



20 February 2024

Press release

Decision of 25 January 2024 (case no. SB230113)

The Supreme Court of the Canton of Zurich sets aside the judgment and supplemental judgment of the District Court of Zurich in the proceedings against Pierin Vincenz and various other defendants for serious procedural defects and refers the case back to the Public Prosecutor's Office. In the view of the Supreme Court, the rights to be heard and to a bill of indictment that complies with the statutory requirements, which are essential in criminal proceedings, were violated. Those defects cannot be remedied by the Supreme Court itself, so that a referral back is obligatory for the Supreme Court based on statutory requirements and case-law of the highest courts. The right to a fair trial applies to all defendants, regardless of how well-known they are or the size and complexity of the case.

The District Court of Zurich convicted five of the seven defendants by judgment of 11 April 2022 and by supplemental judgment of 22 August 2022, specifically for offences in connection with unlawful private expenses and corporate transactions. The Public Prosecutor's Office III of the Canton of Zurich, the defendants as well as the private claimants and the other participants in the proceedings are now involved in proceedings against this judgment at the Supreme Court. In the appeal proceedings, several defendants raised procedural objections against the proceedings at first instance and requested that the judgment be set aside and the proceedings be dismissed.

The Supreme Court upholds essential points of the procedural objections of the defendants with regard to the violation of the right to be heard.

The purpose of the principle of indictment is to protect the rights of defence of the defendant and to safeguard the right to be heard. A bill of indictment must describe the conduct that an accused person is accused of as briefly but precisely as possible. An accused person must be able to ascertain from the bill of indictment the conduct of which he or she is accused. In the present proceedings, that principle was violated by the Public Prosecutor's Office. The bill of indictment, which is very wordy in parts, contains extensive submissions in support of the indictment, which significantly exceed the statutory framework for a bill of indictment. This circumstance made it considerably more difficult for the defendant to defend himself effectively in the proceedings at first instance.

The right to be heard also includes that an accused who does not have sufficient command of the language of the case is provided with a translation of the most important procedural acts, in particular the indictment. A French-speaking defendant repeatedly unsuccessfully requested a translation of the bill of indictment on which the judgment at first instance was based, both during the criminal investigation proceedings and in the court proceedings before the court of first instance. Only a few excerpts from drafts of the bill of indictment were translated for him. However, this is not sufficient. The defendant in question should have been provided with a translation of the bill of indictment. The refusal of a translation by the Public Prosecutor's Office and the court of first instance constitutes a serious violation of the right to be heard and violates the requirement of fairness. This defect cannot be remedied in the appeal proceedings, otherwise the defendant would lose a court instance.

A procedural separation must be ruled out because of the established violation of the principle of indictment and, moreover, would be impossible because of the related accusations against the defendants.

The Supreme Court sets aside the judgments of the District Court of Zurich and refer the criminal proceedings back to the Public Prosecutor's Office III of the Canton of Zurich; the assets remain frozen. The Public Prosecutor's Office will have to correct the procedural defects and will then have to file a new indictment with the District Court of Zurich.

The decision to reject the case does not address the issue of guilt or innocence.
The presumption of innocence continues to apply.

Information:

The press release is issued for purposes of informing the general public and the media. The wording used may differ from the wording of the decision; in terms of case-law, only the decision with written reasons is decisive.

The order of the Supreme Court will be published at 2 pm on 20 February 2024, in the collection of decisions of the Supreme Court. Link: [Search decisions: Courts of ZH \(gerichte-zh.ch\)](https://www.gerichte-zh.ch/suche/decisions). Enter the following decision number in the search window: SB230113.

Information for media representatives:

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Please note: The court cannot answer any substantive questions beyond this press release or issue any statements or give interviews in order not to prejudice the further proceedings.