



Demokratische Jurist*innen Schweiz
Juristes Démocrates de Suisse
Giurist* Democratiche*i della Svizzera
Giurist*a*s democratic*a*s da la Svizra



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt
EJDH Asociacion Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo
EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme
EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

Valetta, 22. Januar 2025

Democratic Lawyers Demand an End to the Proceedings Against the El Hiblu 3

A delegation of lawyers from the Democratic Lawyers of Switzerland (DJS) and the European Association of Lawyers for Democracy & World Human Rights (ELDH) observed the verdict by the Maltese Court of Appeal on 22nd of January 2025 regarding the jurisdiction of the Maltese courts in the case against the so-called «El Hiblu 3». Nearly six years after their crossing of the Mediterranean, the three young adults — two of whom were present in court — still face serious criminal charges, even though the court has so far dealt only with procedural matters. The observers expressed deep concern about the course of the proceedings in Malta.

The terrorism charges contained in the indictment, which has not yet been substantively dealt with, are significantly disproportionate to the accounts given by the defendants, but also to the facts as presented by the prosecution. It is therefore more likely to be politically motivated than factually based accusations - it is a trial in line with the European policy of isolation, which is intended to have a chilling effect. It is one of a large number of proceedings aiming to criminalize refugees.

The Facts

On 28 March 2019, a rubber dinghy carrying refugees got into distress in the Mediterranean Sea. The crew of the merchant vessel *El Hiblu 1* rescued 100 people following directions from an aircraft of the EU military operation EUNAVFOR MED. The crew then attempted to return the rescued individuals to Libya. Shortly before reaching Libya, the refugees protested against this illegal pushback. The ship's captain asked three English-speaking teenagers to calm the desperate passengers and interpret for him. Eventually, the captain navigated the ship to Malta. Upon arrival in Maltese waters, the ship was stormed by security forces, and the three teenagers were arrested. The criminal charges they now face are so severe that they risk life imprisonment.

Current Status of the Case and Legal Arguments

In the hearing, the Court of Appeal ruled on whether Maltese courts have jurisdiction to try the case. The defense, appealing the lower court's decision from 30 May 2024,



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argued that under Article 5 of the Maltese Criminal Code, Malta lacks territorial jurisdiction since the alleged actions occurred outside Maltese territorial waters.

The prosecution, by contrast, argued that the alleged acts constituted a continuous offense that began in international waters and extended into Maltese territorial waters, thereby justifying Maltese jurisdiction.

The Court of Appeal upheld the lower court's decision, but did not provide an oral explanation for the ruling.

Observations from the observation team

The trial observation team noted that the presiding judge of the three-judge panel failed to explain the verdict orally. The announcement of the verdict lasted approximately one minute. The presiding judge referred to a written justification to be published later that afternoon. Although the verdict was delivered in English, the judge spoke so quietly that the observation team could not understand him.

The observers noted that the names of the defendants were included in the publicly accessible written judgment. While this practice is consistent with the general rule in Malta, where court decisions are typically not anonymised on publication and courts possess a very broad discretion in this regard. The publication of the Names of the defendants could result in long-term damage to their personal and professional lives by associating them with this criminal case. This likely leads to prejudgment, violating not only the presumption of innocence but also the right to rehabilitation after any potential conviction and sentence.

Demands

The DJS and ELDH call on the Maltese judicial authorities to end the politically motivated prosecution and to drop the criminal proceedings. Furthermore, we demand an end to the criminalization of refugees.

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