

PRESS RELEASE

The Criminalisation of Solidarity on Trial: Greece brought to the Strasbourg Court over its Crackdown on Rescue Organisations

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Following a two-and-a-half-year legal ordeal and acquittal in Greek courts, lawyers with the Global Legal Action Network (GLAN) acting on behalf of Salam Kamal-Aldeen, founder of the non-profit Team Humanity, have filed an unprecedented application with the European Court of Human Rights challenging Greece's crackdown on the search and rescue actors of refugees at sea. On 14 January 2016, Mr Aldeen was operating a rescue boat, the Team Humanity, from the island of Lesbos, helping the Hellenic Coast Guard (HCG) to locate and assist three migrant dinghies in distress. Although these had already been intercepted by the Turkish authorities by the time the Team Humanity arrived close to the border of Greek territorial waters, Mr Aldeen and his crew were arrested and charged with attempted smuggling. Their rescue vessel was confiscated and severe restrictive measures were imposed on the volunteers.

The application filed with the Strasbourg court exposes the illegality of the Greek authorities' crackdown on human rights defenders working to preserve the integrity of the international system of search and rescue binding on captains of all vessels to render assistance to persons in distress at sea, regardless of their nationality or legal status. It challenges the reliance by Greece on sanctions and anti-smuggling regulations to bring solidarity-based humanitarian action to a halt. Also questioned is the legitimacy of Greece's conduct exposing Mr Aldeen to a minimum ten years' imprisonment for his life-saving activities. Such repressive measures, aimed ultimately at curbing unwanted maritime crossings, have been adopted as part of the implementation of the EU-Turkey "deal" of March 2016.

GLAN filed the legal application, with support from the the Irish Centre for Human Rights and two independent Greek lawyers, Danai Papachristopoulou and Zoe Kasapi. Their submission used evidence compiled from Mr Aldeen's dealings with the Greek courts and authorities, as well as reports from international and non-governmental organisations documenting the shift in policy in Greece and the European Union to criminalise rescue at sea.

According to GLAN legal advisor Dr Violeta Moreno-Lax (Queen Mary University of London) "The Strasbourg Court has now the opportunity to condemn the growing trend in Greece and Europe of criminalising solidarity. Rescue is not a crime; it is a binding duty under international law. Humanitarian assistance of persons in distress at sea should never be prosecuted. Attacking civil society constitutes an assault on the main values of democracy. Rescuers should instead be celebrated and protected as selfless guarantors of the most basic human rights."

GLAN legal advisor Omer Shatz (Sciences Po and Yale Law School) added: "The EU and its Member States are targeting rescue NGOs, but the victims of their policies are tens of thousands asylum seekers in distress at sea. Mass killing of civilians by drowning, pushing survivors back to camps they fled from, preventing their disembarkation at safe ports are not only human rights violations; they are crimes for which GLAN will continue to pursue accountability. The Strasbourg Court should find the persecution by prosecution strategy to be incompatible with the fundamental principles of the European Convention on Human Rights."

Director of the Irish Centre for Human Rights Professor Siobhán Mullally said "This case raises important questions of European human rights law concerning the role of civil society in providing humanitarian assistance to people in distress. Civil society space is increasingly under threat in Europe. The Irish Centre for

Human Rights was pleased to provide assistance in these legal proceedings to defend the role of humanitarian actors in search and rescue at sea."

Background

Mr Aldeen's prosecution is part of a targeted repressive move against rescue NGOs in the EU. In recent years, especially since the outbreak of the "refugee crisis" in 2015, the EU environment surrounding sea rescue has become increasingly harsh and restrictive. This has included amendments to various laws in several Member States, including Greece, which has seen the introduction of additional registration and reporting formalities; instances of harassment and police intimidation; undue arrest and detention; and public smear campaigns in the press and social media. This has made it increasingly difficult for rescue NGOs to operate at sea, to the point that there are no longer any civil society organisations actively and publicly pursuing maritime rescue in Greece. This application, therefore, bears the potential of restoring the confidence of human rights defenders in the Mediterranean basin that their work will not result in criminalization.

Facts

Since arriving in Greece, after the body of Alan Kurdi was washed ashore in September 2015, Mr Salam Kamal-Aldeen has worked to promote the rights of refugees on Lesbos. With *Team Humanity*, he has routinely contributed to operational efforts by the Hellenic Coast Guard (HCG), participating in over 150 missions, rescuing up to 200 persons a day.

Although their cooperation ran smoothly until January 2016, things changed on January 14th when, around 2:30 am, the applicant received a message about a boat in distress carrying asylum-seekers in the area near the Mytilene airport. No coordinates were provided. He immediately reached out to his crew and prepared to deliver assistance, notifying the HCG. The aim was to locate the boat in distress and remain nearby until the HCG arrived. Around 3:10 am, the HCG located the Team Humanity boat and escorted it back to port, where the applicant and the rest of the crew were arrested. They were accused of attempted migrant smuggling.

On 16 January 2016, the Investigating Judge confirmed the charge, in its aggravated form, on the basis of the applicant "having decided to commit", jointly with the other defendants, "with decision and intent" and "as a repeated crime", the felony of illegal transport of irregular migrants into Greek territory without authorisation in the degree of tentative, frustrated only by the intervention of the HCG. No proof was adduced, the Judge referring to their use of "rescue as a pretext" to perpetrate the crime. In addition, several, equally unwarranted, restrictive measures were imposed on the applicant, while the boat and the rescue equipment on board were confiscated.

Although the Court of Appeal acquitted the applicant in May 2018, the moral and material damage he has endured and continues to experience through the ordeal he was put through for more than 2 years, and for which the Greek authorities are responsible, has not been remedied.

Notes to the Editor

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