

Veřejná ochránkyně práv
Public Defender of Rights
Mgr. Anna Šabatová, Ph.D.

Brno, June 10, 2014
PDC.J: 1643/2014

Dear Mrs Lindboe,

I am turning to you in my capacity of the Czech ombudswoman in a matter of a case concerning the situation of two Czech minors residing in Norway, specifically the brothers L. and M.

The Norwegian body for social and legal protection of children (Barnevernetjenesten) removed the children from custody of their parents in May 2011 and placed them in temporary foster care based on a criminal report alleging suspected sexual abuse. On February 8th, 2012 a Commission for Social and Legal Protection of Children at Regional Office for Buskerud and Vestfold deprived the parents of their parental rights and awarded the mother visitation rights in the extent of four hours twice per a year. Both parents appealed the decision.

After the above decision was adopted the brothers were separated and each of them placed in a different foster family.

The District Court for Eiker, Modum and Sigdal by its decision of July 4th, 2012 deprived the parents of custody rights and did not award the mother any visitation rights. The parents again appealed the decision. The Appellate Court by its decision dated March 4th, 2013 affirmed the decision of the court of first instance. The mother was awarded visitation rights in the extent of two hours twice a year. The mother filed an application with the Supreme Court but the Supreme Court dismissed the application as inadmissible on May 21st, 2013 and held that the case would not be heard by the Supreme Court.

The mother thus filed an application with the European Court of Human Rights on November 25th, 2013 (the Application is maintained as M. vs. Norway, application no.).

I feel it necessary to mention that the investigation of the alleged criminal offence was terminated in January 2013 and no actual sexual abuse or torture of children was confirmed.

Each state from the point of international law represents a sovereign subject that sets its legal standards based on customs applicable in its territory. I am fully aware of the unquestionable fact that the boys have been growing up in the Kingdom of Norway and thus the interference by the Norwegian bodies for protection of children and thus the matter having been assessed and tested pursuant to the Norwegian national law.

Aside its sovereignty the Kingdom of Norway, however, is bound by obligations following from international treaties, conventions and covenants. I would like to mention those following from the Convention on the Rights of the Child, specifically its Article 3 (principle of the best interest of the child), Article 5, Section 1 (right to respect extended family ties), Article 8, Section 1 (inter alia right to respect the nationality and family relations) and Article 9, Section 3 (right to maintain personal relations and contact with both parents on regular basis).

I am not to question the court decision, that primarily is the authority of the courts, currently of the European Court of Human Rights. I cannot, however, without any further actions, accept the fact that (based on information available to me) the boys were separated from each other and that their contact with their mother is reduced to a bare minimum and contact with their grandfather who was repeatedly seeking visitation rights is entirely barred.

I am of the opinion that within the framework of social and legal protection of children it would have been possible to work with the family in an early and effective manner so that the boys would be reared together, so that the contact with their mother would have been more frequent and also contact with extended family enabled.

Unfortunately, rather than that, the reality is different and the children are deprived of ties with each other, with their parents and extended family. The negative impact of such separation only deepens through passage of time and may lead to irreparable damage to the relationships and namely to the personalities of children.

I turn to you directly since you act in the capacity of a body of protection of child the task of which is inter alia to ensure compliance of the Norwegian law and it's enticement with the Convention on the Rights of the Child [§ 3 letter b) Act No 5 of March 6, 1981 establishing the institution of Children's Ombudsman].

It is not within my powers and possibilities to undertake long distance verifications and assessment of the Norwegian authorities, namely of the Barnevernetjenesten that as the first body having decided on the removal of the children from the custody of their parents. My goal is not in the slightest to initiate or cause confrontation. I would, nevertheless, appreciate very much if the case was proceeded with in a positive manner and ways and paths would be found how to respect rights of the children, namely to intensify their contact with their biological family.

I shall look forward to hearing from you with utmost anticipation.

With kind regards,

For the Attention of
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