



Press release  
18.02.2019  
Assessments of 1-0 Trial (Week 1)

International Trial Watch attended the hearing sessions held in the first week (February 12, 13 and 14). **6 observers** were present, as follows:

- William Mozdierz, member of the American Bar Association, founded in 1878, involving 410,000 members and more than 3,500 entities with HQ in Chicago (USA).
- Dominique Nogueres, attorney and Chair Person of the French Human Rights League and member of Euro-Mediterranean Human Rights, based in Copenhagen (Denmark), encompassing more than 80 human rights state organizations from more than 30 countries.
- Alexandre Faro, attorney and member of the International Human Rights Federation, founded in 1922 and based in Paris (France), including 184 human rights state organizations from more than 112 countries and also member of Euro-Mediterranean Human Rights.
- Frédéric Ureel, attorney and member of Charleroi Bar Association, also member of AED (Association of European Democratic Lawyers), who defends citizens' rights advocating for lawyers' independence with regard to any kind of power whether political, social, economic or public order.
- Fabio Marcelli, international jurist from the European Association Lawyers for Democracy & World Human Rights, present in 18 European countries.
- Javier Pérez Royo, Professor of Constitutional Law at the University of Seville.

**Assessments:**

- The Supreme Court did not reserve space in the courtroom for observers which entailed long waiting hours at the Supreme Court main entrance in order to enter the courtroom. On February 12, Vox supporters organized the queue and distributed queue order numbers. On February 13 and 14 the police organized the queue requiring prior submission of ID card. The courtroom seating space can accommodate up to approximately 40 people. However, some 10 seats in the public seating area remained unoccupied in the morning sessions and a few more in the afternoon sessions. The Court will be reminded once again about the need for availability of seating space in the courtroom for observers.
- The platform positively values the following facts: 1) 45 minutes time given by the Court to Defence Counsels to make their allegations. 2) The Court allowed the defendants to seat next to their respective Counsels. 3) The Court did not ascribe any negative legal consequence to the fact that defendants refuse to answer questions from one or more of the prosecuting parties. 4) The Court did not interrupt the defendants during examination and allowed each one of them to take the time needed to provide answers to questions raised.

- Nonetheless, we noticed that:
  - Charges do not take into account the fact that some of the defendants' actions may be covered by fundamental rights. If that was the case, then defendants could have not possibly committed any offence at the same time.  
Thus, if fundamental rights are at stake- like in this particular instance- the formulation of charges would be inverting the interpretation order constitutionally enforceable.
  - Public Prosecutor and State Attorney General introduced new facts in their examination, as one of the defendants indeed remarked.
  - Public Prosecutor made the defendants responsible for the violence generated on 1-O by the National Police forces and the Civil Guard, thus minimizing the severe nature of injuries suffered by citizens.
  - The Court did not accept to suspend the hearing as some of the Defence Counsels requested, in order to include documents which the prosecution had access to, but the parties did not. This procedural anomaly should be monitored throughout the trial in order to determine whether equal footing for both the defence and the prosecution is respected and does not become lack of proper material defence and thus a breach of article 24 in the Spanish Constitution (CE)
  - If a breach to the right of a judge predetermined by law (article 24.2 CE) has occurred, as most of the Defence Counsels allege, then the defendants with no political immunity will also see their right to a second level of jurisdiction breached.
  - Some evidence considered of essence by the Defence Counsels have been dismissed by the Court. Such dismissal of evidence should be monitored throughout the trial in order to determine whether it entails lack of proper material defence for the parties and therefore, a breach to their rights to submit relevant evidence (article 24.2 CE).

**Observers for this week:**

- John Philpot, pioneer in International Criminal Law. He acted at the International Criminal court in The Hague (ICC) in the Kenya file and at the International Criminal Court for Rwanda.
- Paul Newman, holds a Doctorate of Philosophy on 'Internal Displacement and Human Rights situation in Northern Sri Lanka' from Bangalore University. He was one of the four public speakers at the Permanent People's Tribunal on War Crimes against Sri Lanka.
- Bill Bowring, Professor at the University of Birbeck, member of the European Association Lawyers for Democracy & World Human Rights and also member of the Executive Committee for Human Rights at the England and Wales Bar Association.
- Joaquín Urías, Associate Professor of Constitutional Law and former attorney at the Constitutional Court.

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