

**Slovenia – re-witnessing politically motivated trials
(a memorandum to the Slovenian and European public)**

In its last report of 29 May 2013, the European Commission stressed that the state of the Slovenian judicial system is unsatisfactory. It imposed a series of corrective measures to the Slovenian government.

However, instead of these measures being implemented, the situation even aggravated. On 5 June 2013, only a week after the European Commission's assessment, a biased judicial process was concluded at first instance, the goal of which was to neutralise the pro-European opposition in Slovenia. The District Court of Ljubljana namely sentenced Janez Janša, Prime Minister of Slovenia in 2004–2008 and 2012–2013, head of the European Council in 2008, president of the Slovenian Democratic Party (SDS) and current leader of the opposition, former dissident and co-creator of the independent Slovenian state, to two years' imprisonment. Even though the sentence is not yet legally binding, it has caused turbulent reactions of the Slovenian public and has engendered loud criticism by Slovenian legal experts.

Please allow us to briefly present the process of the indictment and conviction by the court of first instance in Ljubljana, which convicted Janez Janša of the criminal offence **of having accepted a promise of a reward** for an alleged illegal favourable intervention.

It is alleged that Janša committed this offence by supposedly accepting a **promise to receive an unknown reward** for his influence and intervention in the process of a public tender by the Ministry of Defence of the Republic of Slovenia for the purchase of military armoured vehicles. Specifically, it is claimed in the sentence that Mr Janša committed the offence on an **“undetermined date”**, at an **“undetermined place”** and through an **“undetermined method of communication”** with the assistance of other people. The reward was supposedly offered by agents of the Finnish company Patria, which was one of the companies responding to the public tender.

The indictment was first announced by the media immediately ahead of the Slovenian parliamentary elections in September 2008. Only two years later, on 6 August 2010, the state prosecutor, in a legally totally deficient indictment proposal, described an act that could never constitute even a ground for an indictment, let alone a judgment in a court of law. In the indictment proposal, the prosecutor stated neither the time nor the place or the manner in which the alleged offence had supposedly been committed. It was also not explained what kind of a reward Mr Janša had been promised. Later on, this particular prosecutor resigned and was replaced by another one continuing her work in a similar fashion. Following a break of one year after the indictment had been filed, the first hearing in the District Court of Ljubljana was called only shortly before the extraordinary parliamentary elections of 2011, namely in August 2011.

The prosecution attempted to prove its ridiculous charge by electronic communications seized from the company Patria. It is clear from these messages that Patria paid bribes (“paid services”) through an Austrian intermediary to some other, explicitly named, Slovenian middlemen in this business. However, apart from one of them, the latter were not even included in this trial.

An enormous number of witnesses were heard at more than 50 hearings that took place during the two years’ trial. Among others, the Defence Minister at the time, Karl Erjavec (president of the left-wing Democratic Party of Pensioners and the person that had signed the decision on selecting Patria as winner of the public tender as well as signed the contract with them), explicitly stated that the accused Janša had nothing at all to do with the public tender or the selection procedure. Everything was carried out by expert committees of the Ministry itself. All other witnesses likewise stated that no one had influenced any of the members of those committees, that none of them had been in either direct or indirect contact with Janša and that every detail of the selection procedure was conducted according to the letter of the law.

The prosecution **did not manage to prove any of its accusations** that Janez Janša had received the undetermined promise of a bribe. Moreover, the trial has shown that Mr Janša was not even in any contact with the people that were in any way involved in the implementation of the contract. Mr Janša’s **right to a fair hearing and defence was grossly violated** during the trial. He could not possibly defend himself against such undefined accusations: that he did something on an “undetermined date”, at an “undetermined place” and through an “undetermined method of communications”. The charges were fully disproved even on the basis of testimonies of witnesses proposed by the prosecution itself.

During the trial, the prosecutor simply ignored two clear rulings by the Supreme Court of the Republic of Slovenia, which explicitly state that, in Slovenia, it is not permitted to condemn anyone on the basis of such accusations, as this would not respect the right of an accused to a fair defence and trial. It is well known that, 25 years ago, because of his critical writings about the Communist regime and as a leading Slovenian dissident, Janez Janša was arrested, imprisoned, placed before a similar fabricated trial and sentenced to 18 months in jail by a Yugoslav military court. This judgment was later entirely repealed.

