

The Markiv case: an appeal to Ursula von der Leyen and Didier Reynders

Mrs. Ursula von der Leyen, President of the European Commission
Mr. Didier Reynders, Commissioner for Justice

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President of the Commission and Commissioner for Justice, we turn to you regarding the frankly unbelievable verdict delivered by the Pavia Court of Assizes against the Ukrainian-Italian citizen Vitaly Markiv.

Vitaly Markiv was sentenced in the first instance to 24 years in prison for the homicide of photojournalist Andrea Rocchelli and his interpreter Andrei Mironov – a political activist and opponent of the Putin regime – and for the injury of French journalist William Roguelon.

The trial took place in a deeply anti-Ukrainian climate, with “logical” reconstructions based on hearsay and prejudice. The investigators never even deemed it necessary to visit the crime scene.

Vitaly Markiv is an ideal culprit. He’s an immigrant, and a lucky one at that: he obtained Italian citizenship after having grown up with his family in our country. In journalistic accounts, which the justice adopted and amplified, Markiv had officially become a “Ukrainian nazi”, a “banderist”, as Ukrainian patriots are described in decades of soviet propaganda, and as they are still perceived by parts of the Italian left, and now by the populists in Salvini’s Lega and Casaleggio and Grillo’s Five Star Movement.

Vitaly Markiv was a militant in the Revolution of Dignity, or Euromaidan. Thanks to his knowledge of Italian, and his availability, he became a precious contact for many of the Italian journalists covering the historic events. Following the occupation of Donbas by Russian forces and their local allies, Markiv enlisted in the Ukrainian National Guard. He was ordered to defend a position at the front – a TV antenna on a hill near the city of Sloviansk.

Of the more than 140 Ukrainian soldiers and National Guard members defending the position, Markiv was the only one with dual Italian-Ukrainian citizenship. In fact, it was while visiting his mother after many years away that he was arrested and then prosecuted.

The trial’s main “proof” is an interview published by Corriere della Sera on 25 May 2014, the day after the deaths of Rocchelli and Mironov. The article is presented as some kind of declaration of guilt. In reality, it’s a conversation between Markiv and two journalists, who give different accounts of the same conversation. Moreover, one of the two journalists who was a friend of Markiv continued to spend time with him after the double homicide, and even got Markiv to procure him a bulletproof vest.

The inconsistencies and absurdities of the trial, and of the sentence at first instance, with no extenuating circumstances, were so numerous that even a brief summary is disturbing.

Like his colleagues in the National Guard, Markiv was armed with an AK47, which has an effective range of 400 metres, and a maximum range of 800 metres. The Ukrainian position was 1700 metres from the place where Mironov and Rocchelli were killed.

It is almost impossible to spot anyone from such a distance, and even harder to know whether they're military or civilian, never mind intentionally killing an individual identified as a journalist. Nevertheless, this is supposedly the motive of the murder.

Bullet entry and exit holes in the journalists' car show that the shots came from a lower elevation. The Ukrainian forces were deployed at the top of the hill, while the pro-Russian forces were deployed on a nearby plane. Obviously, the Ukrainians could never have fired from below.

The investigators never investigated the Russian and pro-Russian presence, despite the fact that the area was under their control at the time.

In the sentencing remarks it is claimed that "the Ukrainian faction is responsible for further attacks using similar methods against other journalists". This claim references an OSCE document, which in fact says exactly the opposite, namely that these attacks against journalists were committed by pro-Russian factions in Donbas and Crimea.

During the whole trial, no clear proof emerged of the Ukrainian military's guilt, nor that of Markiv. The Court saw no value in the testimony of Andrei Mironov. Just before dying, in a video recorded by the surviving photographer Roguelon, Mironov spoke of "crossfire, from someone shooting nearby and a mortar in the surrounding area".

The court rejected the request for an inspection of the Karachun mountain, proposed by Markiv's defence, due to "all the elapsed time, and the existence of an ongoing conflict situation". In fact, the conflict around Sloviansk ended more than five years ago, and in any case, the distance between the hill and the crime scene cannot have changed.

A document presented by the prosecution on 15 March 2019, and subsequently proven false, was not removed from the files of the prosecution. The document is a photomontage published by the well-known Russian propaganda site "Russian Spring" (Russkaya Vesna) to discredit the Ukrainian witnesses.

During the investigation and hearings a Ukrainian-Italian translator was never guaranteed, leading to major translation errors.

More incredible still are the sentencing remarks, where the conflict in Donbas is defined as "an ongoing civil war where the Ukrainian insurgents had conquered the neighbouring hill". Then there are lines like this: "the facts show that on 24 May 2014... following Ukraine's declaration of independence", where the Maidan protests are confused with the country's independence, gained in 1991.

These are only some of the "inconsistencies" which characterised this disturbing trial. The theory that Rocchelli and Mironov were caught in the crossfire of Ukrainian and separatist forces was never even taken into account, even though it's a more than plausible occurrence in a combat zone. Given even less consideration was the theory that it was pro-Russian forces

who fired at the journalists. It “must have been” a voluntary homicide, and there “must have been” a Ukrainian perpetrator, as the public prosecutor claimed during final summation.

Lacking all faith that the general climate which led to this outcome will change, we fear that the appeal process will only reproduce the outright deceit that led to the sentencing of Vitaly Markiv to 24 years, rather than recognition of his innocence and his non-involvement in the case, and the identification of those who were truly responsible for the deaths of Andrei Mironov and Andrea Rocchelli.

Faced with the risk that this grave miscarriage of justice is repeated, we believe that the highest authorities of the European Union cannot stand still. This is why we ask you, President of the Commission and Commissioner for Justice, to strive to ensure that the appeal process is carried out under serious scrutiny, with European Commission observers attending all hearings.

In great hope, we ask you to accept our most cordial greetings.

Benedetto Della Vedova
(Secretary of +Europa)