

## **Day 11: “Defendants are all members of same political party”**

*Counsel for the civil action staged a walk out from the proceedings after a statement from one defence counsel, that “though not all the defendants are MPs, they are all members of the same political party”, was omitted from the court record. In a letter of protest, civil action lawyers said the omission highlights the need for the trial to be recorded.*

### **11th Hearing, Women’s Section, Korydallos Prison, Athens 14 July 2015**

#### **1. Court access and suitability**

Many seats in the courtroom were vacant given that, as the official list of their names had been read out at the previous hearing, witnesses do not have to attend hearings unless they have been duly notified to do so by the court. The audience was largely made up of accredited journalists as well as a select group of citizens and witnesses in possession of special entry permits.

#### **2. Presence and representation of the defendants**

Sixteen defendants, most of them detainees, were present; the remaining defendants were, for the most part, represented by their counsel.

#### **3. The defence’s objections**

The floor was given to Giorgos Sotiropoulos, counsel to Ioannis Aggos, who stands accused of a) acting as a member of a criminal organisation, b) complicity in the murder of Pavlos Fyssas, and c) illegal possession of weapons. His lawyer argued for the inadmissibility of charges pertaining to the criminal organisation, demanding that all prosecutions on those grounds be terminated. He made extensive references to the Palermo convention (the UN Convention against Transnational Organised Crime), which he said states that organised criminal groups are those that act to obtain a financial benefit. He argued that given

national law is accountable to framework decisions, article 187 of the Greek criminal code can be overridden by the Palermo convention and that, thus, the absence of a financial or other material incentive must of necessity reduce the criminal gravity of the act. Towards the end of this verbal request, he demanded the cessation of those criminal prosecutions that involve allegations about the criminality of organisations that do not operate for material motives. Such prosecutions, he said, are in violation of article 29 of the Greek constitution, which sanctions the free functioning of political parties as, in his words, “though not all the defendants are MPs, they are all members of the same political party” (Golden Dawn). As Mr Sotiropoulos walked to the stand to submit his request in writing for the court’s records, he was interrupted by Golden Dawn leader Nikos Michaloliakos’s lawyers, who requested the court grant a ten-minute break so that the defence lawyers could deliberate.

#### **4. Withdrawal of the objection (and its omission from the court record)**

After the momentary pause to the proceedings, Mr Sotiropoulos, having discussed the matter with his fellow defence counsels, withdrew his objection, which was not included in the court minutes. Counsel for the civil action asked the court clerk whether he had transcribed Mr Sotiropoulos’s statement, in response to which they were told that the clerk had only written down that Mr Sotiropoulos (on behalf of his client Mr Aggos) had verbally delivered his argument for the cessation of criminal prosecutions and had stated he would submit his request in writing.

Some commotion ensued. Counsel for the civil action protested loudly at the absence of recording devices and demanded that the last ten lines of Mr Sotiropoulos’s statement be read out and transcribed in the court record or, at the very least, that copies of the statement be distributed. Takis Sapountzakis, counsel for the PAME trade unionists, protested that “the withdrawal of the objection, though legal, does not require its omission from the minutes. The statement needs to exist in writing somewhere for us to evaluate it.” The objections from the civil action largely concerned the public nature of the trial. They

persistently demanded that a precise and comprehensive record be kept of Mr Sotiropoulos' complaint, despite its subsequent withdrawal.

Eleni Zafiriou, another counsel for the PAME unionists, insisted on the necessity that audio recordings be made of the proceedings. The presiding judge, Maria Lepenioti, responded that “the decision on the matter has already been made”. Ms Zafiriou continued to claim that the trial's legal integrity was in jeopardy and compared the defence counsel to a basketball team: whenever the trainer wishes, he asks for time out and returns the players to the court a few minutes later with a different strategy and a better team. She asked that the court ensure the integrity of the proceedings. Counsel for the civil action insisted that the Sotiropoulos fiasco had laid bare the urgent need to transcribe the trial and to broaden its public reach so as not to compromise the legal principles underpinning the proceedings.

After a further brief pause, the presiding judge ordered that all further arguments be submitted in writing to the court clerk, but acceded to the defence counsel's request to withdraw Mr Sotiropoulos' statement.

## **5. Civil action objections regarding maintenance of court transcripts**

Counsel for the civil action made the following statement and walked out of the courtroom:

In his oral statement, Mr Sotiropoulos spoke on behalf of his client, Ioannis Aggos, and argued for the cessation of criminal prosecutions on the grounds of unconstitutionality and violation of article 29 of the Greek constitution that sanctions the free functioning of political parties. He stressed that though not all the defendants are MPs, “THEY ARE ALL MEMBERS OF THE SAME POLITICAL PARTY”.

This statement was omitted from the trial transcript, though article 141 paragraph 1 of the criminal code explicitly requires its inclusion. Moreover, having declared his

intention to do so, Mr Sotiropoulos did not submit the statement to the court clerk in writing.

The civil action has already stressed the need for precise and comprehensive records of the trial, including audio recordings. This request was denied at the previous hearing without explanation.

Accordingly, the civil action is withdrawing from today's hearing in protest at the incorrect maintenance of court transcripts (as required by article 141 paragraph 1 of the criminal code) and to underscore the need to supplement transcripts with audio recordings in order to ensure the PUBLIC NATURE of the trial both for the press and for the public (article 6 paragraph 1 of the European Convention on Human Rights).

Korydallos, 14 July 2015.

(Signatures of civil action lawyers follow)

The trial will continue at 9am on Thursday, 16 July 2015.