

December 11, 2006

Vice-President Franco Frattini  
European Commission  
B-1049 Brussels

Dear Mr. Vice-President,

I am writing to thank-you for having so kindly met with me in Ottawa during your recent visit to Canada.

Your visit was an important step in re-enforcing the close ties between Canada and Europe, particularly with respect to security cooperation.

I clearly noted the priority that the European Commission has placed on cooperation with both Canada and the United States on these issues. I briefed Prime Minister Harper and senior members of our government on the importance of having a high-level Canadian official involved in the European- North American panel on security issues.

I was also delighted with your willingness to assist Canada on the question of our request to the Republic of Bulgaria for the transfer of Canadian citizen Michael Kapoustin pursuant to the *Council of Europe Convention on the Transfer of Sentenced Persons*. We highly appreciate your undertaking to raise the Kapoustin transfer application with your Bulgarian interlocutors, including the Prosecutor General, the Minister of Justice, and the Prime Minister.

Allow me to reiterate that we believe the response to our transfer application will be indicative of the degree to which Bulgaria is prepared to conform to EU norms in the functioning of its judicial and penal systems, particularly with respect to the treatment of foreign nationals. That is why we believe this matter deserves the attention of the European Commission, particularly in the context of Bulgaria's pending accession to the Union.

In this respect, I would like to once again thank the Commission for the very helpful advice and attention paid to this issue by Bridget Czarnota, unit head of the Bulgaria Team at the European Commission Enlargement Directorate General. Mrs. Czarnota's counsel has been invaluable to us.

In our view, Bulgaria's continued refusal to accede to our transfer request amounts to a violation of the spirit of the *Convention*. Indeed, we believe that their handling of the Kapoustin matter has been inconsistent with accepted international norms from the beginning. Mr. Kapoustin was subject to nearly five years of pre-trial detention. Following his acquittal on the original charges against him, he was then convicted on charges that had not been entered at his original trial. Canada subsequently made a penal transfer application in his seventh year of incarceration, and the former Bulgarian Prosecutor General then took two years to reply with a rejection of our application.

Since the appointment of Mr. Velchev as Prosecutor General, and my appointment as Prime Minister Harper's Special Envoy on this matter, we have made a fresh transfer request. Our initial meetings with Mr. Velchev in September of this year were very positive. He apologized to Canada for his predecessor's "unacceptable" response to our initial request, and he indicated that Mr. Kapoustin's continued detention in Bulgaria would amount to a form of "torture." Mr. Velchev indicated that he would do everything possible within the confines of Bulgarian law to approve our transfer request in an expeditious manner.

In his subsequent written response to our application, Mr. Velchev raised two impediments to approving our transfer request: the need for Mr. Kapoustin to discharge any outstanding personal debts, as required by Section 43 of the *Law for the Foreigners in the Republic of Bulgaria*; and his desire that Bulgaria receive assurances that Mr. Kapoustin would serve the entirety of his sentence in a Canadian penitentiary.

Our Minister of Public Safety, the Honourable Stockwell Day (with whom you met in Ottawa), replied to the latter caveat by granting clear assurances that Mr. Kapoustin would be remanded into a Canadian federal penitentiary, and would serve the entirety of his sentence under the supervision of our penal agency, Correctional Services Canada. Furthermore, we have indicated to Mr. Velchev that the necessary funds are ready to be posted to discharge all of Mr. Kapoustin's personal debts in Bulgaria, which have been estimated by the Prosecutor General's office to total approximately \$25,000 USD.

However, we are now increasingly concerned by indications from various Bulgarian officials, including Mr. Velchev's office, that extraneous political considerations may again block our transfer request. In our view this would be entirely unacceptable, and would set a very troubling precedent for other foreign nationals in Bulgaria.

Given these developments, we believe that it would be particularly helpful at this moment for the European Commission to use its good offices to raise the importance of this matter with the relevant Bulgarian authorities. In this respect, our Ambassador and

Mission to the European Union are ready to assist the Commission in any way, as is our Ambassador accredited to the Republic of Bulgaria.

Vice-President, I would like to reiterate our sincere gratitude for your willingness to assist the Government of Canada on this important matter. We regard it as a concrete expression of the amity between the EU and Canada.

With assurances of my highest regards, I remain,

Yours truly,

Jason Kenney, MP  
Parliamentary Secretary to the Prime Minister

Cc Ambassador Ross Hornby  
Canadian Mission to the European Union

Mrs. Bridget Czarnota  
European Commission Enlargement Directorate General