



27.1.2016

NOTICE TO MEMBERS

Subject: Petition No 2147/2014 by Jos Aalders (Dutch), on registration of paedophiles in Europe

1. Summary of petition

The petitioner advocates the creation of a European agency for the registration of paedophiles who have come into contact with the law. The petitioner argues that the parents of children in Europe have the right to know whether a paedophile lives in their neighbourhood. According to the petitioner, such a registration system already exists in the United Kingdom and the United States, and could also be introduced in the European Union. The petitioner claims that criminal paedophiles often reoffend and that they should not be given a second chance. Since life imprisonment is not an attainable objective, the registration of paedophiles would in any case increase the safety of children.

2. Admissibility

Declared admissible on 3 July 2015. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 27 January 2016

The Commission shares the concerns about convicted child sex offenders abusing children again after they serve their sentences.

Indeed the Commission took this concern into account in the impact assessment it carried out to propose a Directive on child sexual abuse in 2009. The Council and the Parliament were also aware of the need to limit the risks of recidivism by convicted offenders.

The resulting Child Sexual Abuse Directive 2011/93/EU includes a number of elements to tackle this concern:

- Member States are obliged to ensure that convicted child sex offenders can be subject to disqualifications (Article 10.1);
- Member States are obliged to ensure that employers, when recruiting a person for professional or organised voluntary activities involving direct and regular contacts with children, are entitled to request information of the existence of criminal convictions or disqualification for child sex abuse (Article 10.2)
- Member States have to ensure that the EU Scheme for exchange of criminal records (ECRIS) functions effectively between Member States for the purpose of those background checks and that information on child sex offence convictions is shared between national criminal registers, so that convicted offenders do not get a clean criminal certificate by simply going to a different country (Article 10.3).
- Member States have to ensure that persons who fear that they might commit any child sex offence (even without being convicted and before the offence happens) may have access to effective intervention programmes or measures designed to evaluate and prevent the risk of such offences being committed (Article 22)
- Member States have to ensure that every convicted offender for child sex abuse, child sexual exploitation or child pornography is subject to an assessment of the danger that they present and the possible risks of repetition of any of the offences with the aim of identifying appropriate intervention programmes or measures. They are also obliged to make those intervention programmes available to all convicted offenders (Article 24).

During the negotiations on the Directive, the European Parliament and the Council discussed the possibility to oblige Member States to create national registers on child sex offenders. The discussions took account of the fact that the experience with this sort of registers was limited to few Member States in the EU. In addition, it was evident to co-legislators that the creation and functioning of those registers raised sensitive issues with regard to the reintegration into society of convicted offenders and data protection issues, which required a careful analysis of all the interests at stake and which needed further consideration. The final agreement resulting from those discussions concluded that it was not appropriate at that moment to establish a EU-wide obligation to set up registers of child sex offenders, while recognising the potential contribution of this tool to protecting child victims from sexual assault and recognising that Member States may consider setting them up. Recital 43 reads *“Member States may consider adopting additional administrative measures in relation to perpetrators, such as the registration in sex offender registers of persons convicted of offences referred to in this Directive. Access to those registers should be subject to limitation in accordance with national constitutional principles and applicable data protection standards, for instance by limiting access to the judiciary and/or law enforcement authorities.”*

The Commission does not consider that this consensus is likely to change in the near future.

Conclusion

With this in mind, the Commission does not intend at present to table proposals in order to set up registers of child sex offenders, be it at national or EU level.

Instead, the Commission will continue monitoring the implementation by Member States of their obligations under the Directive, including the prevention measures to counter recidivism

of convicted offenders. The Commission intends to adopt an implementation report in 2016 which will also take into account recent legislative changes carried out by Member States. Some of those changes introduce child sex offender registers. The Commission will also follow with interest the experiences of those Member States and on that basis may give new consideration to this measure in the future.