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Scott Crosby
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Martin Schulz
President of the European Parliament
Rue Wiertz 60
1047 Bruxelles
Belgique

27 April 2015

Dear President,

Allow me, as Human Rights Officer of the European Criminal Bar Association, to draw your attention to a dangerous development.

In February this year a Pakistani man, aged 23, was expelled from Italy and sent to Pakistan for allegedly voicing support for ISIS. He was expelled by administrative order, on vaguely stated grounds, and without judicial involvement. The person in question, Muhammed Usman “Rayen” Khan, had been resident in Bozen since the age of 8.

Avv. Nicola Canestrini, a member of the European Criminal Bar Association, lodged an application for judicial review of the expulsion order before the Regional Administrative Court of Lazio (TAR Lazio).

A member of the European Parliament, Matteo Salvini, criticised this action on his Facebook page ([attachment 1](#)) and received many statements of support from Facebook “followers”.

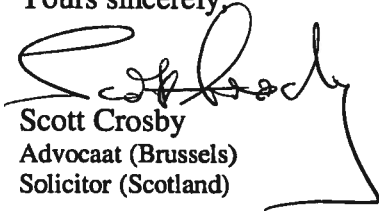
Mr Salvini’s action endangers the right of every person to consult and be defended by a lawyer and to have access to his lawful judge. It also denies the right of lawyers to defend their clients without intimidation, hindrance, harassment and improper influence. To deny anyone this right is already bad enough, but when a public figure and a member of the European Parliament does so, the rule of law is seriously undermined and the reputation of the European Parliament is sullied.

The President of the CCBE has already written to Prime Minister Renzi on this matter (attachment 2), stressing the rights of persons to a fair trial and the rights of lawyers to exercise their professional duties freely.

It is important that you be aware of this incident, primarily because of its threat to the rule of law, but also because of its detrimental effect on the reputation and standing of the European Parliament.

It is also important, in my respectful submission, to react so as to discourage a repetition of this sort of behaviour. I leave it to you, however, to take such remedial steps as you deem appropriate in the circumstances.

Yours sincerely,



Scott Crosby
Advocaat (Brussels)
Solicitor (Scotland)

Attachment 1

**Mr Matteo Renzi
President of the Council of Ministers
of the Italian Republic
Presidenza del Consiglio dei ministri
Palazzo Chigi
Piazza Colonna 370
00187 Roma - Italia**

Brussels, 12 March 2015

Re: Concerns regarding threats against Mr Nicola Canestrini, a lawyer

Dear President,

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE), which, through the national Bars and Law Societies of the Member States of the European Union and the European Economic Area, represents more than 1 million European lawyers. In addition to membership from EU bars, it also has observer and associate representatives from a further thirteen European countries' bars.

The CCBE places great emphasis on respect for human rights and the rule of law. The CCBE Human Rights committee is particularly concerned by the situation of human rights defenders in the world.

The CCBE writes to express its concern over the situation of Mr Nicola Canestrini, who has received severe criticism from an Italian political figure in connection with his work as a defence lawyer. Mr Canestrini recently appealed to the Regional Administrative Court (TAR) of Lazio regarding the expulsion of a 23-year-old Pakistani citizen from Italy, Mr Muhammad Usman Khan, who had lived in Italy since the age of 8. The expulsion was ordered by the Italian national authorities in January after "likes" and "shares" on Facebook by Mr Khan indicated his support of the Islamic State (IS) terror group, jihadist ideology and the participation of European citizens in the conflict in Syria.

The CCBE has been recently informed that Mr Matteo Salvini, a member of the European Parliament and leader of the Italian *Lega Nord* political party, publicly expressed criticism on his Facebook page, on 20 February, noting that it was an Italian lawyer who had appealed Mr Kahn's expulsion at the administrative court. Mr. Salvini's post on Facebook quickly gained a significant number of "likes" and comments, many of which included open insults and threats, such as death threats, against Mr Canestrini and members of his family.

In this context, the CCBE wishes to draw to your attention the following Principles of the United Nations Basic Principles on the Role of Lawyers (1990):

Principle 14 says that:

Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

Also, Principle 16 states that:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Principle 17 states that:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Furthermore, Principle 18 says that:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

In addition, Principle 20 states that:

Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

The state's obligations to guarantee the rights of lawyers are also repeated in Recommendation N° R(2000)21 of the Committee of Ministers to members States on the freedom of exercise of the profession of lawyer (adopted on 25 October 2000).

Particularly, we draw your attention to the following:

Principle I - General principles on the freedom of exercise of the profession of lawyer

1. All necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.

(...)

3. Lawyers should enjoy freedom of belief, expression, movement, association and assembly, and, in particular, should have the right to take part in public discussions on matters concerning the law and the administration of justice and to suggest legislative reforms.

4. Lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.

(...)

Furthermore, CCBE would like to draw your attention to the right of everyone charged with a criminal offence to a fair trial and, in particular, the right to defend oneself in person or through legal assistance of one's own choosing, as enshrined in Article 6 of the European Convention on Human Rights and as interpreted by the case-law of the European Court of Human Rights:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. (...)

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(...)

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(...)

Attachment 2



Il post di Salvini

In un messaggio postato su Facebook (che ha ottenuto migliaia di "mi piace" in poche ore), il politico leghista sottolinea come il 23 enne espulso sia stato colpito dal provvedimento in quanto inneggiava pubblicamente al terrorismo. In effetti furono proprio le esternazioni del ragazzo in Internet a richiamare l'attenzione delle autorità italiane. Usman Rayen Kahn era solito usare la bandiera dell'ISIS come immagine di copertina del suo profilo Facebook, diffondendo posizioni estremiste.

Nel messaggio il leghista Salvini sottolinea come il giovane pakistano abbia trovato un avvocato italiano disposto a curargli un ricorso davanti al Tar del Lazio per cercare di ottenere la sospensione del provvedimento di espulsione ed in seguito il totale annullamento. «Inneggiano all'ISIS e poi ricorrono alla giustizia italiana» scrive Salvini nel post chiudendo con una polemica indiretta nei confronti del governo. «Renzi e Alfano, dove siete?» si chiede Matteo Salvini. Ricordiamo che la prima udienza davanti al Tar del Lazio (per discutere l'eventuale sospensione) è prevista tra alcune settimane.

Immediata, sempre tramite Facebook, la replica dell'avvocato trentino Nicola Canestrini che si è limitato a richiamare gli estremi di una decisione della Corte Europea del 1987 su un caso di blasfemia nel quale i giudici avevano così concluso: "La libertà di espressione del pensiero implica che vi sia spazio per esprimere e divulgare idee nuove e anticonformiste, e che non siano repressi le opinioni che pure urtano o inquietano".

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21 febbraio 2015



GUARDA ANCHE

BY TABOOLA