

From a translation into German of part of a video of a press conference by the EU Petitions Committee chaired by Marcin Libicki on the 20th January 2009 in the European Parliament in Brussels. The press conference was held to introduce a working report on the results of a review of the German Jugendamt, based on more than 250 internal petitions calling for the abolition of the Jugendamt or the introduction of a competent supervisory authority to oversee the actions of the Jugendamt.

The Polish translation was carried out for Dr. Karin Jäckel by Gregor Miklis, state certified and sworn translator and interpreter.

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Google-Video document: Jugendamt – Brüssels: **DEUTSCHLAND DISKRIMINIERT (GERMANY DISCRIMINATES)**.

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Accompanying text (menu „details“) – from a translation into German:

(Please note: Jugendämter is the plural of Jugendamt in German. This refers to the fact that each city or district has its own Jugendamt).

The arbitrariness and non-observance of human rights by German Jugendämter must be halted. This is the basic message of a 10-page document by the Petitions Committee of the European Parliament, dated 19th January 2009.

On 20th January 2009, at a press conference in Brussels, the Committee related that there were irregularities and problems, with regard to EU laws, in the actions of Jugendämter, reporting that there were cases of discrimination in Germany. The behaviour of the Jugendämter as national-political watchdog over families, whilst simultaneously acting as plaintiff, professional expert, litigant and executive organ of the courts – and all this without any supervision or checks and balances, without any possibility to file a complaint about the actions of the Jugendämter – should lead to the immediate abolition of this system, which originated with the Nazis and in the East German state under Erich Honecker.

The Petitions Committee suggested that Germany establish a system of checks and balances for the Jugendämter. If the German government shows no reaction, stronger pressure will have to be exerted.

<http://www.tvn24pl/-1.1582421.0.1.ue-zabiera-sie-za-jugendamty.wiadomosc.html>

Press Conference – translation into English from German (based on translation from Polish):

[Film starts. The film does not show the beginning of the press conference. Therefore, only the visible and audible sequences of a film clip are translated. Where some parts are not clearly understandable, the sense of what is being said is presented in square brackets.]

Marcin Libicki ... some of these scenarios.

As you know, the Petitions committee has been studying the actions of the Jugendämter for some years now. During this time, many complaints have come in, not just from Germany, but from other European countries as well. Consequently, the document – which is based on cases between Germans and foreigners – does not just concern Germany; these are issues in which other EU countries also have an interest.

The impetus for the Petitions Committee to become active in this matter was provided by the accusation by many petitioners that they were discriminated against on the basis of language – thus also national - grounds, with regard to contact with their children after their German-foreign and, in particular, German-Polish, marriages ended in divorce (however, I would like to emphasise that this did not just apply to Polish parents and the other party was not, in every case, German).

German courts, as well as the Jugendämter that implement the courts' decisions, are of the opinion that the well-being of the child is better served if he or she is brought up in **one** culture and with **one** language, which is the German language.

Such an approach infringes the laws of the European Union, which assumes the equality and equal treatment of all nations.

[Those present] have been presented with a document by the Petitions Committee in this regard. (Anyone who has not received it, is welcome to collect a copy. There are still some left over.) This is our "Working Document".

It is not a report in the strict sense of the word, as reports are documents that are prepared for a plenary session. To outline its work and to thereby clarify the associated problems, the Committee compiles working documents. Thus, you have in front of you just such a working document in various language versions: in German, English, French and Polish. In time it will be translated into all the other languages of the EU (and those of the Petitions Committee).

The Petitions Committee has already been active in this matter for a long time: a few years ago, my representatives took part in a meeting with Prof. Wiesner, a highly-placed official in the Ministry for Families, Seniors, Women and Youth. We have also met with the Petitions Committee of the German Federal Parliament – including another meeting with Prof. Wiesner. I corresponded with the Minister Ursula von der Leyen on this matter. Naturally [our] Petitions Committee has frequently discussed it with the petitioners, who were represented by the lawyer Stefan Hambura and are also present in this room.

The Petitions Committee established beyond any doubt that there have been cases of discrimination. I can confidently use the term "beyond any doubt", as this was admitted by the representative of the German government who was present at the meeting, as well as by the representative of the European Commission.

With respect to this situation, the Petitions Committee is of the opinion – as you can see from the document in front of you – that, to improve the state of affairs – firstly – it is necessary that the Jugendämter...that means at first, it is necessary for this nationally caused discriminatory practice to end.

