

DAY 38: "IT WAS A SURPRISE ATTACK – AN AMBUSH"

38th Hearing, Women's Section, Korydallos Prison, Athens, 10 December 2015

1. Court access

Hearings remain open to members of the public, provided they present their identity cards at the entrance. The crowd had increased since the previous hearing. However, some seats in the gallery remained empty. The spaces reserved for journalists were almost always occupied.

2. Presence and representation of the defendants

Eight (8) defendants were present at the beginning of the hearing; thirty-two (32) were registered as absent. Twenty-nine (29) defendants were represented by their counsel.

3. Paraskevi Karagiannidou's testimony (continued): cross-examination by the defence

Picking up where he had left off in the previous hearing, defence counsel Giorgos Michalolias (for Dimitris Koukoutsis) showed the witness a number of photographs. The witness described a procession led by people holding flags and helmets. Tensions began to mount in the courtroom; civil counsel Angelos Vrettos (for the PAME trade unionists) objected to the defence's questions. The presiding judge, Maria Lepenioti, called a break.

After the recess, the judge addressed the room and reminded those present that it was a court of law, in which specific individuals were being tried for specific acts. The judge noted that it seemed that the trial was being polarised and turned into a political confrontation. "Political confrontations are for parliament, not a courtroom," she said.

Responding to questions from Michalolias, the witness clarified that the photograph was of a demonstration. She knew from the media that Golden Dawn's aim is the persecution of leftists and migrants. The witness said she saw footage of Golden Dawn leader Nikos Michaloliakos on the internet. In it, he declares that [Golden Dawners] "are the seeds of those defeated in 1945". He follows to say, "we are fascists". Here, the judge did not allow questions regarding the army in 1945, remarking, "let's leave the 1940s out of it; this is 2015". The witness said she had also seen footage of Michaloliakos publicly assuming political responsibility for the Fyssas murder.

Responding to questions from defence counsel Nikos Roussopoulos (for Ioannis Lagos) regarding the photographs, the witness responded that the first photograph includes a banner that reads “crush the fascists in schools and in universities”, signed by the Central Antifascist Militia. The witness said she didn’t know what the word “militia” referred to. She continued describing the photographs: one depicted people holding flags and helmets, while another a demonstration. Another photograph depicted a man throwing a Molotov cocktail; the witness said she couldn’t read the slogan. In response to a further photograph, she described a gathering of people holding green flags; some of them wore helmets. Yet another photograph depicted a gathering being addressed by a speaker; she noted that there were children in the crowd. The counsel asked her if she had heard of children raising their left fist in the air. The judge did not allow a question on whether the witness recognised this gesture as the Stalin salute. The witness didn’t know exactly how long Golden Dawn had taken part in general elections, but added that it has contested them for at least the past five years. Its current electoral strength stands at 7%.

Defence counsel Yiannis Zografos (for Antonis Gregos and Nikos Michos) then took the floor. The judge did not allow questions regarding the witness’s politics and her interest in the Communist Party of Greece (KKE). Responding to questions, the witness said that knowing about Golden Dawn did not require extensive research; news of it was everywhere. Golden Dawn’s structure reveals its top–down chain of command. The counsel requested the judge’s permission to read out an extract from *Stalinism*, a book authored by the son of Nikos Beloyannis (a Greek wartime resistance figure and high-ranking KKE cadre). The judge did not allow it given the extract is not contained in the case file. The witness said she had heard Golden Dawn members incited violence. She raised the example of defendant Giorgos Patelis’s infamous statement, “We will slaughter anything that moves.” She said she knew of no equivalent acts of violence committed by other parties. The judge did not allow a question on whether the witness would condemn any act of violence, regardless of its origins. Despite the judge’s interruption, the witness repeated that she is against all forms of violence.

Responding to questions from defence counsel Vasiliki Pantazi (for Stathis Boukouras), the witness said that she knew of Golden Dawn’s interest in targeting migrants long before the attacks on Fyssas and the PAME trade unionists. She elaborated that it was easy to discern

the criminal organisation within the party. The witness said she knew all about Golden Dawn's views: that they are Nazis who support Hitler. That much was clear from their insignia. She added that she also knew about Golden Dawn's convictions from people from her native village who voted for the party. When asked what these people told her, she replied, "they told me all about your beliefs". The judge did not allow a question concerning Golden Dawn's presence in parliament.

