



Warsaw, 18 February 2019

His Excellency

Mr Olav Myklebust

Ambassador of the Kingdom of Norway

Declaring dr Sławomir Kowalski, Consul of the Republic of Poland, to be persona non grata, and taking steps aimed at removing him from the consular office in Oslo is a tremendous blow to Polish citizens living in Norway.

The Vienna Convention on Consular Relations clearly provides that the consular functions include “helping and assisting nationals of the sending State”, and “safeguarding the interests of minors and other persons lacking full capacity who are nationals of the sending State” (Article 5(a) and (h)). Similarly, the Polish Consular Law defines the tasks of a consul, which include “protecting, within the limits permitted by international law, the rights and interests of the Republic of Poland and its nationals” (Article 18 (1)). Furthermore, it provides that “consular assistance is to be provided within the scope and means necessary to protect vital rights and interests of Polish nationals” (Article 20(2)).

Dr Kowalski has conscientiously fulfilled his consular duties under the Vienna Convention on Consular Relations and the Polish Consular Law. His commitment to protecting the rights of Polish nationals, in particular children, has been widely appreciated by the Polish society, irrespective of political opinions and convictions. Delegated to the consular office in Oslo by Radosław Sikorski, in 2016, he received the new Foreign Ministry’s Andrzej Kremer “Consul of the Year” award. The Ministry described this distinction as “a token of appreciation to those who fight for the rights of Polish children and the dignity of Polish families abroad”.

Dr Kowalski has become known for his commitment and dedication to helping Polish nationals living in Norway who have been affected by the actions of the Norwegian Children’s Affairs Office (Barnevernet), and has demonstrated, while performing his function, a respectful attitude towards the receiving State.

At the same time, given the activity of Barnevernet, which has come under criticism from the International Community, notably the Parliamentary Assembly of the Council of Europe and the European Court of Human Rights in Strasbourg, for violating human rights, we call upon the Norwegian State to respect the international law, in particular the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, and to reform Barnevernet by introducing an institutional framework under Resolution 2232 (2018) of 28 June 2018 on striking a balance between the best interest of the child and the need to keep families together.

With respect to procedures concerning the families of Polish citizens staying in the territory of Norway, we call for the introduction of certain procedural safeguards to protect the interests of parents and children, such as:

1. Ensuring the presence of an interpreter/a translator at every stage of the procedure to mitigate the language barrier, allowing parents and their children to fully participate in the procedure;
2. Informing the consular authorities of the Republic of Poland about every interference by Barnevernet in the functioning of the families of Polish nationals staying in the territory of Norway;
3. Ensuring the right of Polish nationals to directly contact the Consul of the Republic of Poland;
4. Promptly referring any decisions on limiting or removing custody over a child or on the deprivation of parental rights to be examined by independent courts. Any decision on taking a child away from the legal custodians should be justified and delivered to the parents, and explained to the child in an understandable manner;
5. Moving children taken from their legal custodians to surrogate families in Poland and under the jurisdiction of a court of the Republic of Poland, according to the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children;
6. Respecting children's right to preserve their relationship with the parents. Ensuring that children have the right to regularly keep personal relations with and directly contact their mother, father, brothers and sisters, and grandparents, even in the case of deprivation of parental rights;

7. Establishing a system for supporting families whose children have been taken away from them. Providing them with legal and psychological assistance;
8. Not separating brothers and sisters if more than one child is taken away from the parents; ensuring that a child who has been taken is first moved to the family's relatives;
9. Making sure that a decision on giving custody over a child to third parties is regularly verified in order to assess whether it would be beneficial for the child to return to their parents, giving due consideration to the child's best interest and opinion;
10. Making sure that, if custody over a child is given to third parties, the child's religious, ethnic and cultural identity, and their ties with brothers and sisters are respected;
11. Establishing permanent bodies exercising supervision and ensuring parliamentary oversight over social care institutions;
12. Appointing a joint Norwegian and Polish intergovernmental commission to constantly monitor the implementation of the above items.

We are ready to provide any assistance in implementing the international standards for protecting children's right and ensuring a proper balance with the international guarantee of the right to protection of family life.

On behalf of more than 30,000 signatories of the Petition in support of dr Sławomir Kowalski, Consul of the Republic of Poland – initiators of the Petition:

Jerzy Kwaśniewski
President of the Management Board
Ordo Iuris, Institute for Legal Culture

Artur Kubik
Trade Union Chairman
Solidaritet Norge