

OBSERVATIONS FROM SOLIDARITY MISSION – ATTENDING THE “GEZI PARK” HEARING

SILIVRI PRISON COURTHOUSE, ISTANBUL

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Case summary

The June 24 trial at the Silivri prison courthouse was the first hearing of the 16 people accused of organizing and financing the peaceful protests, which began in Istanbul’s Gezi Park in 2013. The main defendant, prominent civil society figure Osman Kavala, had been in detention since October 2017, and a second defendant, Yiğit Aksakoğlu, had been in detention for seven months (Mr. Aksakoğlu was freed from detention after the June 24 hearing while Mr. Kavala remains in detention to this day), while the remaining 14 defendants were at liberty. The charges against Mr. Kavala, contained in a 657-page indictment, boil down to allegations of a conspiracy, funded by philanthropist George Soros, to overthrow the Turkish government. The evidence, on which the allegations rest, reportedly consists of records of intercepted phone conversations, travel records, social media postings, surveillance camera photos and financial transaction reports. The main charge is “attempting to overthrow the government or partially or wholly preventing its functions” (article 312 of Turkey’s criminal code). The possible sentence for all defendants if found guilty is life in prison without parole, since they are charged with one of the most serious offenses in Turkey’s criminal code.

The June 24th Hearing

The courthouse surroundings

The Silivri prison complex is located at about one hour distance from Istanbul and is one of the largest correctional facilities in Turkey. It consists of 10 buildings and has a capacity to host up to 20,000 prisoners at a time. Some of the buildings function at a semi-open regime and others are meant for strict regime, which is where the two detained defendants were being kept. The courthouse is part of the complex, but is outside of the fenced zone that is guarded and has a checkpoint at entry. There are two outdoor coffee and snack shops providing shade and seating.

Access to the courthouse

Since this was a high-profile trial, there was a great number of attendees – observers, members of the public, friends and relatives of the defendants. Our ID cards were checked first when we were on the bus and approaching the prison complex – a policeman stopped the bus, collected all cards and passports, reviewed them and returned them in about 5 minutes. The trial started with some delay from the announced time, for which reason all attendees, including lawyers for the defendants, waited for about 1.5 hr at the cafes. The line-up to enter the courtroom formed evidently spontaneously, as there was no official invitation to do so. The number of attendees appeared to be around 300-400 thus a very long line formed. The process of accessing the courtroom was orderly and well-managed by the

police, who were polite. There did not seem to be any preference or privilege as to who gets in, rather, it was a matter of luck to have found oneself in the front half of the queue. ID cards and telephones were submitted at a reception point past the entrance, and a day pass was issued. This meant that the people who did not manage to get in the morning could not join later during breaks. People were admitted up until the seats meant for public were filled up. Once inside the courtroom and at the beginning of the hearing, there was an altercation between a policeman and a lawyer for the defendants – apparently, concerning her access to the courtroom and the designated area for lawyers, but it was resolved quickly and she stayed.

The Courtroom

The hearing was held in the main courtroom, which was large and appeared to have a capacity to seat 500-600 people. Of these seats, about 150 (in the very back of the room) were designated for members of the public. Lawyers and families of the defendants were seated on the right side, while government lawyers, lawyers for the plaintiffs and their families were seated on the left, and the seats on the section in the middle appeared reserved (for Parliamentarians, according to interpreter). The three-person panel of judges was seated in front on an elevated platform, and a prosecutor standing on their side, also on the elevated platform. Defendants were seated in front of the panel of judges, standing when speaking, down from the platform. There were loudspeakers as well as a screen, which allowed for good visibility and hearing for attendees, even in the very back of the room.

Proceedings

At the start of the hearing, the presiding judge summarized the process and read out the charges. One of the defendants' lawyers (Osman Kavala's as it appeared) made an evidentiary request – to have access to the tapes of the conversations upon which the accusations were based. This is significant, since if no such access had been granted before, then this would represent a violation of the rules of fair trial, as the defendants would not have had information of the case made out against them and could not, therefore, build their defense. In the same vein, the lawyer requested a transcript of the interrogation during the initial arrest, which was reportedly also missing from the case file, and which would make known who provided the information upon which the accusations were made. The presiding judge granted both evidentiary requests.

