

Heidelberg, 13.06.2013

**Criminal complaint against the National Executive Committee of the CDU and others
on the grounds of coercion, false suspicion and slander
in connection with the resignation of the former Federal President Wulff**

Dear Sirs,

In the above matter, I hereby lodge a criminal complaint against the Federal Chancellor and Party Chairperson of the CDU, Mrs. Angela Merkel, against the whole Executive Committee of the national CDU, against the former Justice Minister of Lower Saxony Bernd Busemann, and against the Public Prosecutor Clemens Eimterbäumer, on the grounds of coercion, false suspicion and slander, and request the Berlin Public Prosecutor's Office to institute corresponding investigative proceedings.

1. Overview

Christian Wulff resigned from his office as Federal President on 17th February 2012 after only about 1½ years in office. In purely formal terms, this was a “voluntary” resignation, although it was in actual fact a matter of dismissal from office – brought about by excessive media reporting and an excessive Public Prosecutor's investigation, which on the day preceding his resignation resulted in an application for suspension of his immunity (see press release of the Hannover Public Prosecutor's Office of 16.02.2012 in the Appendix). Christian Wulff was *coerced* out of his office.

By the end of the investigation proceedings, almost nothing remains of the accusations. It is a matter of only approx. € 700 and a threadbare, legally untenable accusation of bribery. The extent of the investigation proceedings and the media reporting are completely out of proportion to the alleged offence. The reporting excess of the media and investigation excess of the Public Prosecutor's Office resulted in a “concerted action” and an “execution campaign” against the head of state. The Senior Public Prosecutor conducting the investigations, Clemens Eimterbäumer, and his then superior, the former Justice Minister have exposed themselves to the suspicion of criminal action in accordance with § 164 StGB and § 186 StGB (false suspicion, slander) with an obviously untenable complaint following investigation proceedings arranged for the benefit of the media, or in modern parlance “trial by television”

The main instigators of the campaign apparent to the outside were for the media the “Bildzeitung” and for the state apparatus the Hannover Public Prosecutor’s Office.

As part of the Springer press, the Bildzeitung is a decidedly conservative newspaper, and supports the CDU. In the past, it was particularly close to Christian Wulff, and accompanied his political rise with benevolence and support. But then came the sudden parting of the ways: The Bildzeitung became the spearhead of the excessive, campaign-style reporting. The reporting appeared - at least superficially - to cause severe damage to the CDU and its Chairperson Angela Merkel. After Horst Köhler first resigned from the office of Federal President at the end of May 2010, it could apparently not have been in the interests of Chairperson Merkel to see further damage being caused to another Federal President who had been proposed by her and ushered into office for reasons of party tactics, let alone that he should lose his office. Mrs. Merkel was threatened with a loss of power and face. Such a radical about-face by the Bildzeitung to the detriment of the former favourite Wulff and the supposed detriment of the CDU is inconceivable without political collusion and backing.

The Public Prosecutor’s Office is bound by instructions (§ 146 GVG). In concrete terms: The investigating Hannover Public Prosecutor’s Office in the person of the Senior Public Prosecutor Clemens Eimterbäumer was subject to the instructions of the then Justice Minister of Lower Saxony. During the investigation proceedings, this was the CDU politician Bernd Busemann. The conduct of such politically sensitive investigation proceedings is inconceivable without political backing and the express orders of a superior (Justice Minister Busemann), due to the fact that the Public Prosecutor’s Office is bound by its instructions. And it is just as inconceivable that the CDU politician Busemann would fuel any investigation proceedings against his party colleague Wulff without consultation and agreement with his party leadership (i.e. Party Chairperson Merkel). Because the CDU in particular is well-known for its general party discipline, which can be assumed to be an essential requirement, especially in such a central personnel matter.

