



27.6.2014

NOTICE TO MEMBERS

Subject: Petition 1707/2013 by Sabine Kurjo McNeill (German), on behalf of Association of McKenzie Friends, on Abolition of Adoptions without Parental Confirm (forced adoption) over 2500 supporters

1. Summary of petition

The petition is a part the campaign, not an individual case. The organiser is the Association of McKenzie Friends, located in London, which is a voluntary organisation campaigning to stop forced removal of children from their parents. Several petitions similar to this are on-going parallel. The petitioner is listing a number of issues, where she has identified problems or illegal actions, such as the family courts, police, the care business, social services, psychology and psychiatry, and hospitals and schools.

2. Admissibility

Declared admissible on 13 June 2014. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 27 June 2014

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 is known for a continuing high rate of domestic non-relative adoptions, most of which now involve adoption from the childcare system of children with “special needs”. A majority of these are adopted without the consent of the birth parents. In these respects the pattern of domestic adoption in the UK is much more like the United States than mainland Europe, where the level of domestic adoption tends to be low and there are legal barriers to adoption

without parental consent.

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

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.

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.

The Commission has recently launched a public consultation on the review of the abovementioned Brussels IIa Regulation (<http://ec.europa.eu/eusurvey/runner/BXLIIA>) which will also run until mid-July 2014.

Finally, 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. The concerned parents should seek redress at the national level through the competent national authorities.

In case the parents concerned believe that the cases of 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.

Conclusions

In the light of the above, it is not possible for the European Commission to follow up on this issue.

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