

## DAY 16: THE INDICTMENT

16th Hearing, Women's Section, Korydallos Prison, Athens, 14 September 2015

### 1. Court access and suitability

The court made no mention of a prospective change of trial venue, even though the trial's participants and the mayor and municipal authorities of Korydallos have repeatedly called for it to be moved. It should be noted, however, that since the 15th hearing the public access to the trial has been facilitated by the relaxing of security measures (which had previously prevented citizens from entering the courtroom). As was the case with the previous hearing, citizens were required only to present their identify cards to gain access to the courtroom.

### 2. Presence and representation of the defendants

Fourteen (14) defendants – Agiovlastis, Chilios, Chrysafitis, Kalpitzis, Kazantzoglou, Komianos, Korkovilis, Roupakias, Siatounis, Skalkos, Stempelos, Stratos and Tsorvas – were present at the beginning of the hearing. The following defendants were absent and were not represented by their counsel: Agriogiannis, Beneki, Boletis, Dimou and Perris. The remaining defendants were represented by their counsel.

### 3. The court's ruling on objections

The court rejected the objections raised in the previous hearing by the defence calling for aspects of the preliminary trial to be declared invalid. The court ruled that these matters were covered in the indictment.

Defendant Thomas Marias' request that an expert examine the injuries suffered by Abouzid Embarak case was dismissed as groundless. The pending objection raised by the defendants Aristodimos Daskalakis, Giorgos Petrakis and Emmanouil Psylakis against being tried for crimes already heard by the three-member misdemeanour court in Rethymno, Crete, was

also dismissed as unfounded. Regarding the prosecutor's request that the privacy rights on Dionysis Liakopoulos' (convicted of the Shehzad Luqman murder) be waived, the court reserved the right to deliver its response at a later stage. The court also ruled that there was no reason to conduct a separate trial for the defendant Anastasios Chilios. Yet again, the court denied the civil counsel's request that the trial be recorded.

Given there were no more objections to address, the presiding judge, Maria Lepenioti, proposed the court should proceed to question witnesses.

#### **4. Charges denied and further objections**

Before witnesses were called to the stand, charges were denied by Christos Stergiopoulos, Stavros Santorinaios (who voiced his objections independently), Chrysovalantis Alexopoulos, Tasos Pantazis (who denied charges regarding his membership of a criminal organisation), and, together, Aristodimos Daskalakis, Giorgos Petrakis and Emmanouil Psyllakis (who denied the charges and began to formulate their own allegations). Specifically and through their counsel, the latter three insisted that they be tried in accordance with the "lighter" provision of article 187 paragraph 5 of the criminal code (relating to criminal organisations) and not in accordance with paragraph 1 of the same article (in which the charge is aggravated), reminding the court that article 371 paragraph 3 of the code of criminal procedure would permit the reduction of the charges.

Through his counsel, Thomas Marias again raised the "Palermo objection" and the lack of a financial motive in the purported organisation (a motive that the UN Convention against Transnational Organised Crime requires in order for organisations to qualify as "criminal organisations"). He denied the charges on the grounds that the preliminary proceedings, including the procedures to identify the accused, did not follow due process. He reiterated his request that an expert be consulted on Abouzid Embarak's injuries – already denied by the court – and also requested that the charges against him be reduced from attempted murder to grievous bodily injury.

On behalf of all of the defendants, counsel for Nikos Michaloliakos referred to the Palermo convention. He insisted that in order to guarantee the integrity of the trial, the court has an obligation to discuss the matter “in full” and “in light of all the facts” (case law, expert consultations, documents, etc.) at the next hearing.

After a short break, the hearing resumed and the court ruled that the “Palermo issue” was not merely an objection but rather a question that related to the substance of the case. It thus denied the objection yet again.

## **5. The indictment**

When asked by the presiding judge whether they wished to move on to the questioning of witnesses, both the defence counsel and civil counsel emphatically stated “yes”. The indictment was then read out.

It should be noted that the charges were not read out in full for each individual defendant in full in order to avoid repetition; given many defendants are charged with the same crimes, the reading of the charges was repeated verbatim for each defendant and varied only where a defendant had committed further crimes beyond the four main charges being dealt with in the trial (the assault on the Egyptian fishermen, the assault on PAME trade unionists in Perama, the murder of Pavlos Fyssas, and membership and direction of a criminal organisation). Specific mention was made of the charge of perjury brought against Margarita Mikelatou and charge of weapons possession and of participating in the attack on the Synergio venue in Ilioupoli, Athens, brought against Thomas Barekas.

As the indictment was read out, the public had the opportunity to hear the precise structure and formulation of the indictment and of the four principal charges, and so to begin to understand and analyse the substance of the case and the offences allegedly perpetrated by the defendants.

At 3pm, after the indictment was read out, the presiding judge adjourned the court to 29 September. Just before the hearing ended, the counsel for the Fyssas family again raised the issue of making audiovisual equipment available in the court in order to speed up the proceedings. He was told that the court would look into the matter.

The examination of witnesses is scheduled to begin at the next hearing. This will include upwards of 150 witnesses, beginning with Pavlos Fyssas' parents.