In addition to this one, there are innumerable other examples showing that the Slovenian judicial system is politically biased and inefficient. After Slovenia’s democratisation, the judicial system has been the only branch of government that did not undergo democratic transition, i.e. a fundamental reform and staff renewal. Many judges and prosecutors that had cooperated with the Yugoslav secret political police have remained in their positions and have even been promoted. Moreover, the current president of the Supreme Court Branko Masleša and the State prosecutor General of Republic of Slovenia Zvonko Fišer were proven to have violated human rights and fundamental freedoms during the time of the totalitarian regime. The prosecutor Branka Zobec-Hrastar, who began and filed the indictment against Janez Janša, is the wife of a former agent of the secret police Zvonko Hrastar, who in 1988 personally arrested Janez Janša. According to

records that are now publicly available, Andrej Ferlinc, the current prosecutor in the trial against Janša, was a collaborator of the secret Yugoslav military intelligence service. These are just some of the alarming signs of an infection of the Slovenian judicial system with the totalitarian syndrome. According to all opinion polls, out of all of the state institutions, the Slovenian judiciary enjoys one of the lowest levels of confidence among Slovenian citizens. The impression of the people to be living in a country that respects the rule of law and equality before the law is at its lowest since the first democratic elections in 1990.

The mentioned trial and conviction of Mr Janša are therefore only the peak of a seriously politicised judicial system in Slovenia. **The motive is clear – through a judicial fabrication that is even more bizarre than the one taking place in Ukraine against Yulia Tymoshenko, there is the clear will to remove for good from the political scene a strong political rival, an avowed democrat and a convinced European – Janez Janša.**

Apart from indignation, the sentence against the opposition leader caused fear among Slovenia's citizens, as they are rightly asking themselves who is next in line. We are convinced that an unreformed judicial system in Slovenia has also become a European problem. The relevant institutions of the EU and the Council of Europe should actively become involved in the support for the endeavours for a real renewal of the Slovenian judiciary.

mag. Andrej Aplenc, publicist, former dissident and a political prisoner at Goli otok

Ivo Ban, theatre and movie actor

Alfred Brežnik, Honorary Consul of the RS of Slovenia in Australia

mag. Bernard Brščič, Director of the Institute of dr. Jože Pučnik

Radovan Cerjak, lawyer

France Cukjati dr. med., former MP and vice president of the Parliament, president of the SDS Expects Council Committee on Health

Emanuel Čerček, advisor to a minister in the former government, advisor to a former mayor

Damjan Damjanovič, Director of the Academia Philharmonicum

mag. Drago Demšar, lawyer, president of the Josip Jurčič Fund, member of the Board of Association for the of Values Slovenian Independence

Jože Dežman, historian and publicist, former director of the Archives of the RS, former director of the National Museum of Contemporary History, president of the Government Commission on Concealed Mass Graves in Slovenia

Marcos Fink, world renowned opera singer, recipient of the Prešeren Fund Award in 2012

red. prof. dr. Darko Friš, professor of history, University of Maribor

akad. Kajetan Gantar, literary historian, classical philologist, translator and editor

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dr. Janez Juhant, theologian, philosopher, member of the European Academy of Sciences and Arts

dr. Ivo Kerže, philosopher

Miha Klun, president of the Supervisory Board of the public broadcasting company RTV Slovenija

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Boris Pahor, writer, European Citizen 2013

Miran Pavlin, former football player

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France Pibernik, writer

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mag. Renato Podbersič, historian

Aleš Princ, leader of the “Family and Children’s Rights” Civil Movement

Gorazd Pučnik, son of dr. Jože Pučnik, the founding father of independent Slovenia

Majda Pučnik Rudl, President of the Government Commission for Redressing of Injustices and National Reconciliation

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dr. Mitja Štular, director of the Institute for the revival of civil society
Dr. Janez Šumrada, ambassador
dr. Alenka Šverc, co-founder of the initiative “School on a Human Scale”, former state secretary of education
David Tasič, journalist, editor, co-accused in the process JBTZ in 1988
Damjan Terpin, lawyer, regional secretary of Slovenska Skupnost, political party of Slovenian minority in Italy
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and many others.