



Press release 03.06.2019

Assessments of Trial 1-0 (Week 16)

International Trial Watch attended all court sessions throughout week number sixteen of the trial and international observers, as follows:

- Alexandre Faro, lawyer and member of the International Federation for Human Rights and Euro-Mediterranean Human Rights, France.
- Dominique Nogales, lawyer and chair person of the French League for Human Rights and member of Euro-Mediterranean Human Rights, France.
- Claire Dujardin, lawyer specialized in Criminal Law and member of the European Democratic Lawyers, France.
- Mireille Jourdan, lawyer at law firm Thetis, Belgium.
- Christian Di Nardo, lawyer at law firm Studio Legale di Nardo, Italy.

THE PLATFORM POSITIVELY VALUED THE FACT THAT the Court did not admit as documentary evidence the Guardia Civil reports, though addenda to such reports were accepted. Equally not admitted were complaints filed, press releases including judgemental comments about the facts, or the pre-trial Public Prosecution's writs, as well as some writs issued by Magistrates Court number 13, because the Court felt that none of such documents had value as evidence. Such decision reached by the Court is very much in line with case law and the definition of what should be accepted as documentary evidence.

FOCAL POINTS

1. State's Attorney in her interim conclusions writ did not specifically state which documentary evidence she wanted to submit to the court and she basically just made a general statement, such as "all evidence filed so far". Nonetheless, when she took the floor to report her petition for documentary evidence, she did indeed mention each and every document she wished to file as documentary evidence, some or which had not been submitted by the Public Prosecution. The Court entirely admitted her documentary evidence proposal.

Defence counsels alleged defencelessness, indicating a) that the appropriate time to request such filings was when the interim conclusions writs are submitted to the Court or b) to do so, exceptionally, when prior issues are dealt with before initiating documentary evidence phase. This would have enabled defence counsels time to react and prepare their strategy

accordingly, taking into account all of the entire documentary evidence proposed and admitted.

2. The Platform positively values that the entire documentary evidence proposed by defence counsels, as per article 729 in LECrim (Criminal Procedural Act) was admitted. However, in the interim conclusions writ defence counsels requested some documentary evidence which were not admitted, such as witness statements as deposed before Court number 13 and thus including in that case filings. Public Prosecutors have used indeed some of such statements, alleging that they were relevant for this case and defence counsels had no way to tell whether any additional information in such statements could also be used in their defence strategy. This could be considered a breach of the equality of arms principle, and as such of the right to defence.
3. Upon conclusion of the documentary evidence phase, Chief Justice indicated that any document not included before that moment in the filings will not be admitted. Ms Bassa's defence counsel protested since a final court decision was still to be pronounced with regard to the admission of some documentary evidence duly filed in form and substance before the Court.
4. Video footage shown isolated from witnesses depositions did not allow for the principle of contradiction to occur which clearly was extremely relevant, as it has been repeated over and over during the trial. In addition, such isolated showing of videos in the documentary evidence phase meant that the images were totally deprived of context. In this regard, it was particularly concerning the fact that Public Prosecutors were sometimes unable to determine the day and place of such video footage. Defence counsels protested, faced with such situation, and Public Prosecutors retorted that those specific details were irrelevant because their aim with such footage was to show the "general atmosphere". Dates were even wrong in some instances, such as images shown as corresponding to October 3rd 2017, though they were from the strike on November 8th . Likewise locations were also mixed and confused with one another, such as CUP (political party) seat images, presented as footage from the Department of Finance.
5. On May 29th it was publically released a report prepared by the UN group working on Arbitrary Detentions. The report considers that the detention and imprisonment of Jordi Sánchez, Jordi Cuixart and Oriol Junqueras are in breach of the rights acknowledged in articles 2, 9a, 11 and 18 to 21 in the Universal Declaration of Human Rights, as well as articles 3,14, 19, 21 and 25 in the International Pact for Civil and Political Rights and therefore, such detention and imprisonment can be considered arbitrary. The report petitions immediate release of the prisoners and compensation for damages, recommending a six month period follow-up to monitor whether the Spanish State does indeed fulfil such recommendations. Additionally, the report confirms that the acts carried out by the defendants did not entail violence and therefore, they cannot be considered a confirmation of the offences of rebellion and sedition. On the other hand, the report claims that the right of presumption of innocence has been breached by some statements made by some politicians (and, in particular by the former Vice-President of the Spanish Government, in sentences such: "we have beheaded independence movement"), as well as the right to have sufficient time available to prepare their defence, amongst other rights. So far, the Court not only has not responded to such request, but also on the very same day the report was released, both the Public Prosecution and the State Attorney, confirmed as final their conclusions, with just a few irrelevant modifications and submitted them in writing then and there; therefore not taking into account at all video

footage contributed by defence counsels and maintaining the charges of rebellion and sedition, respectively together with all other counts. In addition, Public Prosecutors requested enforcement of article 36.2 in the Criminal Code, applicable for criminal organizations, terrorism and sexual offences. Should such article be enforced, prisoners would not be entitled to permits and third degree until at least half of their sentence is served.

Observers this week:

- Luisa Morgantini, former Vice-President of the European Parliament and Chair person of the Human Rights Commission at the European Parliament and currently a member of Action for Peace, Italy.
- Claudio Paternidad Martello, a lawyer at the law firm Antigone, Italy.
- Hans Langenberg, member of Fair Trial Watch, Holland.
- Dunder Gurses, member of Fair Trial Watch, Holland.

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