

ESI newsletter 11/2017
27 December 2017

Houses of Cards – Post-truth politics from Skopje to Strasbourg



"If angels were to govern men, neither external nor internal controls on government would be necessary."

Dear friends,

On 9 February 2015, Macedonian opposition leader Zoran Zaev called a press conference in Skopje. In a room packed with journalists he explained that prime minister Nikola Gruevski and his cousin, counter-intelligence chief Saso Mijalkov had orchestrated the illegal wire-tapping of more than 20,000 people, including journalists, politicians, foreign diplomats and even government ministers. These recordings also revealed numerous illegal acts by government officials, from fixing tenders to influencing judges and manipulating elections.

The response by the government was harsh. Prime minister Gruevski denied all involvement in the wiretaps, blamed unnamed foreign intelligence agencies and hinted at Greek involvement. Prosecutors set out to charge Zoran Zaev with espionage, illegal wiretapping and "violence against representatives of the highest state bodies."

Evidence and propaganda

In blaming foreigners Gruevski could rely on external allies. One was the Russian government. The other was an influential group of members of the Parliamentary Assembly of the Council of Europe (PACE). Already in early February 2015 Pedro Agramunt, the Spanish leader of the European People's Party (EPP) in PACE, attacked Zoran Zaev and **condemned** "the involvement of foreign countries through their secret services and illegal tapping of telephone conversations of the highest political representatives of Macedonia, to overthrow the Government." On 26 May some influential members of PACE, led by Agramunt, even **issued a joint declaration**:

"We condemn:

- the threats by Zoran Zaev, President of the Social Democratic Union of Macedonia to the Prime Minister, Nikola Gruevski
- the involvement of foreign secret services and illegal tapping of phone calls of the highest political officials of Macedonia."

This statement was remarkable. There was no call for an evaluation of the evidence or even an attempt to try to establish what had actually happened. The group of 48 signatories included many who had built their careers on defending autocrats, from Baku to Moscow. Next to Pedro Agramunt there was **Elkhan Suleymanov**, the point man for Azerbaijan's caviar diplomacy, who had paid millions to other members of PACE; Belgian liberal **Alain Destexhe**, who was found in 2017 to have received money from Azerbaijan; **Axel Fischer**, a future leader of the EPP and close ally of Agramunt, who resigned in 2017; **Karin Strenz**, another German supporter of Baku, who had received Azerbaijani money and withdrew from PACE in late 2017; and **Thierry Mariani**, a former French minister and apologist of the Aliyev regime and friend of the Kremlin, who had visited Crimea a few times since summer 2015 and defended its annexation.

On 6 June 2015 a "Senior Expert Group on systematic rule of law issues" appointed by the European Commission and led by former German judge and senior EU official Reinhard Priebe, did what the Council of Europe should have done: it tried to establish the facts and **published a detailed report** on the Macedonian wiretap scandal. The problem, the experts noted, was a complete lack of oversight of Macedonian intelligence institutions and a capture of numerous supposedly independent institutions, including courts and the prosecution service, by the executive. The report noted that "the interception scandal has revealed a massive invasion of fundamental rights." It concluded that there was:

"apparent direct involvement of senior government and party officials in illegal activities including electoral fraud, corruption, abuse of power and authority, conflict of interest, blackmail, extortion (pressure on public employees to vote for a certain party with the threat to be fired), criminal damage, severe procurement procedure infringements aimed at gaining an illicit profit, nepotism and cronyism."

And yet, six days later, Pedro Agramunt **issued a statement** as if nothing had happened:

"I want to express my concern about the last political events in the Former Yugoslav Republic of Macedonia (FYROM), specifically with the irresponsible behavior of the political opposition ... I urge Zoran Zaev, president of Social Democrat Union of

FYROM, to reconsider his grave accusations to the Macedonian government and Prime Minister Gruevski."

