

GREEK HELSINKI MONITOR (GHM)

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Greece: Written contribution on third conviction with anti-racism law that vindicates GHM's solitary struggle

Greek Helsinki Monitor (GHM) welcomes the 4 July 2008 conviction by the **Athens Eleventh Three-Member Misdemeanors Court** (presiding judge **Anna Angelatou**, member judges **Nikolaos Zagorianos** and **Eleni Ikonomou**) of far-right weekly "**Eleftheros Kosmos**" publisher **Dimitris Zafeiropoulos**, editor **Theodoros Georgiou** (tried in absentia) and columnist **Theodoros Hatzigogos**. The three were found guilty of violating anti-racism Law 927/79 because, according to the attached indictment, an article published in the paper on 18 June 2006 "*including offensive phrases for Greece's Roma everywhere, intends to demean their social presence and social existence, also because of their ethnic origin as Roma.*" A sentence of seven months imprisonment was imposed on each of the convicted (suspended for Hatzigogos and Zafeiropoulos and commuted to a fine of 10 euros per day for Georgiou). The execution of the sentences was suspended pending a possible appeals trial.

The trial's **Prosecutor Alexandra Pischoina** surprisingly proposed a fine of 10,000 euros (with no prison term) for each of the defendants, a sentence more in keeping with European standards. The prosecutor also asked for their conviction in an unusually extensive summation that, as GHM's legal counsel stated in at the beginning of his closing statement, was "*a landmark by Greek standards for all of us involved in the fight against racism.*" Among other things, because the defendants invoked the famous Greek poem, "*The Dodecalogue of the Gyp*" [*Dodekalogos tou Yiftou*," (1907)] to justify their use of the term "gyp [yiftos]" [now a pejorative term for Roma or Gypsies/Tsiganoi], the prosecutor remarked that if its author Costis Palamas were alive today he would have been a witness for the prosecution in a trial on anti-Roma racism. She added that times have changed since the era of folk sayings and Palamas, and that international conventions have been introduced for the protection of victims of racism. She added that the text on trial presented the Roma as existing outside of society, ever ready to exploit the alleged incompetence of the Greek state. She rejected the arguments about an alleged increased criminality of Roma and immigrants, stating that the arrest of 2, or 32, or even 102 individuals cannot legitimize the generalization that an entire group engages in criminal activity. She also rejected the claim that the article was a simple news report, characterizing it instead as an expression of ideas that arrived at the conclusion that Roma go out stealing every night. Moreover, she added that defense witness **Spyros Zournatzis** characterized the newspaper as nationalistic, stating that Mr. Hatzigogos' comments must be as caustic as possible; thus the witness demonstrated the existence of intent to make the comments demeaning. Ms. Pischina concluded that there was more than sufficient evidence for a conviction.

In his plea, **Theodoros Hatzigogos** cited that he has been a journalist for nineteen years and has been a defendant only five times, all following complaint reports filed by (GHM spokesperson) **Panayote Dimitras**, whose intention is to destroy his livelihood. He mentioned that after his previous conviction seven publications severed ties with him, adding that "*Even Karatzaferis [leader of far-right LAOS party] dropped me from [his weekly paper] Alpha Ena because he's*

afraid of Dimitras” (inaccurate given that he continues to write articles for that paper under the pseudonym “Theo Machiavelli”).

As GHM’s legal counsel pointed out, neither Theodoros Hatzigogos nor Dimitris Zafeiropoulos showed any remorse for the text on trial. In fact in an article published on 5 March 2008, after their prior conviction, they wrote: *“For us, the newspaper’s team, any criminal conviction means absolutely nothing. Because the criminalization of ideas, besides being morally unacceptable, is in practice meaningless. For the ideas that we had before the conviction we continue to have afterwards. The only thing any conviction will serve to do is to make us more obstinate in our struggle for these very ideas”* (translated from the Greek original article in http://elkosmos.gr/site/index.php?option=com_content&task=view&id=1190&Itemid=52).

An important element of the trial is that, at the start of the proceedings, two Roma, represented by GHM’s legal counsel **Thanasis Tartis** constituted themselves civil claimants (considering themselves offended by the publication). The defendants filed an objection to the claim of civil claimant, which the court rejected following the prosecutor’s motion to that effect. It is recalled that, in the previous trial of 5 March 2008 in the same court and with the same defendants, where they were convicted for an anti-Semitic text, the court had again accepted the civil claimant status claimed by three offended Jews and argued before the court by GHM alone, through its legal counsel. In contrast, at the December 2007 trial of **Kostas Plevris – Eleftheros Kosmos**, again for anti-Semitic texts (in which only the former was convicted), the civil claimant status of six Jews was rejected. GHM’s Jewish member was the only plaintiff to file an appeal against that dismissal. GHM insists, backed by extensive Greek and international jurisprudence, that the civil claimant status must be accepted. Yesterday’s second consecutive decision vindicated GHM on this point. Just as the third conviction with the anti-racism Law 927/79 vindicated GHM’s corresponding strategic litigation that has succeeded in activating a law that no standing government, political party, the National Committee for Human Rights (which in fact has just elected to the position of section vice president (!) the representative of the LAOS party that is likeminded with those convicted at first instance), or the Ombudsman wish to see applied.

