Holland. Obviously they decided that we might be able to raise that amount of cash. Right from the start we have been clear on the fact that we will absolutely NOT pay money to adopt a child. Not now, not ever.

Although I have been working in Bulgaria for many years, own several businesses and have to fight corruption on a daily basis, I was physically sick of the brutality of this practice. It took some time for my wife and myself to get our emotions together and we decided that we will stop this trade at any cost.

We started to file letters, signals and complaints on the 15th of July to every possible institution that has the power to stop or at least investigate these practices. Until now the only firm result we booked, is that in less than one hour after filing the first letter, my wife received a phone call with the message that she was no longer welcome in the orphanage as a volunteer. Therefore we haven't seen Fynn since the 15th of July.

During the last couple of months we have established contact with dozens of other victims of the trade with babies in Bulgaria. Two girls in our office have the one and only task to trace these people and record their stories. It turns out that Bulgarian orphans are being sold on a massive scale, with the price increasing if parents have additional requirements; boy or girl, new born baby or a bit older, black or white. With most parents being ethnic "white" Bulgarians, the only children that are free of charge are the ones that are clearly of Roma decent, have health problems and are difficult to "place in the market".

It also became clear in the process that the institutions in Bulgaria free feel to tamper with the medical files of the children, to make them more fit to some requirements some adoptive parents may have.

Another shocking discovery we made is that many orphans are being retained in the hospital where they are born, for several weeks. It surprised us that such high percentage of the newborns are diagnosed with all sort of illnesses. We learned from a nurse, working in one of the hospitals where a lot of these children are born, that doctors claim medical treatment from Bulgaria's collective health insurance, based on non existing illnesses. They write a false diagnoses, reimburse the maximum amount possible for medicines and treatment and release the babies at approximately three weeks. In the name of privacy for the children, hardly any information is made available to the public and the people involved in this scam feel very well protected. There is hardly any mechanism to protect the rights of these infants. It is a downright moral catastrophe.

It all comes down to a vile corruption structure that has carefully been engineered in 2003, when the new law on adoption came into force.

The main problem is that the matching between potential adoptive parents and children is done, exclusively by a commission of 6 or 7 "experts", completely behind closed doors. Every region in Bulgaria has its own commission; the different commissions review the different cases depending on the area where the children are registered.

The commission consists of a chairman, mostly a chairlady, as the children business in Bulgaria is dominated by women, a doctor, a psychologist and other "experts". They do the matching based on the files of the children and the parents that have filed for adoption. Based on the personal profiles, they decide who adopts who. Their decision is final and they do not owe responsibility to anybody. Other than the director of the social services - Mr. [REDACTED] - and the minister of labor and social affairs, there is nobody that has a mandate to interfere in the work of the commission.

The commission members do not change. For instance, the chairlady of the commission in Sofia, Mrs. [REDACTED], has ruled her commission for more than 10 years now.

In Bulgaria, such close and protected environment is a guarantee for shameless corruption.

Mr. [REDACTED], the director of the whole social services network and as such boss of Mrs. [REDACTED] and all her colleagues, refuses to meet with us. His secretary, Mrs. [REDACTED], informed us that, after our written complaints, they had conducted an investigation and came to the conclusion that all procedures have been strictly obeyed, with Fynn and all other children that were matched to their adoptive parents in general. In short: they have no idea what we are talking about. She told me in an extremely rude manner, at the end of our phone conversation, that she noted that we prefer to adopt a child with health problems of unknown decent (this is a technical term for a child of Roma decent). She would make sure that we the commission would find us a very suitable candidate.

Mrs. [REDACTED] – the director of the Sofia adoption commission – did speak to us. We went to her office without prior notice and she had not so much choice other than sit down and listen to us. She was extremely rude, informed that she was very familiar with our case and that there was no chance that we were going to adopt Fynn. The reasons were that Fynn, according to her, was healthy as a fish, syphilis not being a serious illness and easy to cure. She was also quite firm in her statement that she was sure that they would other parents for Fynn, better suited than us. She could tell us in advance, that our request to adopt Fynn would not be honored in any case. Little children would attach themselves to anybody showing warmth and care. We should know that 8 month year old child are not yet able to develop an emotional bond to anybody. We were flabbergasted.

Since then we have undertaken two things.

I have requested the minister of Justice and the Prosecutor General of Bulgaria to explain to me, if there is any mechanism that would waive adoptive parents of prosecution, that have paid money for a child in the past. Many of the parents we spoke to – and that have given money for a child – feel that corruption has two sides. They feel that, although they did pay out of despair and because they were being racketeered, corruption has two guilty sides. I have no answer yet, but if such waiver can be produced, the door is open for a sheer endless list of witnesses to testify against the people that sell Bulgaria's children. Now, without a guarantee from the ministry of justice or the prosecutor general, many parents are reluctant to testify.

Secondly we are speaking to lawyers and professionals that have been working with orphans in Bulgaria and who have been witness to many adoption procedures. We are working on a proposal for a new law that should make the adoption process, and the matching process in particular, more transparent, fair and corruption proof, with the child's interest on the first place.

It is the wish of my family, and the wish of many adoptive parents in Bulgaria, that you please help us to make ourselves heard and apply pressure on the Bulgarian government to work with us on better legislation.

I would be happy to come to Brussels and explain our case in detail; there is so much more to be explained.

I hope to hear from you soon.

Sincerely,

[REDACTED]

[REDACTED]
[REDACTED] Sofia – Bulgaria

[REDACTED]

[REDACTED]