

Parliamentary Secretary to the
Minister of Foreign Affairs



Secrétaire parlementaire du
ministre des Affaires étrangères

Ottawa, Canada K1A 0G2

April 14, 2005

Mr. Michael Kapoustin
10th Prisoners Group
Sofia Central Penitentiary
21 General Toiletov Street
Sofia, BULGARIA

Dear Mr. Kapoustin:

On behalf of my colleague, the Honourable Pierre Pettigrew, Minister of Foreign Affairs and myself, I wish to acknowledge receipt of the e-mail messages you have forwarded through your wife Tracy and from officials in Bucharest.

At the outset, I wish to inform you what assistance the Government of Canada can and cannot provide you. Firstly, under the Vienna Convention on Consular Relations and according to international practice, Canada cannot intervene in the judicial system of another country – just as the Canadian justice system would not welcome interference from the Bulgarian Government in Canadian laws and the Canadian constitutional framework. In fact, there is absolutely no mechanism in place between Canada and Bulgaria to allow for such actions to take place.

Since 1996, innumerable representations at all levels have been made by the Government of Canada to the Bulgarian authorities in efforts to expedite your investigation, trial, appeals, and offender transfer. Those representations were beyond the efforts made to ensure your general well-being while you have been incarcerated.

However, the issues you have raised in your correspondence are independent of the Government of Canada and any influence it may have in your case. Simply put, Canadian officials cannot seek preferential treatment for you or try to exempt you from the due process of local law. As the Government of Canada cannot pursue the legalities of your case, you will require the services of a lawyer to represent you and address your concerns within the legal system of Bulgaria.

In response to our Diplomatic Note of November 9, 2004 to the Bulgarian authorities, which protested the refusal of your request for transfer and parole, Mr. Pctor Vodenski, Ambassador, and Chief of the Bulgarian Political Cabinet, met with Canadian Ambassador Franco D. Pillarella, on January 20, 2005, to discuss your case.

As well, upon further discussions and the full exploration of various avenues available, we have been officially informed by Bulgarian officials that the Government of Canada has exhausted all possible avenues with regards to your transfer and parole. As you are aware, these decisions ultimately lie with the Bulgarian Prosecutor General, Mr. Nicolas Filchev, and, as such, we have come to the conclusion that regretfully there is no further possible action to be taken by this department, nor by the Government of Canada.

With regards to the Honorary Consul for Canada in Bulgaria, rest assured that this department has carefully reviewed your concerns about Mr. Levon Hampartzoumian. As you know, the resources available to the Honorary Consul in Sofia are limited and he operates with the support of the Embassy in Bucharest. After carefully examining Mr. Hampartzoumian's conduct, the Department is satisfied with the assistance provided by the Honorary Consul and his assistant Ms. Assia Pavlova, as well as with the numerous visits to you that have been made by other Canadian officials. Ms. Iveta Petkova is currently replacing Assia Pavlova who is away on maternity leave will continue to be your main point of contact regarding issues related to your incarceration.

On another matter, Mrs. Kapoustin recently raised the issue that changes may have occurred in the Bulgarian legal system and the powers of the Prosecutor General. I requested that our mission to Bulgaria look into this matter. I regret the information I received back, while perhaps promising for the future, did not indicate any new changes put in place at this time.

Mr. Nikola Filchev is still the Prosecutor General of Bulgaria and he should be in that position for another year. There are indeed strong political debates going on right now in Bulgaria – perhaps in light of the forthcoming parliamentary elections this summer. Reforms to the judicial system are part of that debate given the necessity for Bulgaria to meet EU standards and requirements. Thus, while the office and powers of the Prosecutor General may be involved in the current debates, no reforms have been taken at this point.

I am however encouraged that the Bulgaria Ministry of Justice is apparently working on a new Convention of the Council of Europe with respect to the transfer of sentenced persons. However, no legal reforms have been put in place as of yet.

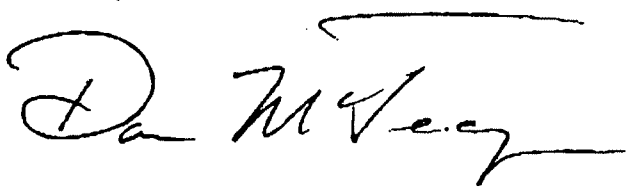
I want to assure you that the assistance provided to you by Canadian officials to date has been well above and beyond our mandate. Officials in Ottawa, Bucharest and Sofia have attributed countless hours and resources on your behalf. Nonetheless, after considerable review and debate, I must inform you that this department will no longer address issues outside of the Consular mandate, including those concerns related to your legal situation, requests for parole, or transfer.

Until any noticeable changes occur in the present legal system in Bulgaria, all future consular assistance will therefore be limited to issues uniquely related to your incarceration.

Please see the attached publication *Canadian Consular Services: Providing Assistance to Canadians Abroad* for further clarification about what Canadian consular officials can and cannot provide.

I trust this information will be useful to you as you proceed to raise your concerns through the appropriate legal channels.

Yours sincerely,



Hon. Dan McTeague, P.C., M.P.

c.c. Tracy Kapoustin

Enclosure