

Statement of The Institute for the Study of Totalitarian Regimes on the suspension of the membership in The Platform of European Memory and Conscience

The Institute for the Study of Totalitarian Regimes (hereafter Institute) cannot accept the decision of the Council of The Platform of European Memory and Conscience, association of interest of legal entities according to the Act no. 40/1964 Coll. the Civil Code, (hereafter Platform), about which Institute was informed via a letter from the President of the Platform on January 14, 2014 and which resided in suspension of the Institute's membership in the Platform.

The Institute considers that this decision is invalid for several reasons. Firstly the Institute has not received any minutes of the meeting of the Platform's Council or any other document in which this decision would be formalized. The letter, which was sent by the President of the Platform, contains only announcement of the decision. The announcement states that the decision was based on Article 8, paragraph 1 and 2 of the Statute of the Platform. However, the Statute of the Platform does not allow voting on suspension of the membership, since it does not even know the term "the suspension of the membership" at all. Duties and rights of the members may be rightfully prescribed only by the statute or they should be at least in their essential aspects deductible from them. If this decision is not based on the statute, it cannot be legally effective against the member of the association.

President of the Platform blames the Institute, that in 2013 the Institute twice refused to provide information to the Platform, which he considered as necessary for the Platform. The first entreaty was directed to the directress of the Institute, Mrs. Pavla Foglová to clarify her business in the years 1994-2000. During this time she should had committed a money laundering, which could signify breaching of The Platform's Code, namely that „*the Member is not connected with, does not and shall not support, in any form, be it financial, personal or material, non-democratic political structures or persons affiliated with such structures (...)*“. In this case, it is completely unfounded speculation, which is not supported by any relevant evidence. In this spirit, the open letters of the Platform were also discussed on the regular public meeting of the Institute Council, where it was stated, that it had been an absurd and regrettable allegation. It is completely unacceptable in the democratic state to force any person to accept similar inquisitional practices.

Furthermore, the President of the Platform refers to his request for the information according to the Act no. 106/1999 Coll. on Free Access to Information. The requested information was related to the alleged breach of the Platform's Code. Suspected breach of the Code was seen in the membership of the several members of the Academic Council of the Institute in the Communist Party of Czechoslovakia in the past, namely that these people firstly occupied any political function and secondly that they received payment for this activity. Since according to the Platform's Code "*The Member does not knowingly employ former members or collaborators of repressive forces of totalitarian regimes or former functionaries with paid political jobs in totalitarian political structures, in paid or unpaid functions.*" The Institute

handled this request by the statutory procedures; the application was processed as the required information is not subject of Institute's jurisdiction. The Institute clarified to the applicant that the required information was not and could not be, with regard to the legal regulations of the Czech Republic (e.g. Article 7 of the Charter of Fundamental Rights and Basic Freedoms, § 11 et seq. Act no. 40/1964 Coll. of the Civil Code or § 10 Act no. 101/2000 Coll. on Protection of Personal Data), at its disposal. Simultaneously, the Institute recommended to the applicant to approach directly the persons in question. According to our information nobody from the Platform has ever contacted the members of the Academic Council in question, nor has the applicant lodged any complain against handling of this request. The Institute insists that it does not breach the Code because it does not knowingly employ anybody, who would fulfil the condition that he or she was a member or collaborator of repressive forces of totalitarian regime or former functionary with paid political job in totalitarian political structure in the past. It should also be remarked that the members of the Academic Council are neither employees of the Institute nor in any other relationship to the Institute similar to the employment.

The argumentation mentioned in the letter of the President of the Platform, that the Institute should examine the criminal activities of the Communist Party of the Czechoslovakia, document the participation of local people in supporting the Communist regime and publish the information about the period of communist rule and about the deeds and fates of the individuals according to § 4 Act no. 181/2007 Coll. on The Institute for the Study of Totalitarian Regimes and The Security Services Archive and about the amendment of certain Acts and that further it is according to § 5 empowered to process personal data to the extent necessary, is not acceptable. The authorisation to process personal data, to the necessary extent, is an indispensable condition for working with archival and other period materials for the purpose of scientific research. The task of the Institute is, among other things, an independent and objective research of the past, followed by a presentation of the results to the public, not purpose-built publishing of any selective and incomplete information. The authorisation according to § 5 cannot be extensively interpreted as an option to acquire, process and publish data about particular persons based on the applications according to Act on Free Access to Information. Observance of the law is fundamental prerequisite for the democratic and lawful state; it is completely inconceivable that the governmental institution would act against the letter and spirit of the law.

The President of the Platform was repeatedly invited to the Institute in order to convince himself of the absurdity of the doubts he had formulated. He has never responded on this offer, let alone taken advantage of it. All efforts of the Institute to lead the mutual communication to the consensus were in vain because of the a priori negative attitude of the Platform's representatives to the Institute and in particular to its representative. Instead of finding a consensual solution the Platform has selected an ultimatum giving strategy, which moreover appeals to the Institute for breaching the legislation of the Czech Republic.

It is completely absurd and unacceptable that the association of interest of legal entities deduces penalties, which moreover have no support in its statute, only from the alleged suspicion of breaching the internal regulations. The sanction of the member of the association for the mere suspicion, without any relevant evidence that the breaching actually occurred, is action completely contrary to the democratic principles of the lawful state. It is sad that the association, which bears the name „Platform of European Memory and Conscience”, serves by this inquisitional, coercive and especially illegal manners to assert personal interests of a few of its representatives.

The Institute as an organizational unit of a sovereign and democratic state cannot, for the above mentioned reasons, continue to be a member of this association.

Prague, January 17, 2014

Pavla Foglová, m.p.

Directress of the Institute for the Study of Totalitarian Regimes