Finally, it must be noted that this case was initiated with a complaint report (μηνυτήρια αναφορά) lodged by GHM to the Head Prosecutor of the Athens First Instance Court on 19 June 2006. The Prosecutor ordered a preliminary examination that began with the constitution as civil claimants of three Roma through GHM on 19 July 2007. Initially, with a decision dated 29 September 2006, **First Instance Prosecutor Petros Bosios** rejected the *ex officio* case brief, maintaining that a complaint (έγκληση) should have been filed by the Roma on the grounds of – the abolished since 2001! – article 4 of Law 927/79. After an appeal by GHM, **Appeals Court Prosecutor Epameinondas Vrakastselis** with a decision dated 8 January 2007, ordered the pressing of criminal charges by the First Instance Prosecutor.

INDICTMENT

ATHENS MISDEMEANORS PROSECUTOR’S OFFICE

Time-barred on 18-6-2011

[GHM note: wrong – since the crime was committed through the medium of the press it was initially time-barred on 18-12-2007 and now on 18-12-2009]

ELEVENTH THREE-MEMBER MISDEMEANORS COURT OF ATHENS

ABM: B-O6/3925 B.ΩΠ.: ΕΓ 34-06/199

(INITIAL) TRIAL DATE 25-6-2007

Act: Violation of article 2 Law 927/1979, as amended through articles 72 phrase e and 39 para. 4 of Law 2910/01 and article 71 para. 4 of Law 3386/05, committed through the medium of the press

Defendants:

1. Theodoros Hatzigogos of Nikolaos
2. Dimitrios Zafeiropoulos of Konstantinos
3. Th. Georgiou, of unknown other data

They are charged as liable that in Athens on 18 June 2006, through the medium of the press, that is a leaflet produced through print or any other mechanical or chemical medium to identical copies, that are used to multiply and disseminate manuscripts, images, shows, musical pieces or negatives, publicly expressed ideas that are offensive to a group of individuals because of their racial or national origin. Specifically, in the above time and place, the first defender Theodoros Hatzigogos as columnist of the weekly newspaper “ELEFTHEROS KOSMOS,” the second defender Dimitrios Zafeiropoulos as publisher of that newspaper and the third defender with personal data Th. Georgiou as editor-in-chief of the aforementioned newspaper, while published the following text: *“Gypos came crashing (title). Even the Gypos have realized how incompetent we are to protect our country. Teams of Athiganoi [GHM note: the term is derogatory for Roma] in Dekelia, Aghios Stefanos, and in all other areas of Attica where there are rail tracks, dash out every night and steal very expensive equipment of [train company] OSE, which they resell as pure copper. In addition to very important expenses that the Greek State pays every day to repair the rail tracks, there is also the direct issue of the safety of the trains that pass-by. Yet, no journalist highlights the issue, because it is probably racist to go against with the peaceful Athiganoi.”* The aforementioned text, including offensive phrases for Greece;s Roma everywhere, intends to demean their social presence and social existence, also because of their ethnic origin as Roma.

Violation of articles 1, 14, 26§1^a, 27, 51, 53, 57 of the Criminal Code, article 2 of Law 927/1979, as been amended through articles 72 phrase e and 39 para 4 of Law 2910/01, and article 71§4 of Law 3386/05, combined with article 47 of Compulsory Law 1092/1938, as replaced with article 4 para. 2 of Law 1738/1987 and remained valid through the only article of Law 2243/1994.

Athens, 7-4-2007

THE PROSECUTOR

[signature]

PETROS BOSIOS
MISDEMEANORS PROSECUTOR

Witnesses:

1. Panayote.Dimitras of Elias
2. Dionysia Panayotopoulou of Ioannis
3. Vasilios Dimitriou of Konsantinos
4. Alexios Stirokleas of Evripidis
5. Spyridon Zournatzis of Vasilios
6. Konsantinos Kolmer
7. Demosthenis Koukounas

Documents to read:

1. The Greek Helsinki Monitor document dated 19-6-2006
2. The “ELEFTHEROS KOSMOS” article dated 18-6-2006