The difference between the Priebe report and the Agramunt declaration is the difference between astronomy and astrology, between medicine and quackery, between physics and alchemy. It is the difference between an honest enquiry, seeking out evidence in the spirit of the enlightenment, and propaganda.

To operate as if objective facts do not matter was not new for Agramunt. He had built a spectacular career in the Council of Europe on defending human rights violations and whitewashing the regime of Ilham Aliyev, first as rapporteur, then as leader of the biggest group in PACE, the EPP, succeeding **Luca Volonte**, who **secretly received 2.4 million Euro** from Azerbaijan between 2012 and 2014. In January 2016 Agramunt was elected president of PACE. Lies, distortions and post-truth politics reigned supreme. Until 2017.

The lobbyist, the judge and the court



A court that matters

The European Court of Human Rights (ECtHR) is one of the leading human rights institutions in the world. Since 1959 it has **issued nearly 20,000 judgements**. It has ruled on landmark cases defending the basic rights set out in the European Convention of Human Rights. As a bulwark against any return to autocracy it is also, in an age of rising illiberalism, a target.

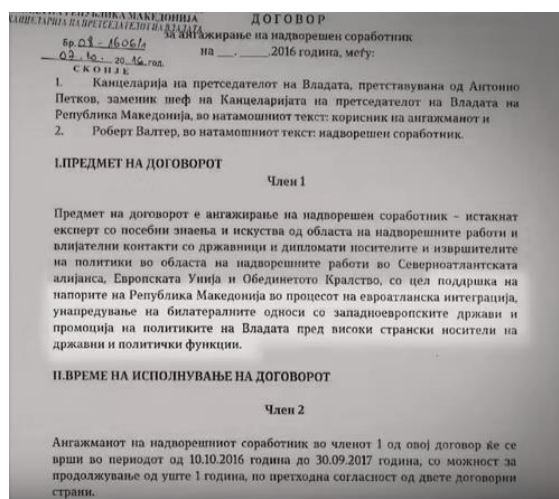
Who are the 47 judges, one from each member state? When a position needs to be filled the respective government proposes three candidates and PACE elects one of the three to serve for nine years. In a first step a special PACE committee conducts an intense closed hearing with all candidates and recommends one. This is followed by a secret vote open to all members of the assembly. Usually the assembly follows the recommendation of the committee. On rare occasions it does not.

Voting for ECtHR judges in PACE (2015-2017)

Elected judge	Recommended by PACE committee	Election by PACE	Vote difference of elected candidate
Pastor Vilanova (Andorra)	X	April 2015	76
Kucsko-Stadlmayer (Austria)	X	April 2015	40
Koskelo (Finland)	X	April 2015	119
O'Leary (Ireland)	X	April 2015	91
Ranzoni (Liechtenstein)	X	April 2015	70
Mourou-Vikstrom (Monaco)	X	June 2015	87
Ravarani (Luxembourg)	X	June 2015	87
Mits (Latvia)	X	June 2015	96
Harutyunyan (Armenia)	X	June 2015	96
Polackova (Slovakia)	X	Sep 2015	50
Serghides (Cyprus)	X	Jan 2016	91
Bosnjak (Slovenia)	X	April 2016	99
Eicke (UK)	X	June 2016	n/a
Huseynov (Azerbaijan)	X	Oct 2016	99
Ilievski (Macedonia)		Oct 2016	20
Schukking (Netherlands)		Jan 2017	47
Paczolay (Hungary)		Jan 2017	37
Chanturia (Georgia)	X	Oct 2017	66

This is what happened in October 2016 when choosing the next Macedonian judge. On 6 October the committee recommended one of three candidates, a former judge of the constitutional court. On 11 October the PACE plenary chose another candidate in the closest vote in many years: Jovan Ilievski who had been the chief prosecutor for organised crime for many years in Skopje. He is also the brother-in-law of the all-powerful former head of the Macedonian security and counterintelligence agency UBK (who, in turn, is a cousin of former prime minister Nikola Gruevski).

