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Request for assistance: Systemic violations in Slovenian courts' handling of electoral corruption matters

Dear Ms. Ingibjörg Sólrún Gísladóttir, the Director of the OSCE/ODIHR

Dear Mr. Alexander Shlyk, the Head of Election Department, OSCE/ODIHR,

Dear Mr. Gianni Buquicchio, the president of the Venice Commission, the Council of Europe

Dear Mr. Oliver Kask, the Chair of the Council of Democratic Elections, the Venice Commission,

Dear Mr. Marin Mrčela, the president of the GRECO,

Among your tasks is the observation or advice in the matters of democratic elections, electoral corruption, and election-related judicial decision-making. I wish to draw your attention to systematic violations of European election law standards, which take place in the Constitutional Court of Slovenia and the Administrative Court of Slovenia following the Local Elections 2018.

Local elections took place on 18 November 2018. Due to electoral corruption violations, candidates challenged election results in three municipalities in the Administrative Court during and immediately after the elections: in Ljubljana, Maribor, and Log-Dragomer. In all three challenges, the applicants requested oral court hearings and priority judicial procedures. An oral court hearing is a fundamental human right under ECHR, and priority judicial procedure in electoral matters is a widely accepted European standard, confirmed by numerous recommendations in OSCE/ODIHR election reports.

In all three cases, the Administrative Court refused to hold a public trial or an oral hearing. In all three cases, the applicants did not get a chance to question the opposite party or the election officials. Moreover, more than ten months after the elections, all three judicial procedures are still ongoing.

In the Ljubljana case, the Administrative Court refused to carry out a public trial or an oral hearing. Upon appeal, the Constitutional Court ordered the Administrative Court to carry out a public trial and oral hearing within 30 days. The applicant requested the replacement of one of the judges. Months have passed, and the courts do not decide on the replacement of the judge, and they do not organize a trial (case Up-135/19).

In the Maribor case, the Administrative Court refused to carry out a public trial or an oral hearing. Upon appeal, the Constitutional Court has been silent on the case since March 2019 (Up-346/19).

In the Log-Dragomer case, the Administrative Court refused to carry out a public trial or an oral hearing, and upon appeal, the case is with the Constitutional Court (Up-1010/19).

The cases of Ljubljana and Log-Dragomer deal with the abuse of public funds for private campaigns of incumbent mayors. The case of Maribor deals with classical voter bribery. During the candidate nomination process, a candidate, who later was elected, publicly promised food "in exchange" of petition signatures in his restaurant. It was not food distribution to anybody but explicitly only to those voters signing the petition, and food was "in exchange" for a valid signature.

The Venice Commission's Code of Good Practices on Electoral Matters clearly states that appeal proceedings should be brief, the appeal body must make its ruling as quickly as possible, the appeal procedure "should be of a judicial nature", the courts "should have authority to annul elections" and in case of the annulment "a new election must be called in the area concerned". It should be noted that Slovenian courts continuously reject appeals by voters contrary to the Venice Commission's Code which states that "all voters ... must be entitled to appeal".

The elections were more than ten months ago, and none of the court procedures have finished. Systemic violation of European election standards is present. Courts should have held public trials, allowed oral hearings, finish cases soon after the elections, and in cases of violations, they should have disqualified a corrupt candidate or ordered a new vote. Only parliamentary elections fall under the jurisdiction of the European Court of Human Rights, and local elections are within the scope of your organization. We kindly ask you to do whatever is in your powers to assist: look into the matter, consider these violations in your next election observation or election assessment activities and reports, start an infringement procedure or a supervision, discuss these matters at next meetings of your bodies or at your meetings with Slovenian authorities, or analyse the behaviour and decisions of the Administrative Court and of the Constitutional Court in these three cases, or whatever is in your power.

Ljubljana, 2 October 2019

Sincerely Yours,



Vili Kovačič
the president of the "Davkoplačevalci se ne damo" NGO