From both main actors, the lines therefore lead back to the CDU, and actually the party leadership of the CDU, and therefore also to Chancellor Merkel and to the CDU in Lower Saxony, and to the former Justice Minister Bernd Busemann, who was authorised to issue instructions with regard to the investigation proceedings. The actual discussions between the actors concerned, their time, location and precise content are of course not known to the undersigned. That lies in the nature of the matter. The circumstantial evidence however is overwhelming (see below for details). The most important indication is a strong motive:

At the highpoint of the European national debt crisis, and in the middle of the heated phase of the German legislative proceedings on the European Stabilisation Mechanism (ESM), the former Federal President Christian Wulff clearly distanced himself from the “Euro rescue policy” of the Merkel government. He thereby signalled that he would not put his signature to

such a bill. From the point of view of Chancellor Merkel, the consequences were drastic: The failure of her own Euro rescue policy, and a corresponding loss of face and power, and severe repercussions on the stock and financial markets.

Only two days after another speech criticising the Euro rescue on 14.02.2013 on the occasion of a visit to the University Bocconi in Milan/Italy, the Public Prosecutor's Office applied for the suspension of the immunity of Christian Wulff. Obviously, all attempts by the Chancellor to make the Federal President toe the party line with respect to the Euro rescue policy had failed. Merkel had made it clear to Wulff that if he refused to play ball, he could no longer be kept in office. She also made it clear to Wulff that through the media and the Public Prosecutor's Office, she had the power and means to remove him from office. Federal President Wulff however stuck unflinchingly and publicly to his critical position on the Euro rescue. Mrs. Merkel drew the necessary consequences and gave the green light to the media and the Public Prosecutor's Office for the dismissal proceedings.

2. The case against the Federal President is untenable

On 12.04.2012 the Hannover Public Prosecutor's Office brought an action against Christian Wulff on the grounds of suspicion of bribery:

“Under the charge, the accused Groenewold is accused, on the occasion of the so-called “Oktoberfest visit” in Munich of 26th to 28th September 2008, of paying for Christian Wulff and his family € 510.00 for hotel and child care costs, € 209.40 for an evening meal together with Christian Wulff and his wife, and € 3,209.00 for a visit to the marquee with them and 6 to 7 other guests. It appears sufficiently probable that this was done with the intention of motivating the accused Wulff to use his official capacity as Prime Minister of Lower Saxony to lobby Siemens AG for support in the marketing of the film “John Rabe”. Concrete knowledge exists that one day after the “Oktoberfest visit”, the accused Groenewold requested the accused Wulff in writing to solicit such support from the Chairman of the Board of Siemens AG, Henri Peter Löscher.

The accused Wulff is accused of complying with this request, in full knowledge and approval of the payment of the costs by the accused Groenewold, and of lobbying for support for the film project in a letter to Peter Löscher of 15.12.2008.” (see press release of 12.04.2013, attached in the Appendix).

The result of the investigation proceedings is lean, both quantitatively and qualitatively.

Quantitatively it is a matter of only approx. € 700. € 700 is money too - but in relation to the financial standing of a Federal President, it is a mere trifle. It is not plausible that that a Federal President could be moved to take official actions by payments of this order of size. The acceptance of benefits and corruption presuppose an unjust agreement, namely such that the

enticement is offered and accepted with respect to the exercise of office in general, or in the case of corruption with regard to a concrete official action. According to present jurisdiction, the exorbitant level of a payment is an indication of an unjust agreement, while such an insignificant payment contraindicates an unjust agreement (see amongst others Satzger / Schmitt / Widmaier, § 331 StGB Rn. 30). An accusation cannot be justified on this basis, and the proceedings should have been dropped for lack of adequate suspicion or at least because of insignificance.

Qualitatively, the accusation of the Public Prosecutor's Office is even less comprehensible: Christian Wulff is accused of allowing himself to be used for the promotion of the film John Rabe to Peter Löscher (Chairman of the Board of Siemens AG. The film is a project of David Groenewold, and concerns the historical figure of John Rabe. Rabe managed the branch of Siemens in Nanjing, China. During the Second World War and the Japanese attacks on China, he helped to create a safety zone for civilians and the saving of human life. Rabe offered protection to civilians on the company premises of Siemens. The fact that a politician (in this case Christian Wulff) should want to assist in promoting such a film is not worthy of dishonour, and certainly not worthy of punishment. The film is of political interest because it explores a significant detail of German contemporary history. It is therefore worthy of support. The assumption of contact with Siemens is quite appropriate - it is after all a matter of a part of the company history of Siemens.

