

## **Libel trial McCann v Gonçalo Amaral - Day 11**

### **The hearing as it happened**

(16.06.2014, 10:30am)

The judge informs that she has received a request this morning from Gonçalo Amaral to consider the dismissal of his lawyer, Dr Victor Santos de Oliveira.

The lawyers are asked to state their respective position on this issue.

#### **– Dr Santos de Oliveira (ex-GA lawyer)**

He explains that the notification sent to him by Gonçalo Amaral implies that his participation as a lawyer is inhibited: he can't function as the authorised representative of Gonçalo Amaral.

He considers however that, given the nature of this process, the instruction of a new lawyer is required. Therefore SO asks for the suspension of the current hearing.

#### **– Dra Fatima Esteves (Guerra&Paz lawyer)**

She observes firstly the oddness of notifying the Court of the dismissal at 9am.

She reminds the Court of the CPP rules with regard to the conditions of dismissal, the effects of which start directly after the notification.

She reminds them also that the contradictory principle is at the core of a civil trial. If the instruction of a new lawyer is required, it can happen only after the notification. Therefore there has to be a delay in order for GA to instruct a new lawyer.

This means that the hearing must be suspended. Last but not least she mentions that deontology implies a general consensus for the interruption of the hearing.

#### **– Dr Miguel Coroadinha (TVI lawyer)**

He has nothing to add except to express his solidarity with Dr Santos de Oliveira.

#### **– Dr Henrique Costa Pinto (VdeC multimedia lawyer)**

He seconds Dr MC's words about solidarity and says that the solution to the current issue belongs with the Court: suspend or interrupt the hearing? *(The difference is minimum and more a technicality with an effect on expiring terms).*

He observes that now the dismissal of SO's mandate has taken effect, it would not be right to go ahead with the hearing, but is a solid reason (force majeure) for interrupting it.

He believes that the legal delay to constitute a new lawyer is 10 days, subject to the Tribunal eventually naming a representative.

#### **– Dra Isabel Duarte**

She observes that the Court was notified of the dismissal only this morning, when her clients had already left the UK.

She mentions the effect on the process of the plaintiffs' reactions to a postponement and claims there is no right impediment to the hearing going ahead although she observes that

there would be one if the lawyer was incapable of exercising his function.

She further distinguishes between a case of renouncement and one of dismissal and finally states she considers that the hearing must not be suspended but go on with Gonalo Amaral being asked to constitute a new representative.

### **– The Judge Maria Emília de Melo e Castro**

She states that the defendant Gonalo Amaral had come to notify the Court this morning that he had (on the 13th evening) informed Dr Santos de Oliveira that his mandate would be revoked on the 15th. She states further that the effects of this dismissal start with the notification of his representative and the opposite parties. Therefore the mandate can be considered to be at an end.

She also observes that the act that led to the mandate's cessation is voluntary.

As to the consequences on the process, there are two possibilities, both supported by the law (one was put forward by Dra Isabel Duarte and the other was suggested by the defence lawyers). The judge describes those two possibilities referring to jurisprudence and cites the arguments in favour of both.

She concludes that the second better adjusts to the contradictory principle of the defence and to the equality between the parties. Therefore she considers fairer to allow the defendant a delay to instruct a new lawyer, with the condition that if he fails the process will go on with the juridical acts previously accomplished. Gonalo Amaral is therefore given 10 days to appoint a lawyer. This is why the current hearing cannot proceed.

Taking into account those 10 days she proposes the date of 8 of July.

Dra Isabel Duarte asks to go and consult with her clients (who are not in the courtroom) and finally agrees with this date but objects that her allegation will be long and doubts that everything can be done in only one day.

The judge asks the lawyers which kind of allegations they'll do: allegations of law or allegations of facts? The defence lawyers say they will claim the first and Dra Duarte the second.

The judge then decides that the plaintiffs will be heard on the morning of the 8th of July and the Duarte allegation in the afternoon.

Another date, 10th of July, is fixed to hear the four defence speeches.

The judges then asks the court clerk to call the plaintiffs. The interpreter (the same who worked at the first hearings) is there. The judge explains what happened and apologises but adds that they were circumstances beyond her control.

And so it ended.

*[With thanks to Faithlilly for checking the English]*