



## Press release 08.04.2019

### Assessments of Trial 1-0 (Week 8)

International Trial Watch attended the hearing sessions held in the seventh week and 2 observers were present, as follows:

- Katrín Oddsdóttir, Human Rights Lawyer who took part in the drafting of Iceland Constitution, liberal in her ideas and focusing in particular on women's rights.
- Iñaki Esparza, Professor in Procedural Law at the University of Basque Country.

#### Assessments:

The Platform positively values:

On April 3<sup>rd</sup> International Trial Watch met with Fernando Rodríguez Rey, Public Prosecutor and Secretary General of Public Prosecution Office. The purpose of this meeting was for the international observers attending the trial sessions to gain an insight on Public Prosecution's opinion about the trial; as well as to share with him their doubts and concerns with regard to the trial itself: its potential political nature; potential breaches of fundamental rights, difficulties experienced in taking the evidence, etc... The meeting was cordial and it made the task of observing more fruitful, so the Platform positively values this meeting. It was agreed that further meetings will be organized during the course of the trial.

- Nonetheless, we noticed that:
1. Chief Justice is maintaining his banning with regard to direct comparison of witness depositions with video images, or with exhibition of procedural documents, thus potentially compromising article 6.3.d. European Convention on Human Rights, as the Platform pointed out on previous weeks. This limitation was particularly concerning during these past few weeks when the acting police forces on October 1st are being deposed about actions which entailed hundreds of people injured. Police officers repeatedly denied a disproportionate use of the force and, in addition, they also denied having hit people in the head with police batons, with their fists or any other action contravening the rules. The fact that no direct comparison can be established between their depositions and the video footage recorded on those days prevents highlighting any potential contradiction and thus, it impinges directly on any assessment the Court may make about the evidence.

2. Some concepts and descriptions have been insistently repeated by police agents deposing as witnesses. Words such as "hatred", "pre-revolution environment", "hostility" "fear" have persistently being heard in the courtroom and, though they may be subjective assessments totally unrelated as such to the defendants and the charges in the trial, the Court has heard them over and over, as it was the case in previous weeks.
3. Despite the above indicated statements and in the light of evidence so far contributed to the trial, there is a clear lack of proportionality between such evidence and charges put forward by prosecutors.
4. Some negative aspects pointed out in previous weeks persist:
  - a) In terms of substance: there is a prevailing concern about how some facts which are an expression of fundamental rights, such as the right to meet or the right to demonstrate, are being dealt with, as well as the criminalization of some ideology aspects. This has been a recurring fact in the way Public Prosecution is examining and leading witnesses in their answers, trying to infer that meeting, shouting and singing : "They shall not pass" or "We shall vote"; looking down on police officers or disapproving of police actions, could be *per se* existing evidence of sedition. A different interpretation of the use of "violence" may be inferred from prosecution's strategy and such interpretation could entail serious consequences for the so called "*criminalization of protest or dissidence*" and result in limitations of the free exercise of freedoms and fundamental rights of civil society in Spain ("*Chilling effect*").
  - b) As far as procedural aspects are concerned, some witnesses have referred to prior witnesses' depositions with expressions such as: "as it has been stated here (meaning in this trial)", which clearly indicates their previous knowledge of the contents of such depositions and therefore, it is totally against the guarantee that should exist for witnesses to be isolated from other witnesses during the taking of evidence. Parties continue to be unaware of the full trial schedule and not even of the order for witness depositions, which makes it extremely difficult for counsels to prepare examinations of witnesses.

#### **Observers for this week:**

- Andrea Menapace, Executive Director of Coalition for Civil Liberties and Rights (CILD); Founder and Chairman of Diritto de Sapere (Right to Know), Italy.
- Flaminia Delle Cese, Legal Advisor to Coalition for Civil Liberties and Rights (CILD), Italy.
- Antonio Angelelli, Chairman of the NPO "Progetto Diritti" (Rights Project), Expert in International Criminal Law and Immigration Law, Italy.
- Arturo Salerno, Co-founder and member of the Board in the NPO "Progetto Diritti" (Rights Project), Co-founder of the Association Antigone and the Multimedia Institute for Human Rights, Italy.
- Guillermo Portilla, Professor of Criminal Law at the University of Jaén.
- Ignacio Benítez, Professor of Criminal Law at the University of Jaén.