The Public Prosecutor's Office assumes that Christian Wulff involved himself in the promotion of the film in the sense of cronyism only because it concerned his "friend" David Groenewold, and because he had received money from the latter. This is an assumption which cannot be confirmed in any way. It is not even plausible. It is much more likely that Christian Wulff regarded the promotion of the film as a political task (and rightly so), particularly when it is a matter of a film with a political dimension. The interest of Wulff in the subject of John Rabe is also confirmed by the fact that during his visit to China planned when he was Prime Minister (but which was cancelled on his election as Federal President), he intended to visit the John Rabe House.

The accusation by the Public Prosecutor's Office cannot be explained legally, but only politically. The accusation as the end result of the investigation proceedings throws a miserable light on the complete investigation proceedings: Of all the accusations made against Wulff and thoroughly reviewed by the Public Prosecutor's Office, the Public Prosecutor's Office chose this point as the sole grounds for the accusation - all other accusations thrown up by the media and Public Prosecutor's campaign had obviously proven themselves to be even less convincing as grounds for an accusation.

The proceedings of the Public Prosecutor's Office are no proper investigation proceedings, but are a political farce. Under criminal law, the principle of "in dubio pro reo" ("*when in doubt, for the accused*") applies.

The generally accepted suspension practice of the Public Prosecutor's Offices in Germany would under the same factual circumstances and in a normal case certainly lead to suspension of the proceedings. Here however it is a matter of a special political case in proceedings which were instituted with a clear political objective (constructive dismissal). The Hannover Public Prosecutor's Office has gone far beyond the legal grey area in bringing this accusation without any sustainable factual basis, and has exposed itself to criminal prosecution on the grounds of false suspicion and slander.

3. Extent and accompanying circumstances of the Public Prosecutor's investigations

The extent and the complete accompanying circumstances of the Public Prosecutor's investigation proceedings also speak volumes for the claimed political control and instrumentalisation of the investigation proceedings by the Chancellor, with the aim of the constructive removal from office of the then Federal President.

According to the own information of the Public Prosecutor's Office from October 2012, the investigations assumed an exorbitant extent:

“93 witnesses were heard from all over Germany.

Electronic files from stationary computers, notebooks, tablets, hard disks, USB sticks and mobile telephones with a total volume of 5 Terabytes had to be evaluated. The approx. 1 million files included amongst other things SMS messages and e-mails.

380 files containing correspondence were seized.

45 bank accounts with numerous individual bookings were examined.

The telecommunications connection data of 37 telephone connections were examined retrospectively.

Residential and business premises in eight buildings were searched.

Legal assistance was requested from three foreign countries, which has since been approved and provided in two cases.

The investigation files now consist of over 20,000 pages.

This amount of work could only be covered by the special employment of the 24-man investigation team of the State Criminal Investigation Department and the four Public Prosecutors of the Central Office for Crimes of Corruption.” (see press release of 09.10.2012)

The relationship between the extent of the investigations and their result is out of all proportion: The extent of the investigations would give cause to suspect that the Public Prosecutor's Office was on the trail of a mafia-like undermining of the state. In reality however, they were matters of almost complete insignificance. It is also worthy of mention that the Public Prosecutor's Office, in setting itself such priorities, removed all precedence on the prosecution of "genuine" criminality, and wasted a huge amount of tax funds. In this context however, it is interesting that the public announcement of the exorbitant extent of the investigations publicly scandalises and criminalises former Federal President Christian Wulff. The public exhibition of the investigations is tantamount to the abrogation of the principle of "in dubio pro reo". Instead of first reviewing the accusations played up by the media in peace and quiet and with the due discretion, a public and prejudicial process was set in motion. The outcome of the proceedings is then irrelevant, since the accused has been condemned long before any verdict is handed down.

In addition to the public exhibition of the investigation excess, the public appetite for scandal was systematically fed by further indiscretions, in order to put Christian Wulff in the worst possible light. It became known for example that Wulff had often overdrawn his account, and that his Rolex had been pawned. It is suspected that the then Justice Minister of Lower Saxony, Bernd Busemann, was responsible for these indiscretions (see report of Zeit-Online Deutschland of 29.11.2012, attached in the Appendix).

