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(Solidarity against the) Criminalisation of migration and border crossing services

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On March 17th 2014 the trial against eight persons accused of “Schlepperei/human smuggling in the frame of a criminal association” started at Landesgericht Wiener Neustadt. On the December 4 shortly before midnight the sentences were passed.

Critique should not be adressed to her but to the legislator, says the state prosecutor and insits on twenty pages of vague phrases which make up the indictment. She is right, as a state prosecutor she only applies the law: Everything that is indicted she will classify it by the Austrian law. In this logic it is impossible to talk about the fact, that laws like §114 criminalize migration and are based on a racist distinction between people according to their papers. This will not change even if the paragraph itself should be changed. The sentence which the state prosecutor asks for – and will have confirmed by the judge, the end of the day – criminalizes a protest movement on the one hand and on the other keeps up social inequality, like many other decisions made in this justice system: Those who don’t have money are committing crimes commercially and should therefore be punished with high sentences – an idea

which is not based on the law but was literally applied. Apparently it seems impossible that people are acting in solidarity with others without taking money for it. If there is no proof, some figurative phrases about “lambs” on the telephone are taken as evidence for a strikly organized business.

All in all the accused were “small wheels” in a bigger network, they say. The bosses are somewhere in Hungary or Greece, unseizable for the Austrian Justice, hence even more dangerous. Also the lawyers point on the fact that the “big boss” was released by the police. This argumentation illustrates the contradictions in the Sonderkommission’s logic (Sonderkommission = specialized police). Still, the “knowledge” about these “bosses” is based on the same chaotic files and investigations like the ones which form the weak accusation against the eight people. To refer to it therefore supports the argumentation of thepolice and the state prosecutor. Trials like this are expensive for the state, there are costs for translators, pre-trial detention and keeping up buildings like the court. This, together with the (critical) public attention in this case, made any acquittals seem unrealistic – already before 4th December. How else would the judicary jusitfy it’s actions? At last when it was known that there will be a limited number of people allowed inside the courtroom for the proclamation of the verdict and every person was filmed by the police while entering the court, even empty plasic bottles had to be left at the entrance and the Courtroom was surrounded by police, and even one civil policemen was sitting with the accused at the dock, it was clear for everyone that there will be sentences.

Finally, everything stayed like it was. “An unknown number” of people should have been brought to “unknown countries of the European Union”, for unknown amounts of money, together with unknown backers. Seven out of eight accused got prison sentences

from seven to 28 months, arranging their probation in a way that no one has to go to prison again so far. To not have to go to prison again does not mean that the sentence will not have a negative influence on their right to stay in Austria.

As usual, Petra Harbich read out the verdict in German first. Half an hour she was talking in juristic tongues, and as usual, the last ones who got to know what exactly is going on were the accused. Interjections from the audience did not change this either.

The media wrote that the judge stayed “cool” despite tumults. This is true, as despite tears, political interjections and emotional statements by the accused and by the audience she read out the verdict, which was just another violent act as done by the constitutional state every day. In the end the question which remains is who for real are the “small wheels” of a bigger, dangerous structure.

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