What nobody knew at the time was what else happened then. In summer 2017, following the change in government in Skopje, **Macedonian journalists first reported** on a contract between the former government and an influential former Tory member of PACE, Robert Walter. The date on the contract is 7 October, one day after the committee vote.



Excerpt from contract with Robert Walter – the date is 7 October 2016

Walter was to receive 7,000 Euro a month, plus expenses, to lobby for Macedonian government interests. In his activity report to the government he later wrote:

"10-14 October [2016]

Attended the Parliamentary Assembly of the Council of Europe
 Advising Macedonian delegation on the election of Judge to the European Court of Human Rights and other matters under debate in the Parliamentary Assembly."



Robert Walter – Jovan Ilievski

Why did the Macedonian government hire him? Robert Walter had a long history of defending autocracies in the Council of Europe. Whenever there was a debate involving Azerbaijan he would speak out, taking the side of the regime. In **January 2013** he voted and spoke out against a resolution on political prisoners in Azerbaijan. In **October 2013** he led one of the most scandalous election monitoring missions in the history of PACE, again to Azerbaijan. He praised the "sound technical preparation" and "more open electoral debate" and concluded – against all evidence presented by long-term monitors of the OSCE-ODIHR – that the 2013 elections had been "free, fair and transparent." Like Agramunt, Walter had built a career in PACE on defending the human rights record of autocrats against criticism. Like Agramunt he was very well connected in PACE.

More on the disastrous election monitoring of 2013 here:

Disgraced. Azerbaijan and the end of election monitoring as we know it

5 November 2013

This episode raises bigger questions. For the ECtHR to protect its reputation PACE, the institution which chooses its judges, must itself be transparent and committed to the highest standards. If nobody pays attention, if PACE is run by networks indifferent to democracy, then the prestige and credibility of the Court risks suffering as well. Making procedures and voting in PACE more transparent is one way to protect the institutions.

Dominos falling in Strasbourg



Agramunt's fall – the end of an era

European citizens need a credible ECtHR to defend their rights, now more than ever. The ECtHR needs a credible PACE. The fight for the credibility of the assembly, led by a coalition of concerned MPs, has been one of the most surprising stories of 2017.

Exactly one year ago, in December 2016, ESI published the report "**The European Swamp – Caviar Diplomacy Part 2**". Following this, upon returning to Strasbourg in January 2017, we met a growing number of reform-minded parliamentarians from different countries and political groups determined to demand transparency and accountability. We then observed, with amazement, how within a few months the house of cards built by Agramunt, Azerbaijan and its friends started to collapse.

In January 2017 Pedro Agramunt was re-elected unopposed as president of PACE. It would turn out to be his last triumph. At the end of April the PACE Bureau expressed its **lack of confidence in Agramunt and stripped him of his rights to make official visits or public statements**.

On 21 June 2017, the Council of Europe's anti-corruption body GRECO (Group of States against Corruption) presented its **assessment** of the PACE Code of Conduct, as requested by the PACE Bureau earlier in the year. It makes for grim reading:

"...the restrictions and declaratory obligations concerning gifts and other benefits lack consistency and they can too easily be circumvented: it is noteworthy that, to date, only two declarations of gifts have been made. Likewise, the ad hoc disclosure of possible conflicts of interest ... is not clearly and consistently required ... PACE also has no mechanism for the systematic, periodic declaration of interests, income and assets ..."

During the **PACE summer session** in June, the assembly approved an independent external investigation into allegations of corruption. PACE members also overwhelmingly adopted new rules to be able to dismiss their president and other senior elected officials. The passage of **these rules** with 154 votes in favour and 30 against was met with a round of applause.

