

DAY 15: PRE-ELECTION CONCERNS

15th Hearing, Women's Section, Korydallos Prison, Athens, 8 September 2015

1. Court access and suitability

The court provided no updates as regards changing the trial's venue, even though Korydallos municipality and mayor have repeatedly protested against the current arrangement. However, it seems that the authorities have chosen to relax the security measures that prevented citizens from attending the hearings; at this hearing, citizens were required only to show their ID cards in order to be granted access to the courtroom.

2. Presence and representation of the defendants

Thirteen (13) defendants were present at the beginning of the hearing (Agiovlasitis, Zisimopoulos, Kazantzoglou, Kalpitzis, Komianos, Petrakis, Roupakias, Siatounis, Skalkos, Stampelos, Stratos, Tsorvas, Chrysafitis). Dimou, Beneki, Boletis, Skarpelis and Tsakanikas were absent, as was their counsel. The remaining defendants were represented by their counsel.

3. The prosecutor's motion concerning objections

The chief prosecutor, Adamantia Oikonomou, proposed that the defence's request to have the preliminary proceedings declared void be rejected. She pointed out that judicial council of the appeals court, which has the power to nullify preliminary proceedings, had already ruled on the matter and had issued an indictment. However, she stressed that such objections should be raised when they are referred to by the court. She added that if they are withdrawn after they have been submitted, objections cannot be later be resubmitted. She supported her motion with citations from case law.

The prosecutor reserved the right to respond at a later stage to the defence's objection to the lifting of confidentiality on the correspondence of Dionysis Liakopoulos (who was convicted for the murder of Pakistani national Shehzad Luqman).

In response to defendant Thomas Marias' objections at a previous hearing (day 12) – as to the severity of the injuries suffered by Egyptian fisherman Abouzid Embarak – the prosecutor pointed out that a doctor could not possibly examine injuries received three years ago. She added that the court had looked into the victim's injuries in the preliminary stages of the trial. Moreover, the prosecutor clarified that the court had no authority to investigate whether Mr Embarak was in possession of a residence permit on the night of his assault (12 June 2012) or whether, in the event that he did not have one, the attack on him had facilitated the process of obtaining one. Takis Zotos (counsel for the fishermen) protested that Marias' argument that Mr Embarak did not have a residence permit and, thus, encouraged the assault against him in order to gain the protection of the state, was blatantly racist and that the court should deny the objection. Mr Embarak had never submitted such a request and Mr Marias had never hired a lawyer to examine the case. Thanasis Kampagiannis, the victim's lawyer, referred to slanderous allegations: "Marias would have us believe that Mr Embarak staged an attack against himself in an effort to secure this documentation. But Mr Embarak was not aware of article 187 of the criminal code. Nor could he have predicted that the article could be later used to his advantage. These allegations lack even rudimentary plausibility."

Overall, civil counsel concurred with the prosecutor's motion. However, verbal clashes with the defence counsel continued throughout the hearing, as the latter frequently interrupted civil counsels to remind them that they have no right to refer to matters pertaining to leading members of Golden Dawn. Thodoris Theodoropoulos (counsel for the PAME trade unionists) protested strongly. He said his case against Kyriakos Antonakopoulos required him to refer to other individuals involved in the organisation. If the others are acquitted and the law requires that a criminal gang must have at least three members, then there are chances that Antonakopoulos will not be charged either.

4. The defence's response to the prosecutor's motion

Takis Michalolias, counsel for Golden Dawn leader Nikos Michaloliakos, requested a written copy of the motion in order to respond to it. Though the prosecutor rejected the request, Vasilis Kapernaros (counsel for Nikos Kouzilos) supported his colleague: “The prosecutor is the institutional guarantor and defender of citizens’ rights, of the defendants’ rights, and thus is obliged to justify all oral or written motions. She is required to do so especially in a trial of such importance, so that we can reach a just conclusion. In order to guarantee a fair trial, we demand that the prosecutor file a written justification for her motion.”

In their contributions, other defence counsels rebutted the prosecutor's motion, though many did not formally raise objections or seek to reformulate their stance. Speakers included Dimitra Velentza, counsel to Kazantzoglou, Kalaritis, Kouzilos, Barekas, Stefas and Chrysafitis, who referred to the matter of the lifting of confidentiality on Nikos Kouzilos' correspondence, demanding that the waiver be enforced under specific conditions, adding that the prosecutor had yet to refer to any specific criminal act undertaken by her client. She maintained that the prosecution was a political initiative, adding that she had submitted all her motions correctly and on time, but the Supreme Court had yet to approve the appeal. Alexandros Triantafylloudis (counsel for Artemis Matheopoulos) argued that the indictment was vague: “This is not a fair trial; my client stands charged of membership [of a criminal organisation] without reference to specific facts regarding Mr Matheopoulos. The indictment does not say when the criminal organisation was set up, nor does it specify Mr Matheopoulos' relation to it.” Nikos Antoniadis, counsel for Michaloliakos and Christos Pappas, argued that the initiative to lift his clients' parliamentary immunity was invalid because it was not executed in accordance with the proper procedure.

5. Request that the trial be adjourned in view of the elections

Six defence counsellors and one of the defendants present requested that, as they were candidates in the forthcoming general election, the trial be adjourned until the courts resume their activity following the elections and so that they might concentrate on their campaigns. The other defence counsellors seconded the request that the trial be postponed, arguing that in the context of a pre-election period, the trial might damage the

party's leaders. Specifically, Angelos Angeletos (counsel for Eleni Zaroulia) said: "We cannot allow things – often unfounded allegations – to be written about the trial in the midst of a pre-election campaign." His colleague Ioannis Pagoropoulos (counsellor for Michaloliakos) added: "The trial has generated a great deal of public interest and could influence minds, even if this were not a pre-election period. The other parties are free to engage in politics, without hindrance."

Angelos Vrettos, counsel to the PAME trade unionists, requested that "the trial continue so that the Greek people can see what a criminal fascist organisation looks like". His statement provoked a heated response from the defence. Mr Kampagiannis asked that the request be denied "This request that the criminal trial halt because it may cause harm Golden Dawn politically is politically motivated. Are we to understand that because the defendants are MPs, they should receive special treatment? Such a decision would render the victims and plaintiffs as second-class citizens."

Finally, the presiding judge, Maria Lepenioti reserved her decision for the following sitting and concluded the hearing at 1.50pm, adjourning it to 14 September. The hearing scheduled for 11 September will not take place due to a personal matter concerning the presiding judge and in view of the beginning of the school year.

The examination of witnesses is scheduled to commence at the next hearing. An estimated 150 witnesses will submit statements, beginning with the parents and relatives of Pavlos Fyssas.