



Bund gegen Anpassung

Alliance against Conformity

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We demand the release of Gregorian Bivolaru in Romania and his free return to his country of asylum Sweden!

On the 65th birthday of Mr. Bivolaru, a recognized religious refugee in Sweden, we urgently appeal to all international bodies and governments concerned to do what is necessary to immediately restore his freedom!

Gregorian Bivolaru, a yoga teacher and founder of the spiritual organization MISA¹, fled from Romania in 2004 due to persecution for reasons of religion. He was granted asylum in Sweden by a decision of the Swedish Supreme Court of 21 October 2005 that, after a thorough investigation of the case, came to the conclusion that in Romania 'due to his religious conception Gregorian Bivolaru runs the risk to being exposed to pursuit of evil character'². Afterwards, for more than a decade Mr. Bivolaru lived peacefully as a recognized religious refugee under the 1951 Geneva Convention Relating to the Status of Refugees ('the Convention') in Sweden which provided him with a new identity as well as travel documents pursuant to Art. 28 of the Convention. When Mr. Bivolaru, who wanted to visit a book fair in Paris, legally entered France in February 2016, he was suddenly put in extradition custody due to a Romanian-issued 'European arrest warrant' based on the same charges that had been examined and rejected by the Swedish Supreme Court in 2005. In the following extradition proceedings, the Swedish authorities formally confirmed to the French authorities Mr. Bivolaru's status as a recognized refugee under the Convention. Yet, by a final decision of 12 July 2016, the French Court of Cassation authorized Mr. Bivolaru's extradition to Romania by simply affirming, without more, that the granting of the refugee status under the Convention by a EU member state 'does not constitute as such an obstacle to the execution' of a European arrest warrant³. The Court of Cassation even refused to follow the urgent advice of its own reporting judge, Mrs. Chauchis, to submit the case at least to the Court of justice of the European Union in Luxembourg as it would have been its duty under the EU Treaties. Only days later, Mr. Bivolaru was deported to Romania and imprisoned there on the pretext of a six-years prison term imposed against him in 2013 in absentia by the Romanian Court of Cassation due to the aforementioned charges that had already been rejected by the Swedish judges. He was first imprisoned in the high-security prison of Aiud and is meanwhile in the prison of Bistrița.

In prison, his life is threatened by other inmates, he regularly receives threatening letters, and he is kept in solitary confinement under 24-hours surveillance. Already in January, his lawyer has expressed his serious concern about Mr. Bivolaru's rapidly declining health. His life is in imminent danger! On top of everything, the Romanian authorities have reactivated other criminal proceedings against him with the obvious aim to keep him in prison until he dies.

¹ Mișcarea de Integrare Spirituală în Absolut.

² Case No. Ö 2913-05 (quotation from p. 9 of the certified English translation).

³ Decision of the French Court of Cassation of 12 July 2016, Case No. 16-84000, ECLI:FR:CCASS:2016:CR04082 (quotation from p. 5).

It is clear from the foregoing that Mr. Bivolaru's extradition to Romania by France is a blatant violation of Art. 33 of the Convention that prohibits the return of a refugee ('refoulement') to the persecutor state, as well as of Art. 18 of the Charter of Fundamental Rights of the European Union ('the Charter') according to which 'the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention'. Contrary to the French Court of Cassation's decision, the EU framework decision on the European arrest warrant is subordinate to the Charter that is part of the EU primary law. To apply an European arrest warrant in order to deport a refugee to the persecutor state is illegal. Nor can the Protocol No. 24 to the EU Treaties, which is also part of the primary law and reflects the Union's endeavor to limit inter-member-states refugee cases, be used to revoke a refugee status already granted by a member state. Hence, France and Romania have openly violated both the Convention and the European Union's constitutional ('primary') law.

Therefore, we appeal to the United Nations High Commissioner for refugees to intervene immediately for the protection of Mr. Bivolaru. In the same time, we demand the European Commission as well as the French, the Swedish and the Romanian governments to do their duty and restore immediately Mr. Bivolaru's right to asylum in Sweden under Art. 18 of the Charter. As regards the European Commission, we note that in these days one of its members travels to Budapest to admonish the Hungarian government on the subject of new legislation that in the Commission's view curtails the rights of asylum-seekers from third countries. As regards Mr. Bivolaru, he is not an asylum-seeker, but a refugee recognized by a EU member state, and he is not a third-state national, but an European Union citizen. We are appalled by these EU double standards: As long Mr. Bivolaru is sitting in a prison in Romania, Art. 18 of the EU Fundamental Rights Charter is not worth the paper it is written on, and 'refugee protection' in the European Union is only empty and hypocritical talk.

