



EUROPEAN PARLIAMENT

COMMITTEE ON PETITIONS

DELEGATION VISIT TO BERLIN FROM 21-23 MARCH 2007

Summary of meeting with German authorities concerning the 'Jugendamt-Petitions'

Background

The petitions

The Committee received a number of petitions (for instance 38/2006, 712/2006, 713/2006, 848/2006, 849/2006, 1008/2006) concerning alleged discrimination by the German authorities against the respective non-German parent in separated mixed marriages during contact with their children. The petitioners state that the problem of discrimination arises from actions by the German youth welfare offices (Jugendämter) which make it difficult or indeed impossible for the non-German spouse to have contact with his/her child. In particular, the petitioners criticise that when they meet with their children, supervisors of the Jugendamt check whether the parent is talking to the child in German, and in the event that either the child or the parent speaks in a language not understood by the supervisor (for instance Polish), they interrupt the conversation. Furthermore, the officials allegedly threaten non-German parents that failure to obey their orders will lead to a ban on contact between the parent and the child. The Jugendamt maintains that *'from the professional pedagogical aspect, it is not in the child's interests for meetings with an accompanying official to take place in a foreign language. It is beneficial for the child to develop German as his/her language, since he/she is growing up in this country and is or will be attending school here'*. The petitioners are requesting the European Parliament to intervene in the matter. The same request has been forwarded to the chairman of the Committee on Petitions in the form of an online petition launched by CEED (Conseil Européen des Enfants du Divorce), signed by French, British, Belgian, Polish, Austrian, South African, American and Australian citizens.

Petitions Committee's action so far

By letter of 27.04.2006 Marcin Libicki, Chairman, asked the Permanent Representative of Germany, Ambassador Wilhelm Schönfelder, to forward the committee's deep concern regarding the issue to the competent German authorities



and to ask them to provide information on the reasons for the actions referred to by the petitioner. Ambassador Wilhelm Schönfelder replied by letter to Marcin Libicki of 11.07.2006). A first exchange of view with the participation of three petitioners took place on 30.01.2007. A written reply from the European Commission had not been provided before the meeting, but the position of the Commission was presented orally by Mr Aristotelis Gavriliadis, DG Justice, Freedom and Security, who underlined that the German authorities may have infringed Articles 12 and 14 of the EC-Treaty and the European Convention of Human Rights.

Meeting with German authorities in Berlin

Introduction

On 22 March 2007, a delegation of the Petitions Committee met with representatives of the German Government in Berlin to discuss the allegations made by petitioners against the Jugendamt. The meeting took place from 14h00 to 15h20 in the premises of the German Bundestag.

The following participated in the meeting from the European Parliament's side: Marcin Libicki (Committee Chairman), Inés Ayala-Sender, (Member of the Committee), David Lowe (Head of Committee Secretariat), Hannes Kugi, (Committee Secretariat) and Szymon Szykowski (Assistant to Mr Libicki). A number of petitioners' representatives were also present: Ingo Nawrath (German Parents' Association), Stefan Hambura (petitioner's legal representative) and Beata Pokrzepowicz (petitioner). The German authorities were represented by Dr. Reinhard Wiesner (Ministry of Families, Youth and the Elderly) together with his assistant and Andreas Hilliger (Ministry of Education Youth and Sports of the Land Brandenburg).

Summary of meeting

First, the floor was given to Mr Nawrath, who gave a general account of his critical views on the performance of the youth welfare authorities. He believes that the officials are usually not capable of dealing with the multiple tasks they are charged with, such as taking care for neglected children on the one hand and assuming certain duties in relation to child custody procedures on the other. He also criticised that the German youth welfare authorities cannot be held accountable for their decisions and operate intransparently and without being subject to supervision. Ms Pokrzepowicz outlined her own experience with a youth welfare authority in North Rhine-Westphalia. She reiterated the allegations she made in her petition to the EP, namely that the officials had forbidden her to use Polish, when talking to her child. She regards this as a clear case of discrimination, adding that the ban of Polish would make her child perceive part of its cultural identity debased. She claimed that the Jugendamt had since banned her from meeting her child. Mr Hambura said that a lack



of linguistic proficiency within the youth welfare authorities would not be a valid excuse as it would be easy for the Jugendamt to arrange the presence of Polish speaking person. He also claimed that a number of criminal proceedings have been brought against Jugendämter for child abduction.

For the German authorities, Mr Wiesner took the floor first. He stressed that the issue of discrimination should not be seen in isolation but in the context of the concept of 'the welfare of the child'. He then explained the history and organisation of the German youth welfare offices, which exist since 1922. The actions criticised would relate to a minor part of the overall duties assumed by these authorities, which also comprise social activities in the fields of child and youth welfare. Mr Wiesner then outlined the legal context, stressing that decisions in legal custody battles are taken by family courts. In such cases, youth welfare offices are usually asked by the courts to give their opinion. When the judge rules that a parent can only see a child if the latter is accompanied by a third person, the ruling would specify the accompanying person and other details such as use of language, etc. He expressed the view that a parent, who lost before court would inevitably be disappointed and (subjectively) feel misunderstood by both the court and youth welfare authorities. However, if, for instance, the youth welfare office would not provide interpretation contrary to a ruling, this could be challenged before court.

Mr Hilliger explained in detail the division of competences between different levels of government. At federal level, the Ministry of Justice is responsible only for certain questions in relation to international conflicts about child custody. The Ministry of Family, Youth and the Elderly has certain responsibilities to coordinate the work of the 'Jugendämter' at Federal level. However, the Länder retain competence for legislation and jurisdiction in family matters, whereas the youth welfare offices are run autonomously at local level. Mr Hilliger and Mr Wiesner pointed out that the approximately 500 Jugendämter generally perform at a high standard despite their difficult tasks. They admitted that certain shortcomings cannot be ruled out in few complex individual cases. This is starting to be tackled by the regional governments by way of enhanced training for officials.

In concluding, Mr Libicki underlined that the Petitions Committee had been approached by numerous petitioners, which suggests that the problem is likely to go beyond individual cases. He and Ms Ayala stressed that the Committee focuses on the subject of compliance by German authorities and courts with EU law. The Committee would be keen to ensure that EU law which prohibits discrimination is respected in each individual case. On the other hand, the administrative structures and division of competences between different levels of governance would be an internal matter for Germany. Mr Libicki expressed hope that the German authorities would co-operate to resolve the problems raised by petitioners and announced that the issue will be revisited at a forthcoming meeting of the Petitions Committee to which he would invite representatives of the German government. Finally, Mr Libicki thanked all participants for their contributions.