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JUSTICE, FUNDAMENTAL RIGHTS AND CITIZENSHIP

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Brussels, 5 December 2011
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Dear Mr Hannan,

Thank you for your letters of 17th June and 18th October 2011 concerning the damages suffered by a number of British citizens because of the practices of Cypriot developers to withhold title deeds, and apologies for my belated reply.

I can assure you that the European Commission follows very closely the issues you raised.

Following previous exchange of correspondence, an administrative letter has been sent a few weeks ago to the Cypriot authorities enquiring, on the one hand, as to the actions carried out at national level to address the reported practices and ensure an appropriate protection of European consumers and, on the other hand, about the measures taken to ensure that consumers are adequately informed about the Cypriot law transposing Directive 2005/29/EC on Unfair Commercial Practices¹ (the "UCPD").

The Cypriot authorities have until early January 2012 to submit a reply. Should the information communicated be unsatisfactory, the European Commission is prepared to take further action as appropriate.

You may be aware that numerous citizens have written to the European Commission to support your petition. As you can see from the attached standard reply letter, those citizens are informed about existing legislation before being asked to provide additional information in order to substantiate the alleged lack of action of the Cypriot authorities.

As regards your question as to whether the practice of withholding property title deeds is, in all circumstances, an unfair commercial practice, I have, in a recent reply to a Parliamentary Question², stressed that this is currently not the case, as this practice is not listed in the Annex to the Directive (the so called "black list").

*Mr Daniel HANNAN MEP
European Parliament
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¹ OJ L 149, 11.6.2005

² Reply to PQ E-007067/2011 from MEP Kelly given on 16 September 2011:
<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2011-007067&language=EN>

Therefore, considering whether the practice of retaining title deeds nonetheless amounts to an unfair practice in the specific cases at stake is an assessment which should be primarily carried out by the competent national authorities and courts, taking into account the applicable national laws regulating real estate property matters.

However, the lack of pre-contractual information to property buyers about the existence of developers' mortgages on the Cypriot properties offered for sale, which is the crucial fact having led to the subsequent lack of delivery of the title deeds, would seem prima facie to amount to a misleading omission in the sense of Article 7 of the UCPD.

As you may already know, my services are right now in the process of reviewing the overall application of the UCPD. I plan to issue in spring 2012 a Report which will provide an overview of the implementation of the Directive in the Member States and draw a list of the most unfair commercial practices encountered, with a view to evaluate whether the Directive needs to be reformed. In that context, the report will also describe the way the UCPD is implemented in the property sector and suggest how to best tackle any identified shortcomings in this sensitive area which is of crucial importance for European consumers.

Yours sincerely,

A large, stylized handwritten signature in black ink, consisting of a long horizontal stroke at the bottom, a large loop on the right side, and a long horizontal stroke extending to the left from the top of the loop.