However, to effect an improvement of the present situation, the Petitions Committee maintains that there should be clear and, through legal means, strongly regulated guidelines for the activities of the Jugendämter. The Jugendamt must not be allowed to act in a totally arbitrary manner. At this moment I would just like to remind you that the Jugendamt implements court decisions but simultaneously – by monitoring contacts between children and their divorced parents – also draws up expert opinions for the courts.

According to the parents who have been affected by this – and the Petitions Committee shares this opinion – in this regard, the rights and duties of the Jugendämter have not been outlined clearly enough.

As we have already noted, it goes without saying that the particular languages of both parents should have equal status. Now, however, it has come to my notice – this case is not in the papers you have been given, as it occurred outside the Commission's area of activity and a complaint has not formally been laid – that, in a dispute between two parents living in Germany - one of whom is Italian and the other Polish - the Jugendamt has insisted on German being spoken to the child during parental visits. This is occurring in a situation where the German language has no relevance to the child's familial relations, except for the fact that the child is in Germany.

It is very important that the Jugendämter inform parents about their rights. According to the parents – and the Commission agrees that this is the case – when they come into conflict with the Jugendamt, they have no idea what rights they have. Thus, we have, on the one hand, a parent in an exceptionally difficult personal situation and on the other, a department that – as I have already noted – has no clearly defined guidelines and does not even inform the parents of the current ones.

And now, ladies and gentlemen, I am now going to bring something up that I think seems to be of great importance: We are of the opinion that the actions of the Jugendämter should be subject to stringent supervision.

It is not really clear where the responsibility for supervising the Jugendämter currently lies.

When we met with the Petitions Committee of the Bundestag in Germany, we were told that the Jugendämter fell under the individual German federal states. However, although the Jugendämter are financed by the states, they are not under their control. At the same time, the co-operation between the Jugendämter and the courts rests on the remarkable assumption that the Jugendamt is simultaneously both the advisor of the court and its executive organ.

Ultimately, the Jugendämter are under practically no supervision, which is not a desirable situation for institutions in a democratic state.

We are also of the opinion that Germany must find a solution in order to enable democratic supervision of the Jugendämter. Whether this, now, is the task of the Petitions Committee of the Bundestag, the Bundestag itself or of the parliaments of the individual states is something that has to be decided in Germany.

We do maintain, however, that such supervision is necessary.

Furthermore, it seems necessary to us – and this is also something that we have written about – for there to be a kind of institutionalised form of co-operation between the institutions responsible for care and education of children in the member states; that [in disputes] the intervention of the European Parliaments or an embassy should not be necessary as a first resort, but that these should be mediated within the framework of institutionalised co-operation by the relevant institutions in the member states; that the institutions of the individual member states should be capable of clarifying the issue amongst themselves.

I would now like to give the floor to Mr Hambura, who is a lawyer, so that he can also state his point of view. After that, we will be happy to respond to your questions.

Stefan Hambura: Thank you very much, Mr Chairman.

For my part, I would like to express my thanks, on behalf of the petitioners, for the effort that the Petitions Committee has put into its very in-depth investigation of the cases that are being presented here. You can see from the documentation, that there are various groups of people, different types of parents, who have suffered: those from marriages between Germans and foreigners, Germans married to other Germans, or just people who happen to be under German jurisdiction because they are currently on German soil. The actions of the Jugendämter have also harmed children and their parents in cases such as these.

I hope that this is the first, and by no means the last, step to finally sorting out this issue in Germany. This is a problem that needs to be clearly regulated and this is not something that can be achieved by either the federal government or the representatives of the individual German states attempting to give mere explanations.

Now we know that human rights have been violated here: the rights of each person, of the child, of the parent, of all children and all parents.

I think that we have come to the right place here, as the Petitions Committee has the task of ensuring – which it has done – that such human rights violations do not occur again.

Thank you very much.

Marcin Libicki: Ladies and gentlemen, we are now at your disposal. You may fire away with your questions.

[Question in German]: I would like to know why this is a working document and not a report that is also discussed in a plenary session?

Marcin Libicki: I'm sorry, but I have no German translation [of your question]
[The question is translated by Mr Hambura]

Marcin Libicki: Some time ago, the Petitions Committee requested the European Parliament to hold a plenary discussion. The leadership of the Parliament did not allow the request for a discussion in a meeting of members of Parliament. In this context, the Petitions Commission, acting within its competence, decided to issue its own document on the situation that it had dealt with.

Are there any further questions? There is no interpreter, but Mr Hambura can assist us...

[Question in English]: I would like to know how many petitions came to you? You said the number was high, but...

Marcin Libicki: I am very sorry, but there is no Polish interpretation...Now it's working again.[English] Can you repeat it?