In any event it is obvious that investigations of this extent in a politically sensitive area cannot take place without the orders of the superior in office, i.e. in this case the Justice Minister Bernd Busemann, and that these instructions must be agreed with the party leadership (Chancellor Merkel). The place, time and precise content of the discussions and instructions are of course not known to the undersigned. They may however be brought to the light of day by Public Prosecutor's investigations. The fact is however that the then Justice Minister Bernd Busemann has had repeated access to the proceedings files, and has followed the whole proceedings very closely (see report of Zeit-Online Deutschland of 29.11.2012, attached in the Appendix).

4. European national debt crisis and related statements of the former Federal President

The most important indication however - as referred to at the beginning - is the motive of the accused: The exclusion of the former Federal President Wulff, in order to be able to force through the Merkel Euro rescue policy.

In his speech on the opening of the 4th conference of Nobel Economics Prize winners on 24.08.2011, Christian Wulff took a critical stand against the government policy on the so-called Euro rescue:

“We are continuing to see a development which is reminiscent of a game of dominoes: First, individual banks rescued other banks, then countries rescued their own banks, and now the community of states is rescuing individual countries. It is therefore not unreasonable to pose the question: Who in the end will rescue the rescuers? When will the accumulated deficits be distributed amongst whom and by whom?”

And on the intervention of the ECB:

“Only when the supreme monetary authorities go far beyond their mandate and buy up government bonds to a huge extent - currently in volumes of over € 110 billion. That cannot and will not go well in the long term, and can in any case only be tolerated as a provisional measure. The monetary authorities must also return quickly to the agreed principles. I say now with all due consideration that I consider the masses purchasing of government bonds of individual countries by the European Central Bank to be politically and legally questionable. Article 123 of the Treaty on the Functioning of the European Union prohibits the ECB from directly acquiring debt titles in order to secure its independence. This prohibition only makes sense if those responsible do not circumvent it by making extensive purchases on the secondary market. The indirect purchase of government bonds is also more expensive than their direct purchase. Once again, the actors in the financial market earn commissions without bearing any of the risk themselves.

On 02.02.2012, the Federal Governments submitted a bill for the European Stabilisation Mechanism. In the midst of the legislative proceedings, Christian Wulff clearly stated his position on 14.02.2013 in his speech to the University Bocconi in Milan/Italy:

“Every country must act responsibly. Every country, together with the other countries, must make the monetary union crisis-proof. If the world is convinced of the performance capability of the European national economies, then the confidence which we need in order to keep the Euro stable will return. In the European Stabilisation Fund, we have created a powerful instrument for emergency situations. It is however no substitute for sound fiscal and economic policy. I am not convinced by increasing rescue packages time and time again, and providing financial aid and guarantees without restriction, until even strong countries come up against their financial limits. I cannot share the logic of those who demand this. Ever larger supposed protective walls are still of no use if the danger comes from inside.”

Christian Wulff gave it to be understood that he would not countersign the Act on the ESM. From the point of view of the accused, it was clear that the already instituted process of constructive dismissal would have to be followed consistently to its end. Only two days later, the Hannover Public Prosecutor's Office applied for the suspension of the immunity of Christian Wulff.

5. Evidence

In addition to the evidence listed in the Appendix, investigations would also be possible by hearing the other persons involved (Angela Merkel, Christian Wulff, Bernd Busemann, the investigating Public Prosecutor Clemens Eimterbäumer, further involved employees of the Public Prosecutor's Office and the State Criminal Investigation Department).

Appendices

Press release of the Hannover Public Prosecutor's Office of 16.02.2012

Press release of the Hannover Public Prosecutor's Office of 16.01.2012

Press release of the Hannover Public Prosecutor's Office of 12.04.2013

Press release of the Hannover Public Prosecutor's Office of 09.10.2012

Speech by former Federal President Wulff on 24.08.2011

Speech by former Federal President Wulff on 14.02.2012

Report by Zeit-Online Deutschland of 29.11.2012