

# THE VINCENZO VECCHI CASE AND THE POLITICAL FAULT OF THE PROSECUTOR'S OFFICE

## THE FACTS

The Investigating Chamber of the Rennes Court of Appeal held a hearing on 24 October 2019, in the presence of Mr Vecchi. After the Advocate General's oral argument, the lawyers pleaded in several parts exposing the various disloyalties of the Italian courts over the two EAWs and demonstrated with accuracy how the various elements of the case file make it possible to invalidate the EAW proceedings issued against Mr Vecchi.

On 15 November, the same Chamber delivered two judgments:

- On the EAW concerning Milan, it declares the EAW issued in June 2016 to be irrelevant since the enforcement of the sentence is declared extinguished on 25 March 2010 by the Milan Court of Application of Sentences.
- On the EAW concerning Genoa, the judges mainly noted the absence of proof of transmission to Italy of Mr Vecchi's request for a lawyer. This request had to be made by the Advocate General. Thus, since the requirements of Article 695-27 of the Code of Criminal Procedure had not been respected, the Court noted that the procedure for the execution of the EAW was irregular and ordered Mr. Vecchi's immediate release.

He is therefore free but only on French territory because the two EAWs issued by the Italian courts continue to run in all other EU countries; the cancellation or breakage of the EAW in the executing country does not apply to the rest of the European countries. He has thus ipso facto lost, outside France, the status of European citizen.

## A JUDGMENT, WHICH CERTAINLY RELEASES MR. VECCHI, BUT AVOIDS RULING ON THE SUBSTANCE OF THE CASE

In fact, the court noted the disloyalty of Italian justice over the EAWs of Milan and Genoa, the misuse of EAW procedures and the merits of most of the lawyers' brief and pleadings. On the other hand, it did not rule on the substance of the case: the reference to collective responsibility, the non-existence in France in 2001 of the offence of "ransacking and looting", the proportionality of the penalty, Italian disloyalty... but on an irregularity of the French procedure.

In doing so, the Court seeks to avoid any direct controversy with Italy vis-à-vis the judges in Rennes. For this reason, it does not affirm the difference that exists on this case between a exceptional justice and the normative justice of a State of law based on individual responsibility and the need for proof.

## THE APPEAL IN CASSATION: A POLITICAL FAULT OF THE PUBLIC PROSECUTOR?

Although the appeal to the Supreme Court is unlikely to succeed, the choice of the Public Prosecutor's Office seems to be mainly a political mistake. Indeed, while all magistrates of the Public Prosecutor's Office are responsible for requesting the application of the law, they must also conduct criminal proceedings in the name of the interests of society. It is therefore difficult to see in this support of the Public Prosecutor's Office for the Italian judiciary, which is reflected in the appeal in cassation, in what way the interests of the said society are defended.

In a state governed by the rule of law, beyond the required impartiality between the judiciary and the political power, justice must be done in accordance with fundamental rights and respect for procedural rights, justice must judge on the basis of evidence and take into account individual responsibility as well as the presumption of innocence. There is therefore no collective responsibility. In addition, the penalties must be proportionate to the offence, the law must be certain and verifiable...

In the Vecchi case, we are in a completely different register, in contradiction with the EU Charter of Fundamental Rights. It is a real democratic denial that is manifested by:

- The Use of a fascist law that declares all demonstrators guilty in advance and introduces an attack on individual freedoms,
- The absence of the presumption of innocence, which is a general principle of criminal procedure.
- The disproportionate sentences imposed compared to the legal customs of most EU countries, which, moreover, are combined with unfair judicial treatment between convicted demonstrators and convicted police officers.

There are therefore good reasons to ask: what so-called societal interests are defended by the public prosecutor in this cassation appeal? Those in our society or those in a society whose rule of law is weakened by the use of legal and political elements from a fascist criminal code?

The fundamental values of a democracy must be affirmed without weakness and there is no acceptable compromise. The lessons of history prove enough how much it costs not to want to upset the other party at a time when we are in the intolerable.

THAT'S WHERE THE POLITICAL FAULT LIES!