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Slovenia: Criminal charges against journalist must be dropped

On 15 October, trial proceedings started against Anuška Delić, a journalist of the Slovenian daily *Delo*, at the Ljubljana District Criminal Court. Amnesty International is concerned that Delić is being prosecuted for publishing information that is of public interest. If convicted, she could face a prison sentence of up to three years. Journalists should not be prosecuted for reporting on classified information, which is in the public interest, and the charges against Delić must be dropped immediately. If imprisoned, Amnesty International would consider her a prisoner of conscience.

Anuška Delić is being prosecuted in relation to a series of articles about the far-right group Blood and Honour in Slovenia, published in the newspaper *Delo* in December 2011. The articles contained information about the group and its activities. They revealed alleged political connections between the far-right extremists and the Slovenian Democratic Party (*Slovenska Demokratska Stranka*, SDS), one of the largest political parties in the country.

The criminal charges have been initiated by the Slovene Intelligence and Security Agency (*Slovenska obveščevalno-varnostna agencija*, SOVA) from which some of the information was allegedly leaked.

Anuška Delić has been charged under Article 260, Paragraph 2 (publishing classified information) of the Criminal Code of Slovenia and is facing up to three years of imprisonment if convicted. Article 260 does not presently explicitly include the public interest of published information as a defence against the crime.

Anuška Delić pleaded not guilty at the pre-trial hearing. The proceedings are expected to resume on 19 November.

Delić should not be compelled during the trial hearing to reveal her confidential source of information.

Amnesty International welcomes statements by the Minister of Justice announcing plans to introduce a legislative amendment under which journalists would be exempt from criminal prosecution for publishing leaked information, unless publishing would pose a threat to people's lives.

Background

Article 19 of the International Covenant on Civil and Political Rights, to which Slovenia is a state party, states that every restriction on free expression shall only be such as provided by law and necessary for the protection of a legitimate aim, such as national security or public order. As the UN Human Rights Committee has stated in its General Comment 34 (on Article 19), it is contrary to Article 19 to prosecute journalists for disseminating information of legitimate public interest which does not harm national security. Similarly, a Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the Special Rapporteur on Freedom of Expression of the Organization of American States and the Special Rapporteur on Freedom of Expression of the African Commission on Human and Peoples' Rights notes that "[j]ournalists should not be held liable for publishing classified or confidential information where they have not themselves committed a wrong in obtaining it. It is up to public authorities to protect the legitimately

confidential information they hold.”¹ The UN Human Rights Committee, also in General Comment 34, calls on states to “recognize and respect that element of the right of freedom of expression that embraces the limited journalistic privilege not to disclose information sources.” The European Court of Human Rights, in a number of cases, including the 1996 decision in *Goodwin v. the United Kingdom*, has recognized the importance of protecting the confidentiality of journalistic sources for the right to freedom of expression. In the same vein, under Principle 48 of the Global Principles on National Security and the Right to Information (Tshwane Principles), “[n]o person who is not a public servant should be compelled to reveal a confidential source or unpublished materials in an investigation concerning unauthorized disclosure of information to the press or public.”

¹ <http://www.osce.org/fom/99558?download=true>