In October 2017 Agramunt finally resigned, just days before being dismissed. Another ally of his, Jordi Xucla, resigned as leader of ALDE. Axel Fischer resigned as leader of the EPP. Alain Destexhe resigned as head of the human rights committee and from PACE. Journalists around Europe published in-depth research of massive Azerbaijani money laundering (**the Azerbaijani Laundromat**) and connected some of this money to the buying of influence in the Council of Europe. Names already prominent in previous ESI reports reappeared.

An **article in the Financial Times published in December 2017** noted:

"Last December, the European Stability Initiative, a think-tank, **alleged** that, for years, Azerbaijan had been paying some members of the Council's Parliamentary Assembly (Pace) in return for a softening of criticism. It led to the resignation of several parliamentarians, and Pace commissioned an independent external investigation to examine the accusations of "corruption and fostering of interests".

In fact, it took years of research and presentations to get there. We learned about caviar diplomacy in early 2012. Azerbaijani insiders told us how the regime corrupted institutions, about the gifts being made and the names of individuals who were allegedly being bought. We learned about Belgian connections, German networks and Spanish lobbyists. We set out to document what we could. Today, five years after we published **Caviar Diplomacy Part I (2012)**, four years after we **called on Pedro Agramunt to resign** and one year after we published **Caviar Diplomacy Part II (2016)** it appears that PACE has turned a corner. Is this the end of caviar diplomacy?

In the end the most effective way to combat post-truth politics is by establishing facts, connecting dots, presenting concrete recommendations. Only through facts can fact-free politics be beaten.

Vision 2019: Strasbourg as lighthouse for democracy



PACE has a future if it becomes a place for great and serious debates over democracy in Europe.

Human rights in Europe have a future if these debates are won by those who care to defend them. The Council of Europe would then become once again a lighthouse for democracy and not a talking shop for liberal and illiberal regimes alike.

In 1949 all democrats in Western Europe knew that men (and women) were no angels. They had experienced states acting without constraint. They had witnessed the collapse of democracies and the rule of law. They faced strong Stalinist parties in their own parliaments and observed a totalitarian take-over of Central Europe. Pierre-Henri Teitgen, a French lawyer who played a key role in the drafting of the European Convention on Human Rights, often warned about ignoring incipient threats to liberal democracy:

"It is very rare that a democratic country passes under a totalitarian system in one day. There is nearly always a period during which liberty is gradually eroded."

Today European democracies face similar threats. This calls for restoring the vision that moved the founding generation.



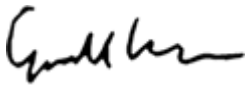
Schwabe – Kyriakides – Maury Pasquier – Omtzigt

Breakthrough 2017 – it takes a coalition to tackle a network

PACE cannot survive without parliaments and parties sending their most committed parliamentarians to Strasbourg, ambitious to advance a Europe based on its founding values. Latest by 2019, when the Council of Europe will be 70 years old, the original vision of a lighthouse for human rights should become credible again. Hosting too many delegates from big European autocracies in Strasbourg, pretending to respect human rights while working to destroy the institution from within, poses a mortal threat to PACE and to the ECtHR. The disastrous experience of the capture of the institution during the past decade must not be repeated.

Europeans have been warned how far autocrats will go to undermine it. We now need to see how much democrats are prepared to do to preserve it.

Best regards,

A handwritten signature in black ink, appearing to read 'Gerald Knaus', written in a cursive style.

Gerald Knaus

ESI videos – reversing the capture of the Council of Europe

Stockholm 2017

Presentation with deputy president of the Swedish Parliament

Washington DC 2017

Caviar diplomacy presentation at Hudson Institute

Oslo 2014

Presentation on the capture of the Council of Europe at
Norwegian Helsinki Committee event with Pussy Riot and others

PS: As this is our last newsletter this year we – the whole ESI team – want to thank our readers, donors and friends, all those who found our analysis useful and all those who took the time to disagree with it, for your patience and interest during 2017. We are looking forward to sharing our findings, analyses and research with you also in 2018. Take care!



ESI in Berlin and Strasbourg (2017) – www.esiweb.org