Responding to questions from defence counsel Vasilis Oplantzakis (for Ioannis Kazantzoglou), the witness said that that the three men beating Fyssas stood back and encircled Fyssas as Roupakias approached. They grabbed Fyssas' hands, pinned them behind his back and waited for Roupakias. The other 15 Golden Dawners formed a loose circle around them.

4. Defence counsel's requests following Paraskevi Karagiannidis' testimony

Defence counsel Nikos Roussopoulos (for Ioannis Lagos) called for the witness to be prosecuted for perjury under article 337 of the code of criminal procedure on the grounds that she denied having had any online communication with Fyssas' friends, and yet it emerged that she and Dimitris Melachrinopoulos were "friends" on Facebook.

Defence counsel Dimitra Velentza proceeded to submit her own request that the witness be prosecuted for perjury on the grounds that her entire testimony was fictitious. Moreover, the counsel doubted that the witness was present at the scene of the murder. This caused commotion in the courtroom as defence counsel Alexandros Triantafylloudis (for Artemis Matheopoulos) hurled insults at Fyssas's uncle in the gallery. The judge called a break.

When the sitting resumed, the prosecutor moved that the defence's request be denied, given article 337 was not applicable in lengthy judicial trials; moreover, she added that there was no appropriate space in which to detain the witness for the duration of the trial. The prosecutor concluded that, nonetheless, the defence has the right to file a criminal complaint against the witness.

Civil counsels Andreas Tzelis (for the Fyssas family), Kostas Papadakis and Takis Zotos (both for the Egyptian fishermen) took the floor and called for the defence's request be denied.

Velentza insisted that the witness's perjury was self-evident and asked that the request be granted. Rejecting her request, the judge repeated the prosecutor's comment that article 337 was not applicable in lengthy trials.

Vasilis Oplantzakis (counsel for Ioannis Kazantzoglou) took the floor and called for the witness to be cross-examined with police officer Giorgos Rotas.

The prosecutor moved that the defence's request be granted, but only after the remaining witnesses have testified. Velentza asked the court to bar photographers in the gallery from taking pictures. The judge responded that the photographers were permitted to photograph anyone except those individuals who have already stated that they do not wish to be photographed.

Civil counsels Tzelis and Papadakis asked the court to deny the defence counsel's request that the witness be cross-examined alongside Rotas; they proposed, rather, that all witnesses be cross-examined with the police officers.

Papadakis said he didn't see why the defence insisted on cross-examining the witness with that particular police officer (Rotas). He added that the request was premature and, thus, should be denied. Regarding the defence's request that photographs be forbidden, the counsel pointed out that lawyers were public officials, and could thus be photographed while acting in their capacity as such. Forbidding photographs of public officials smacks of totalitarianism.

Velentza insisted on the urgency of cross-examining the witness given that, unlike Rotas, she placed defendant Ioannis Kazantzoglou at the scene of the crime. Oplantzakis supported his colleague, insisting that the request was well-founded and should be accepted. The judge reiterated the court's decision that it would address the request after all witnesses have given evidence.

5. Civil counsel comments on Paraskevi Karagiannidis' testimony

Andreas Tzelis (for the Fyssas family) pointed out that the witness's credibility was supported by the case file and by other testimonies. The deputy prosecutor had asked the witness whether she had maintained any online correspondence with Fyssas' friends and she had responded in the negative. The fact that they were "friends" on Facebook does not mean that they corresponded.

Violetta Kougiatsou (for Magda Fyssa) commented that the witness's testimony revealed the complex and organised nature of the attack.

Chrysa Papadopoulou (for Irini Fyssa) insisted that Karagiannidou was an eyewitness and that everything she described was consistent with the content of the case file. She accused the defence of attempting to compare a legal demonstration with crimes committed by an assault division acting in the dark for 20 minutes.

