



22.1.2010

NOTICE TO MEMBERS

Subject: Petition 0402/2008 by by Pavlina Radkova (Bulgarian), on a dignified existence for her handicapped child

1. Summary of petition

The petitioner, who has a handicapped child requiring round-the-clock care, indicates that she does not wish to place the child in care. She wishes him to realise his potential as far as possible, enabling him to care for himself. However, he is not receiving the necessary expert medical care because it is too expensive. There is also a lack of infrastructural and educational facilities. The petitioner takes the view that the attitude being taken by the authorities is contrary to the fundamental rights of the child, such as the right to life, well-being, development and education. The petitioner refers in this connection to Articles 24 and 35 of the Charter of Fundamental Rights. She maintains that no attention is given in Bulgaria to the problems of those with handicapped children and is therefore placing her hopes in the European Parliament.

2. Admissibility

Declared admissible on 23 September 2008. Information requested from Commission under Rule 192(4).

3. Commission reply, received on 22 October 2008.

She maintains that no attention is given in Bulgaria to the problems of families with children with disabilities.

The responsibility for child protection, social inclusion of children, the administration of child-care and organisation of education lies with the Member States. Member States remain responsible to take measures to ensure the full enjoyment by people with disabilities of the

right to education. The Commission does not have a direct competence to investigate the situation.

The Charter of Fundamental Rights is not yet legally binding. For the Charter to become binding, the Lisbon Treaty needs to enter into force. Furthermore the scope of application of the Charter will then extend only to the limits of competences already conferred upon the Community by the Member States in the Treaties.

However, the Commission, even though not directly competent, cannot be and has not been indifferent to such serious social problems. In the particular case of Bulgaria a significant improvement of the situation of children in care homes has been one of the objectives of pre-accession assistance given by the EU. In cooperation with the Bulgarian authorities substantial progress has been made but the Commission is aware that still more remains to be done. Therefore the Commission works within its competences and through a variety of means in cooperation with Member States to achieve independent living and high quality social services for people with disabilities throughout the European Union

The European Social Fund (ESF) supports projects to promote independent living, in particular community-based services for people with disabilities near their place of residence, including rural areas; for example through modernising systems and mechanisms especially staff training. It also supports replacement of existing closed institutions with quality services and housing within local communities (so-called 'de-institutionalisation'). The Commission welcomes the decision of Bulgaria to allocate 10 million € as part of the ESF-funded Human Resources Development Operational Programme to improving the quality of social services in long-term care institutions for children and young people with disabilities.

More generally, the Commission is a strong proponent of independent living for people with disabilities. A recent study¹ financed by the Commission on the development of services in the community for people with disabilities in Europe confirms that institutional care is often of unacceptably poor quality and that conditions in institutional care may sometimes constitute serious breaches of internationally accepted human rights standards. The study also shows that Community-based services, when properly established and managed, can deliver better outcomes in terms of quality of life and ensure that disabled people can live as full citizens. Services in the community are not more expensive than institutional care provided the needs of residents and quality of care are taken into account in calculating the costs.

Furthermore, the Commission promotes the exchange of information and good practice between Member States as part of the open method of coordination in the field of social protection and social inclusion. In this context, the Commission welcomes the establishment of bilateral cooperation between Member States, as is the case between Bulgaria and other EU Member States in the field of social protection of children with disabilities.

Also, the European Community and all of the Member States, including Bulgaria, are among signatories of the United Nations Convention on Rights of Persons with Disabilities, expressing commitment to comply with its provisions. In this context, it would be important to point at Articles 7, 19, 23, 24 and 25 of the Convention, which contain provisions on the

¹ http://ec.europa.eu/employment_social/index/7002_en.html

rights of children with disabilities, right to independent living, respect for home and family, education and healthcare. The Convention provides that States Parties shall ensure an inclusive education system at all levels and lifelong learning without discrimination and on the basis of equal opportunities. Once Bulgaria ratifies the Convention, it will also be legally bound to comply.

