

ELDH Report: Observation of the trial against Ilaria Salis in Budapest – 29 January 2024

On Monday 29 January, was held in the Budapest District Court the first hearing in the trial of Ilaria Salis, Tobias Edelhoff and Anna Christina Mehwald, which has been attended by Italian lawyers Aurora D'Agostino e Giuseppe Romano as international observers for the Association of Democratic Lawyers in Italy (GD), and Fabio Marcelli, , Francesca Trasatti and Veronica Scali for the the Centre for Research and Elaboration for Democracy (CRED), all of them also on behalf the European Association of Lawyers for Democracy and Worlds' Human Rights (ELDH).

Ilaria Salis is a school teacher and Italian citizen, detained in inhuman and degrading conditions since 11 February 2023 in an Hungarian maximum security prison, as denounced by herself in letters sent to her Italian lawyers from prison.

The offence charged against Salis is injuries aggravated by hitting potentially vital body parts, in the face of medical reports certifying injuries healed within 5 to 8 days.

The sentence ranges from a minimum of two to a maximum of 24 years, leaving too much discretion to the judge.

The aggravating circumstance charged and the sentence that could potentially be imposed (up to 24 years) violates the principle of proportionality, given the particular tenuousness of the act (injuries healed in 5 days).

The jurisdiction is entrusted to a single judge despite the fact that the punishment that can be imposed is potentially more than 20 years.

In violation of the right to be tried by a third, impartial judge, the judge who will decide the case has already had access to and knows all the prosecution's documents, and during the hearing he has already issued a guilty verdict against the co-defendant Edelhoff and has rejected the latter's request to replace the measure with another less afflictive one, thus also ruling on the need for him to remain in prison despite the sentence imposed being low, three years, one of which has already been served in full.

In the Italian legal system, the offence charged against Salis would not be prosecutable due to the absence of the condition of admissibility, as there is no complaint by the offended people.

In any case, on the basis of the sentence provided for in Hungary, the jurisdiction in Italy would be that of a court with a collegial composition, third and impartial as it is precluded by law from having access to the prosecution's files, nor can it have already pronounced on the guilt of other co-defendants.

Salis's right of defence has also been compromised by the lack of access to all the evidence, as she hadn't the opportunity to view the films indicated by the prosecution as evidence nor hadn't access to all the documents translated into Italian.

The accused was led into the courtroom with her wrists and ankles restrained by handcuffs and a sort of leash around her waist, held by a prison officer. The defendants were also seated away from their defence lawyers and escorted by officers in camouflage suits and black balaclavas who remained close to them throughout the hearing. These circumstances - in stark contrast to the principles and protections provided for by EU law - in addition to constituting degrading treatment and detriment to dignity, raise serious questions as to the possible

influence on the impartiality of the trial, the violation of the right of defence and the presumption of innocence. Finally, to date, Salis has been denied the possibility of being placed under house arrest in Italy on the sole ground of the precautionary requirement of the danger of absconding, since neither the danger of evidential manipulation nor that of reiteration of the crime has been contested. This circumstance is particularly alarming, betraying, in fact, a complete distrust of Italian institutions. The measure could well be carried out with the help of the so-called electronic bracelet, which would offer the widest guarantees of control, thus averting the danger to which the measure is subject.

In light of the reports from ELDH's trial observers, ELDH will continue to monitor the process in the coming hearings. The next hearing will be on 21 May 2024.

We hope that in the meantime Ilaria Salis will be granted a transfer to Italy as soon as possible, also in application of the COUNCIL FRAMEWORK DECISION 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

We hope also that the diplomatic authorities and the Government will quickly be able to put an end to the violations found, re-establishing the guarantees and respect for the rights that should be granted to every Italian and European citizen.