Eleftheria Tompatzoglou (for the Fyssas family) accused the defence of attempting to confuse the witness; the witness clearly told them that the photographs she was shown were screenshots of two different Facebook profiles.

Takis Zotos (for the Egyptian fishermen) commented that the assault was a surprise attack: an ambush in which three men encircled the victim until a fourth arrived to kill him.

Thanasis Kampagiannis (for the Egyptian fishermen) commented that it was promising to see people fulfilling their civic duty. The witness was an eyewitness and did not act as a private individual; she came to testify in court, and not as a protected witness. The witness described the incident in detail. He concluded that the police, and not the witness, had contradicted themselves in their testimonies. Golden Dawn employed professionals to train members in assault techniques. Those who participated in the training were later deployed to commit crimes. He pointed out that such training should be punished. He added that, "the defence's request that the witness be arrested is motivated by nothing more than revenge".

Kostas Papadakis (for the Egyptian fishermen) noted that the defence had shown the witness photographs downloaded from social media pages to which access is limited and controlled. He pointed out that it was unclear whether the defence procured those photographs legally. The civil counsels reiterated their request that the proceedings be recorded and that a projector be made available for displaying photographs to the court.

Haris Stratis (for the PAME trade unionists) commented that the witness described an organised attack executed by a Golden Dawn assault division. He noted that the witness was not alone in referring to a ring around Fyssas and the existence of a passenger in Roupakias' car. Others had mentioned this as well. He accused the defence of attempting to put the PAME trade union and the popular movement on trial. He said that inviting the youth to

sports events in an open space (as displayed in one of the photographs of a KKE gathering) is a wholly different matter. He said the hierarchy and structure of an organisation must be subject to criminal proceedings when it is associated with criminal acts.

Eleni Zafiriou (also for PAME) accused the defence of attempting to mislead the witness. She noted, moreover, that the witness had proven that the murder was executed in cold blood. Roupakias knew his target. She pointed out that the defence's strategy had been to shift the trial's focus onto another political party. However, she it had been proven that the kind of training received by Golden Dawn members had nothing in common with a sports event organised for the Communist Youth of Greece (or KNE, the youth wing of the KKE) in a public space and with Olympic athletes as coaches. One of the photographs shown to the witness depicted a man holding a revolver to the head of another man; in the background, Golden Dawn's signature phrase "Essete imar" ("The day will come") is visible, the two Σ's in Greek replaced by the SS symbol embossed on the helmets of Nazi SS.

Thodoris Theodoropoulos (for the PAME members) commented that the witness demonstrated the organisation's hierarchical structure and the existence of a leader. He added that such details were not incriminating in themselves. However, according to the indictment, the structure and the organisation were related with specific acts.

6. Defence counsel comments on Paraskevi Karagiannidou's testimony

Defence counsel Christoforos Tsagkas (for Giorgos Germenis and Anastasios Michalaros) insisted that the witness had contradicted herself. Where other witnesses spoke of three men encircling Fyssas, she mentioned 15. Moreover, the witness had described a climate of fear, of attacks, etc. He argued that such an atmosphere was incompatible with other witness's statements that there were people on the sidewalk. He proceeded to accuse the witness of having been coached, among other things.

Nikos Kontovazenitis (for Anastasios Anadiotis) pointed out that the police witnesses testified that they saw two men beating each other; they did not say they saw people holding Fyssas down.

Dimitra Velentza (for Thomas Barekas, Aristotelis Chrysafitis, Elpidoforos Kalaritis, Ioannis Kazantzoglou, Nikos Kouzilos and Theodoros Stefas) insisted that the witness provided only general, vague and contradictory answers. She, too, claimed the witness had been coached.

Vasilis Oplantzakis (for Ioannis Kazantzoglou) said the witness was not credible. Specifically, he pointed out that the witness had placed the bench (on which she and her friend were sitting during the attack) next to Kefallinias St in her first testimony, between Kefallinias and Xanthou streets in her second testimony, and next to Xanthou St in her third. In addition, he commented that the word “ambush” indicated a trap. Someone hiding somewhere and then attacking someone 20 meters away did not qualify as an ambush.