The responsibility for child protection, social inclusion of children, the administration of child-care and organisation of education lies with the Member States. Member States remain responsible to take measures to ensure the full enjoyment by people with disabilities of the right to education. The Commission does not have a direct competence to investigate the situation; however the Commission works within its competences and through a variety of means in cooperation with Member States to achieve independent living and high quality social services for people with disabilities throughout the European Union.

4. Further Commission reply, received on 22 January 2010.

Since its previous communication, the Commission has continued to work within its competences and through a variety of means in cooperation with Member States to achieve independent living and high quality social services for people with disabilities across the EU.

In February 2009 an "Ad Hoc Expert Group on the Transition from Institutional to Community-based Care" was convened by Mr Vladimir Spidla, Commissioner for Employment, Social Affairs and Equal Opportunities. The goal was to bring together expertise on all different categories of users of institutional care who are usually dealt with separately: persons of all ages with disabilities (including persons with mental health problems), the elderly, and children. On 23 September 2009, the Ad Hoc Expert Group handed over to Commissioner Spidla a Report, which identifies key challenges on the transition from a system based on care provided in large residential institutions to one based on services provided in the community. The Report contains a set of specific recommendations to the Member States and the Commission on how to support this transition.

One of the recommendations is to promote the use of the EU Structural Funds for the development of community-based services.

In Bulgaria, under the Operational Programme "Human Resources Development" co-funded by the ESF, the Bulgarian government is financing several actions especially targeted on children with disabilities:

- In 2007, 10 million euro have been allocated for the period 2008-2011 to an operation called *Better future for children*, which has so far included 199 children with disabilities. The overall aim of this operation is to stimulate the provision of alternative-to-institutionalisation services offered by public and non-public providers of social services in Bulgaria.
- In 2009, further operations have been launched and implemented: *Social services for social inclusion*, which targets children at risk of institutionalisation and their families (budget of €4 million); *Capacity for planning of alternative services to support children and families*, (budget of €450 000), aiming to improve the planning capacity for child and

family policies, to strengthen the institutional capacity of the State agency for child protection, and to increase the professional capacity of staff working in institutions for children; *Social entrepreneurship – support for social enterprises*, with 52 children with disabilities to be targeted under the already signed contracts; *Social assistant* and *Family assistant*, that so far have provided services to 486 individuals; *Personal assistant*, with a first phase providing this service to 1343 children with different degrees of disabilities, and a second phase to be launched in 2010; *Supporting the education of children and pupils with special educational needs*, with an ongoing call for proposals targeting 2400 children.

Moreover, in early 2009 the European Commission has launched a collaborative exercise with the Bulgarian government, as a parallel initiative to the work of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care, aiming at facilitating the deinstitutionalisation process in Bulgaria. As a result of this initiative, the Managing Authority of the Bulgarian Operational Programme Regional Development has earmarked 20 million euro for investments in pilot actions as part of the de-institutionalisation process for parentless and disabled children. Currently the Bulgarian authorities are preparing a call for proposals for de-institutionalisation which will be financed by both the ERDF (European Regional Development Fund) and the ESF (European Social Fund). The call for proposal is expected to be launched in January 2010. A number of initiatives have been organised to support the preparation of the above-mentioned pilot action, namely:

- An international workshop which took place on 23-25 September 2009 in Bulgaria, with the aim to identify the way forward. The conclusions covered the actions needed to be taken at central government level, in order to modernise the policy sector and to strengthen the de-institutionalisation process.
- The workshop "Leaving No Child Behind, Structural Funds support for institutional care reform", held on 6 October 2009 in the framework of the 2009 REGIO Open Days event, and organised by DG Regional Policy and DG Employment, Social Affairs and Equal Opportunities, in cooperation with leading international NGOs. During the workshop, the representatives of the Bulgarian administration confirmed their commitment to the de-institutionalisation process by describing in details the steps already taken and the projects underway.
- Two study visits on 9-13 November 2009, for Bulgarian representatives who will be involved in the preparation and the implementation of the call for proposals. They will visit relevant social services in the United Kingdom and the Czech Republic to get hands on experience with the de-institutionalisation in both countries.

Finally, on 30 October 2009 a working group has been established in Bulgaria at deputy ministerial level for the overall coordination of the de-institutionalisation process and with the task of preparing an action plan for de-institutionalisation of children. .

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