[Question in German]: How many petitions have you actually received? That's what I really want to know. You speak of a large amount. I only know one document, regarding the Pomorski case, from 2006.

Marcin Libicki [Polish]: It is really difficult to give an exact answer here. Some petitions describe a number of cases, other petitions were signed by a number of complainants. We think...Excuse me for a moment...Yes, we received 250 petitions.

[Question in Polish – very bad sound quality, so part of the question has been reconstructed from the context]: The issue of human rights in the European Union was already discussed in a report at the Tribunal in Strasbourg and you suggested certain amendments regarding this issue, which were, however, rejected. Do you maintain, with this state of affairs, that the European Parliament has the potential to make an impact or are you getting strong resistance?

Marcin Libicki: I would like to say this about the significance of the document: Institutions of the European Union have the means to exert gentle pressure. They do not have the use of – and this is a good thing – sheriffs of the court, police or military to enforce their decisions. The only thing at their disposal is political pressure.

This method is, however, quite effective, because the Union functions – somehow. The effects are also measurable and in this concrete regard, too, we have received feedback from parents who have been involved in this issue for three or more years...and they are noticing that – as the lawyer, Mr Hambura also affirms – attitudes are changing. This does not mean that they have changed in the concrete case of a particular child and its particular parents. However, today the attitude towards the issue is already somehow different.

During my official meetings and talks in this matter in Germany, we met with full understanding.

I am also of the opinion that this document will serve as a particular tool for exerting political pressure, that it will acquire its own momentum. And even if we are formally winding up the work on a petition in this moment, this certainly does not mean that we are going to stop keeping an eye on this matter.

The significance of the documents also lies in the fact that it is part of the Petitions Committee's field of activity. In the last year we received a total of 1 900 petitions. Our work thus also involves making our position known to governments, institutions; thus, we exert political pressure.

As far as the voting last week in Strasbourg is concerned: there was an amendment that was introduced by MEP Szymanski and me. It was aimed at stating the particulars [of our findings] in the report on human rights. This amendment failed to make it through the vote, but more than 100 people voted for it and more than 60 people abstained.

I think that when it comes to responses by European institutions, it is extremely important to see how the vote was spread: This was an amendment that was either supported or not rejected by nearly 200 people. This result was not a satisfactory one for us, but, to a certain degree, this result indicates the readiness of much of the public opinion to amend the report on human rights, which was a very general report, [with this issue of ours]. Unfortunately this amendment was not successful.

Is there strong resistance against it in the European Parliament? I would put it like this: the fact that the European Parliament was not prepared to hold a debate on this matter indicates a certain resistance.

However, the fact that the Petitions committee has issued a working document, as it is entitled to – because the Petitions Committee is not entitled to issue any reports with the authority of the European Parliament as a whole - ... so I would say, that within the Petitions Committee there was only isolated resistance of a formal nature; as far as the type of document was concerned, there was no factually based resistance.

[Question:] Has the EU Commission made a statement about this document (?)

Marcin Libicki: not yet, because this is actually the document in practice...

[Question – continued:] ...but you have had contact with someone about this...?

Marcin Libicki: Yes, the Chairman of the European Commission was at a previous meeting of the Petitions Committee and confirmed that European law has been transgressed here.

This document, however, has only just been issued early this morning, and we will naturally inform the European Commission about it.

Ladies and gentlemen, if there are no more questions from the floor, I would like to thank you all very much.

Mr Hambura is still in the hall and there are still parents present, whom you can talk to after the formal press conference, if you want.

[The cameraman approaches Marcin Libicki, who is talking to the journalists after the press conference has officially ended. From a certain distance, the words of the MEP, who is now talking without a microphone, can be understood]

Marcin Libicki: ...is a political tool, necessary for exercising political pressure. As we all know, the European Commission, the European Parliament, the Petitions Committee do not have any sheriffs of the court, or military or police to enforce their decisions, which is right. However, they work by means of political pressure. As we have been active [in this matter] for some years now, the political pressure that has already been exerted by us by this reason alone, as well as [the fact of] our involvement and our reports to the mass media about this, has already been shown to have some effect.

For us, this is a stage. Even if it is not the final step, - which will depend on what happens after this – what has now occurred is the end of a very salient stage.

[Question:] Does that mean that the Committee will continue to keep an eye on this issue.

Marcin Libicki: At the formal level, the Committee will await further developments, the reactions that are going to occur. If we establish from these reactions that the progress is not satisfactory, we will continue to appeal to the decision-making bodies.

[End of film clip]