For this, the details of Mr. Bivolaru's case offer a gruesome confirmation: The charges for which Mr. Bivolaru is now imprisoned in Romania go back to a brutal large-scale police raid against MISA on 18 March 2004 for which Romania has been condemned by the European Court of Human Rights in Strasbourg last year⁴. In the night after, Romanian prosecutors extorted from a 17-years-old female MISA sympathizer whom they had arrested during the raid, Madalina Dumitru, a statement according to which she had had a sexual relationship with Mr. Bivolaru. As soon as she had been set free, Ms. Dumitru revoked this statement and has since then reiterated countless times, in public and in courts, that it was untrue and extorted from her by violence and threats. Already in 2005, the Swedish Supreme Court, that had heard Ms. Dumitru, found that 'Madalina Dumitru has made a trustworthy impression' and that 'the apprehension and questioning of Madalina Dumitru took place in such forms and ways that cause serious misgivings'⁵. At the time, precisely this had led the Swedish judges to the conclusion that, the alleged relationship with Ms. Dumitru being a manifest pretext, Mr. Bivolaru was in truth persecuted for reasons of religion. However, all this did not hinder the Romanian Court of Cassation eight years later, on 14 June 2013, though meanwhile Mr. Bivolaru had been absolved from this absurd charge by two lower courts, to quash these acquittals and convict him in absentia for an 'underage sexual contact' with the 17-years-old Madalina Dumitru to a prison term of six years – an outrageous sentence even if a sexual contact with the 17-years-old young woman had really existed, instead of manifestly being a fabrication by prosecutors. Subsequently the Romanian government, having meanwhile (in 2007) entered the European Union, did not refrain from abusing its new EU prerogatives to get hold of Mr. Bivolaru protected by Sweden: On the basis of the ghostly 2013 in-absentia-verdict of its Court of Cassation, it issued an European arrest warrant against Mr. Bivolaru and even put him on an Europol most wanted list of 'top criminals'. And once having thereby obtained, with France's willing collaboration, the refugee's deportation back to its prisons, the Romanian government even went another step further: On appeal of the government's Special Prosecutor for Organized Crime and Terrorism, on 4 October 2016 a Court of appeal in Cluj suddenly set aside another acquittal of Mr. Bivolaru and 20 other MISA adherents that had been passed by a first-instance court in Cluj already 18 months earlier: After proceedings of more than *nine* years, that first-instance court had come to the conclusion that a wide array of other charges, including trafficking in human beings, formation of a criminal organization, instigation of racism etc., that

⁴ Judgment of 26 April 2016, *Amarandei et al. v. Romania*, Case No. 1443/10. By this 40-pages-judgment stating multiple human rights violations committed by the Romanian authorities, Romania was ordered to pay damages of almost a quarter-million Euro to the victimized MISA adherents.

⁵ See above, footnote 2 (quotation from p. 5 and 8 of the certified English translation).

had also been brought against Mr. Bivolaru and the other MISA activists after the police raid of 18 March 2004, were nothing than ‘just speculation’ or ‘unproven conclusions’⁶. For the purpose of the retrial that has now been ordered by the Cluj Court of appeal but that is not covered by the French extradition order, only a few weeks ago that Cluj first-instance court decided to request from the French authorities their consent to extending Mr. Bivolaru’s criminal prosecution also to these charges. The aim behind this is clear for all to see: Mr. Bivolaru shall be buried under endless new proceedings and guilty verdicts in order to die behind bars in Romania, besides a state to which German courts routinely refuse to extradite even ordinary criminals due to its notoriously inhumane conditions of imprisonment⁷.

The above account of Mr. Bivolaru’s case outlines a story of more ruthlessness and disdain for the rule of law than a few pages can hold. It is a story unknown outside Romania since the international media, that use to squeak with indignation over being called ‘luegenpresse’, have carefully kept it hidden from the international public. But it is also largely unknown to the Romanian public since for decades the Romanian media and government have presented to it Mr. Bivolaru as a monster, Satan, psychopath, wretch, sexual serial offender and terrorist. And it is a story that does not happen in Hitler’s Third Reich where sexual offences invented by the authorities were routinely used as a pretext to destroy members of another religious minority, the Jewish community, but it happens in the midst of the European Union that claims to be an ‘area of freedom, security and law’. While in EU member states, like Germany or Sweden, third-country nationals committing here the most serious sexual offences systematically go unpunished and are protected as ‘refugees’, as recently could be observed in Cologne, a true refugee holding the EU citizenship is exposed to life-destroying persecution on the pretext of a ‘sexual offence’ that has never been committed but was vilely fabricated by prosecutors.

It is time that this unbearable situation is brought to an end by growing public attention and protests in support of Mr. Bivolaru and by swift action by the competent international and national authorities to achieve his release and protection.

Today, on Gregorian Bivolaru’s 65th birthday, our thoughts are with him, and they will continue to be so until the very day he will set foot again on Swedish soil as a protected refugee and free man.

Please send your letter in support of Mr. Bivolaru to:

Mr. Filippo Grandi
United Nations High Commissioner for
Refugees
Rue de Montbrillant 94, CH-1201 Genève
Fax: + 41 22 739 7377

Mr. Jean-Claude Juncker
President of the European Commission
Rue de la Loi 200
B-1049 Brussels
president.juncker@ec.europa.eu

Mr. Stefan Löfven
Prime Minister of Sweden
Rosenbad 4, S-103 33 Stockholm
forvaltningsavdelningen.registrator@regeringkansliet.se

Mr. François Hollande
President of the French Republic
Palais de l’Élysée
55 rue de Faubourg-Saint-Honoré
F-75008 Paris

Mr. Klaus Werner Iohannis
President of Romania
Palatul Cotroceni
Bulevardul Geniului nr. 1–3 – Sector 6
București, Cod poștal 060116
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Fax: + 40-21 410 38 58

(Please send a copy of your letter to us.)

⁶ Judgment Nr. 62/2015 of 11 February 2015, Case No. 22351/3/2007 (quotation from p. 17).

⁷ See e.g. press release ‘Prison conditions in Romania hinder extradition’ of 4 November 2016 of the Higher Regional Court of Hamm (Germany), Case No. 2 AuSl 125/16.