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**EUROPEAN PARLIAMENT**

To Mr. Juan Fernando LÓPEZ AGUILAR  
Chairman of the Committee on Civil  
Liberties, Justice and Home Affairs  
1, avenue du Président Robert Schuman  
CS 91024  
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RENNES, November 25th 2022

AFF. VECCHI VINCENZO / MP  
20190344 CG /MT/MT

Mr. President,

With this letter, we question the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, regarding the case of Vincenzo Vecchi, which we have been defending since August 2019.

We have carefully followed the various works and reports that your Committee has produced for many years on the subject of the European Arrest Warrant, in particular the Ludford report of 2013.

It seems to us that the Vecchi case is an example, if not a striking proof, of the need to go in the direction that your Committee has been advocating for years, namely to anchor the issue of the guarantee of Fundamental Rights, as well as the requirement to scrupulously respect each article of the Charter of Fundamental Rights, including Article 49 on the proportionality of penalties.

We are taking the liberty of calling on your committee following the ruling handed down by the Court of Justice of the European Union on 14 July, case C 168/21, referred to it by the French Court of Cassation, by virtue of which France (where Mr Vecchi lives) would be obliged to execute the European arrest warrant issued by Italy against this Italian citizen, in other words, to hand Mr Vecchi over to Italian justice shortly. This decision is of concern to us and must certainly be of concern to your Commission.

*Une lettre ou un courriel est préférable à un appel téléphonique*

Mr Vecchi was sentenced by the Genoa Court of Appeal to 12 years and six months in prison for acts which, for the most part, would not have constituted an offence under the French criminal code.

However, the European arrest warrant procedure allows the courts of the country requested to execute it to carry out - except for 32 categories of offences - this comparative analysis of the criminal codes of the two States, known as "double criminality". These 32 categories of offences for which the execution of the European arrest warrant is not open to discussion (and where, therefore, the use of "double criminality" is not possible, as "mutual recognition" between the different judicial systems of the EU Member States automatically applies) relate to serious crimes such as terrorism, homicide, trafficking in human beings, rape, sexual exploitation of children, drug trafficking, cybercrime, etc...

Mr. Vecchi's case is unrelated to these crimes and does not fall under these 32 categories.

It thus appeared that, in the case in question, the sentence, pronounced on the basis of a Mussolinian law, was, to say the least, disproportionate to the acts in which Mr Vecchi was accused of having personally participated! This infringement of Mr. Vecchi's fundamental rights had led the Investigating Chamber of the Angers Court of Appeal, which had previously been seized, to refuse to execute the European arrest warrant (note that the Rennes Court of Appeal had also previously refused to execute the EAW on the grounds of formal defects).

As the risk of a serious infringement of his fundamental rights was clearly established, the choice to resort to the "double criminality" clause and the refusal to hand over Mr Vecchi to Italian justice was not surprising.

It should be recalled that the text of the "Framework Decision" establishing the European arrest warrant explicitly states (Article 1st alinea 3) that it "shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union", in other words the Charter of Fundamental Rights.

fundamental rights. The latter stipulates (Article 49(3)) that "the intensity of penalties must not be disproportionate to the offence".

For 20 years now, the European Parliament - and in particular your Committee on Civil Liberties, Justice and Home Affairs - has been insisting that there can be no "mutual trust" between judicial systems without a guarantee of respect for the fundamental rights recognised by the Charter of the same name.

This is reflected in the Ludford Report of 2013, which denounces the "excesses of the European arrest warrant", lists the "concerns" of MEPs in this respect and presents "recommendations", foremost among which is the introduction in the legislation on the European arrest warrant of an explicit ground for refusing to hand over the person sought, based on the risk of violation of his or her fundamental rights.

These same elements also appear in the December 2020 report, which once again insists on the fact that "mutual trust" requires respect for fundamental rights, and therefore a prior check on the execution of the arrest warrant.

It seems to us, therefore, that the judgment handed down by the Court of Justice of the European Union on 14 July this year contributes to removing the principle of "double criminality" from the European arrest warrant, as well as that of the proportionality of sentences.

Your Committee, through its various works, calls for the guarantee of the respect of the fundamental rights recognised by the Charter in the implementation of the EAW to be ensured at all times.

And this guarantee seems to us to be far from being applied today, or even seriously undermined, in the Vincenzo Vecchi case.

We therefore hope that your Commission will give special and urgent attention to this case, especially as the Court of Cassation is due to give its ruling on 29 November.

We are at your disposal for any further information, as well as if necessary, to testify in the framework of your work if you agree or consider it relevant.

We thank you in advance for your attention to our request and look forward to hearing from you,

Yours sincerely,

Vincenzo Vecchi's lawyers, for the Support Committee for Vincenzo Vecchi.

Catherine GLON



Maxime TESSIER