Proceeding to hearing the oral statements of the defendants one by one, the presiding judge read out their procedural rights, including the right to remain silent and to present evidence. The hearing of statements started with Osman Kavala, followed by Yiğit Aksakoğlu, and then one by one the remaining defendants from the group of 16. There did not seem to be any limit to the time they could speak, and most of those who made their statements during the time of observation took at least 40 minutes, some going up to one hour or more. There were no instances of interruption on the part of the judges or being cut-off. By late afternoon of June 24, when the solidarity mission ended, about 8 defendants had been heard and the rest were planned to be heard that day or the next day.

Key points from the oral statements

While the merits of the case and the substance of the parties' positions should not be a main focus of an observation meant to verify, above all, that the procedural aspects of fair trial are being complied with, some of the points made by the defendants heard during the June 24th hearing of the Gezi Park

trial are worth mentioning, as they concern the issue of whether the charges made live up to the standards of proof – which would be particularly high in criminal cases with life sentences asked for.

In his oral statement, Osman Kavala underlined multiple times that the evidence mentioned in the indictment did not support the charges, that there were “no legal findings” in the indictment, e.g., the conversations listened to do not contain any information of “plotting”; the alleged “secret foundation” did not exist and there was no evidence thereof; the transaction records of his organization included in the evidence did not include any money transfers towards organizing of the Gezi Park events. He further claimed that evidence had been ignored regarding a report from the official Turkish tax authority that there were no such transfers. Kavala claimed that the indictment was “copy-paste”, using texts from other scapegoat trials and compared it to the Ergenekon trials. He cited research that the Gezi events were an unplanned, grassroots movement and there had not been a single organizer or a group of organizers, let alone a conspiracy, and claimed that this research had also been ignored, as had been the violence on the part of police during the events. He claimed that his physical participation in the Gezi events was very limited, amounting to 45 minutes or so. His overall view is that the Gezi Park trials are based on patently unsubstantiated charges and their sole purpose is to intimidate and to punish publicly civic activists.

Similarly, the second main defendant, Yiğit Aksakoğlu, stated that the indictment did not describe accurately what his work consists of, which has been in the area of education, culture, advocacy for Roma rights; rights violations of military conscripts, the peace process with Kurdish people, etc. He pointed out that the indictment failed to take into consideration that many of the projects on which his foundation worked were back by the Turkish government, i.e., they could not have been aimed at overthrowing it. He also stated that he did not know Osman Kavala personally and there was no evidence of communication between the two so as to organize the Gezi Park events, as claimed. He also questioned the 6-year wait between the Gezi Park events (2013) and the trial; stated he did not spend any time in Gezi Park and that his name is not on the police record from then. He said that the “elephant in the [court]room” was that this trial was not about the Gezi Park events at all, but its aim was to incriminate civil society figures.

The third defendant to be heard, female, architect by profession and chair of architecture of and urban design commission stated that she had been previously charged in relation to participation in the Gezi Park events, and acquitted, and that the current indictment was essentially the same, which raises questions of possible double jeopardy – violation of the fair trial principle to not be tried twice of the same crime. She also stated that the conditions in the police arrest had been inhumane.

The remaining defendants heard on that day raised similar points, especially regarding the charges not being substantiated by evidence and the activities claimed to constitute such evidence were not criminal in character, e.g., raising funds in order to run a foundation.

Atmosphere

A final point to be made is that this trial attracted not only a significant level of attention, nationally and internationally, but also an extraordinary show of solidarity on the part of friends and colleagues of the defendants and members of the public. The perhaps 200 of those who managed to be inside the courtroom expressed this feeling of solidarity by clapping hands when the two detained defendants were being led into the court room, waving hands, and other similar gestures of support. It should be noted that the judges’ panel was very patient and tolerant of this behaviour and only once the presiding judge asked for the hand-clapping to subside as it was interfering with his ability to hear the defendant.