

## DAY 6: THE PROSECUTOR'S PROPOSAL

6th Hearing, Women's Section, Korydallos Prison, Athens, 8 June 2015

### 1. Court access and suitability

As regards the public nature of the trial, the same conditions applied, given this sitting was held in the same, clearly unsuitable hall in Korydallos prison as the previous five, rendering public access to the trial impossible.

### 2. Presence and representation of the accused

Eighteen (18) of the defendants were present; the rest were represented by their counsel.

### 3. Objections to the admission of civil parties

After reading the names of the defendants, the presiding judge gave the floor to those members of the defence counsel who had not had the opportunity at the previous hearing to voice their objections to the participation of civil parties.

As their colleagues had argued in the previous sitting, the lawyers insisted that article 187 of the Criminal Code relating to criminal organisations only concerns offences affecting the public good and the order and safety of society at large. It does not apply to instances of direct damage to individuals. Therefore, the lawyers unanimously requested that civil parties be barred from issues pertaining to the indictment of membership and/or direction of a criminal organisation.

Moreover, counsel to Theoni Skarpeli added that her client's actions did not cause direct damage to any of the victims, adding that the accused "is a mother who concerns herself largely with domestic issues and her children". Similarly, counsel to Themis-Evangelia Skordeli objected that her client did not participate in the individual crimes listed in the indictment.

Counsel to Giorgos Stampelos requested the barring of civil parties from individual offences (complicity and/or intent in connection with the murder of Pavlos Fyssas), on the grounds that his client did not in any way contribute to the murder. Moreover, he asked that the participation of civil

parties be disallowed in counts of membership of a criminal organisation, on the basis that there is nothing to suggest that his client's actions caused any direct harm to the civil parties.

Counsel to Christos Stergiopoulos reminded the court that the publication of the second-instance court's decision regarding the murder of Shehzad Luqman, whose relatives legally claimed the right to participate in the trial as civil parties, was still pending. However, in the context of the current trial, he argued, those declaring themselves civil parties should not be permitted to participate, given his client does not have (nor has he ever had) any relationship with Golden Dawn.

Counsel to Athanasios Tsorvas declared that the participation of civil parties in cases pertaining to criminal organisations (article 187) was "presumptuous" and "misleading", while the expectations of those participants were "maximalist". Addressed the court, counsel to Nikolaos Tsorvas said "if you accept the civil action, you will be going against the grain of precedent and procedural order will be overturned".

After the conclusion of the objections, the presiding judge explained to the lawyer of Giorgos Sklavolias (a member of the PAME trade union who was called by the court in relation to the Perama attack) that as his client did not appear before the court as an injured party, he was thus not entitled to participate as a civil party.

The lawyer refrained from making a reply, preferring to take time to study the indictment of the three-member judicial council of Athens Criminal Appeals Court. Similarly, the presiding judge asked counsel for the civil action to provide some specific procedural justification for their participation in the case of the Egyptian fishermen. The latter provided clarifications to the court confirming that they are, in fact, entitled to be represented as a civil party.

In addition, the presiding judge stated her intention to approach the relevant judicial council to request it make some exceptional provision that would allow those defendants currently under house arrest to appear in court.

After a 90-minute break, the sitting resumed with a statement by Giorgos Sklavolias, who said that her client's request to be represented as a civil party was due to an oversight, and that she was withdrawing the request.

#### 4. The public prosecutor's proposal

The public prosecutor explained her reasoning regarding the dual significance of civil parties: namely, the compensation of the victims and supporting the indictment. She continued that, according to precedent, civil parties cannot participate in trials of crimes of general interest, given that crimes cause no immediate damage to specific individuals. However, this indirect damage can be considered direct in cases where the functioning of the criminal organisation results in specific victims or causes specific legal issues.

Following this line of reasoning, the public prosecutor partly accepted the plea that individuals could participate in the trial as civil parties, not only with respect to criminal charges (the Fyssas murder, the attempted murder of the Egyptian fishermen and of the PAME trade union members), but also in counts of participating in a criminal organisation (article 187).

Specifically, the prosecutor proposed the following individuals be included as civil parties:

a) the Fyssas family, in pressing charges against 18 defendants, both for the murder of Pavlos Fyssas and for their participation in a criminal organisation. Giorgos Patelis is accused of directing a criminal organisation.

b) The PAME trade union members, in pressing charges against four defendants on counts of attempted murder and of participation in a criminal organisation. Specifically, Anastasios Pantazis is accused of directing a criminal organisation.

c) The Egyptian fisherman Abouzid Embarak, in pressing charges against five defendants on counts of attempted murder and participation in a criminal organisation. As mentioned above, Anastasios Pantazis is accused of directing a criminal organisation.

Moreover, according to the proposal made by the public prosecutor, an Egyptian fisherman and a PAME member are also permitted to attend the trial as civil parties, but only on the count of damage to their property incurred as a result of the above attacks.

The prosecutor, moreover, proposed barring civil parties from counts of mere participation in a criminal organisation (under article 187).

The sitting concluded at 1.40pm and the court was adjourned until 9am, Monday 22 June 2015, to the same hall. The individuals wishing to declare themselves as civil plaintiffs and the defence counsel will each voice their stance on the prosecutor's proposal. Following this, the presiding judge and her colleagues will issue a final decision on the matter.