Dimitris Gavelas (for Tasos Pantazis, Giorgos Patelis and Venetia Porpori) speculated that a witness’s credibility was related to his or her ideology. He suggested that a witness whose ideology stands opposed to that of the defendants is likely to embellish the truth or to lie outright. The trustworthy policemen made no mention of a passenger in Roupakias’ car.

Giorgos Roumpekas (counsel for Giorgos Roupakias) dwelt on the fact that the witness had spoken of a silver car even as the photograph she was shown was black and white. Moreover, he continued, the witness had not “settled” on whether the group surrounding Fyssas had formed a circle or a semicircle around him; on whether Fyssas was pushed or pulled. Moreover, she did not clarify whether Roupakias embraced Fyssas. He concluded that, although Dimitra Zorzou’s testimony (Days 33–35) was untrustworthy to say the least, Karagiannidou’s remained the least credible of all. He insisted that Karagiannidou’s testimony was a fabrication.

Dimitris Bonis (for Leon Tsalikis) commented that the witness had mentioned details that none of the police officers who were on the scene had. Where the police officers had spoken of a fight between Fyssas and Roupakias, the witness claimed that the latter had embraced Fyssas. Moreover, none of the policemen had mentioned anyone trying to free Roupakias from the police. Only Zorzou and Karagiannidou had mentioned that.

Antonis Mammis (for Nikos Tsorvas) commented that the witness’s credibility was compromised by her identification of Kazantzoglou as the passenger in Roupakias’s car. He said that the witness had added nothing to the case against his client. He praised the honesty of the police officers’ testimonies, which sparked uproar in the gallery. The judge reminded the counsel that all testimonies were evaluated in court. Finally, Mammis concluded that the witness had described a political organisation, not a criminal one.

Vasiliki Pantazi (for Stathis Boukouras) commented that her client was a member of a political party (Golden Dawn) without knowing whether some of its members had committed criminal acts. She pointed out that the witness seemed to know a lot about Golden Dawn; when asked about other parties, however, she claimed to know nothing. This, the counsel claimed, was suspicious.

Dimitris Papadellis (for Ilias Kasidiaris) supported his colleague in pointing out the discrepancy between the witness's knowledge of Golden Dawn, and her total purported ignorance of other parties.

Giorgos Michalolias (for Dimitris Koukoutsis) again raised the issue of the witness's Facebook "friendship" with Melachrinopoulos, even though she had testified that the only interaction they had was outside the courtroom when the trial began. He added that the two witnesses (Zorzou and Karagiannidou) had attempted to persuade the court of their neutrality and political independence. This, the counsel argued, was merely a ruse.

Alexandros Alexiadis (for Ioannis Lagos) commented that the witness had got all her information from the media. He argued that such questions (broader questions concerning Golden Dawn as a party) generate a vicious cycle that contributed nothing significant to the proceedings. He added that the court's decision not to detain the witness on suspicion of perjury for purely logistical reasons demonstrated that the court itself was convinced that the witness was lying.

Yiannis Zografos (for Antonis Gregos and Nikos Michos) commented that the witness tried to hide her committed opposition to Golden Dawn under a veneer of neutrality. Her testimony contained gaps and ambiguities – notably her failure to describe the clothing Fyssas was wearing. He said the witness had been anxious to protect the KKE when shown photographs of its events.

The court then adjourned until 9am on Wednesday, 16 December 2015.

7. Comments on the proceedings and on the atmosphere in the courtroom

The hearing was marked by tension between civil and defence counsels, especially whenever the defence raised the structure and activity of other political parties such as the KKE. There were also sharp, aggressive exchanges between one of the defence counsels and Fyssas' uncle, who was observing the proceedings from the gallery, forcing the presiding

judge to call a break. She asked that the participants in the trial to avoid polarising the trial along political lines. Defence counsels often raised their voices to an aggressive level as they questioned the witness, while some (Oplantzakis, Michalolias) stood so close to the witness that they were asked to back away by the presiding judge.