

SS massacre: Distomo survivors fight for justice

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Argyris Sfountouris was four years old when, on 10 June 1944, a German SS infantry division attacked the Greek village of Distomo in the foothills of Mount Parnassus in a reprisal for acts by Greek partisans. The SS slaughtered Sfountouris' parents and 30 of his relatives. Over 200 people died in the massacre at Distomo – most of them women, children and elderly villagers.

Today, 71 years later, Argyris Sfountouris takes us to the scene of these crimes – to his parents' home in the heart of Distomo, next to the town hall and the small museum commemorating the victims of the massacre. Afterwards we all go to a memorial site on a hill overlooking the village, where the main commemorative ceremony is held every year. The events of June 1944 still hold a firm place in the local collective memory, as is clear from the many political and cultural events taking place over these few days.

More than anyone else Argyris Sfountouris embodies the struggle of the survivors over the past 20 years. They have been calling on Germany to finally recognize the massacre as a war crime, to live up to its obligations under international law and provide compensation for the victims and the relatives of those murdered. At the launch of Sfountouris' new book in early June in a packed room at the University of Athens, the current Speaker of the Parliament and the Deputy Defense Minister paid tribute to the role of Sfountouris, poet and physicist. They spoke of the importance of the Distomo case and pledged their support to Sfountouris and his fellow campaigners.

Yet it remains a David versus Goliath struggle. Beyond the platitudes spoken at memorials, successive German governments have consistently sought to use all possible legal and political tricks and ruses to block a court decision officially confirming the violation and the obligation to pay compensation. For decades the German government objected to the compensation suits, arguing that the claims had been deferred under the 1953 London Debt Agreement until such time as a peace treaty was signed. After the conclusion in 1990 of the "Two Plus Four Agreement", which was generally regarded as a peace treaty, the government argued that the claims were extinguished by the treaty. This was despite the fact that the treaty contained no provisions on the compensation claims and the Greek government was not a party to the agreement.

The question of compensation for German war crimes remains on the agenda to this day – thanks in no small part to the tenacious and creative lawyers representing the victims in Greece, Germany and Italy. In 2000 the Greek Supreme Court (Areopag) found that Germany was under an obligation to pay 28 million euro in compensation payments. The Areopag rejected the central argument of the German government that the victims were barred from taking legal proceedings against Germany before non-German courts due to the principle of state immunity under international law. The Court held that this principle could not apply to cases of grave violations of international law such as war crimes and crimes against humanity – undoubtedly a milestone for the human rights-orientated development of international law. The enforcement of this decision in Greece, however, failed due to the lack of authorization by the Greek Minister for Justice, likely due in part to political pressure from Berlin.

But the victims and survivors did not give up. Instead they took their case to the Italian judiciary, since – like the Greek courts – the highest courts in Italy have for over a decade stressed that in the interests of justice, victims of war crimes must be allowed access to legal remedies before Italian courts to enforce their compensation claims. This fundamental position was not altered by the subsequent decision of the International Court of Justice (ICJ) in The Hague in a case taken at the behest of the

German government. In 2012 the ICJ held that the enforcement of the compensation claims in Italy violated Germany's sovereignty. But the Italian lawyer for the claimants from Distomo, Dr. Joachim Lau, was not deterred by the authority of the "world court". Following Dr. Lau's renewed efforts, the Italian Constitutional Court held in autumn 2014 that the ICJ's legal opinion was clearly not consistent with the fundamental and human right to effective legal remedy.

German politicians who are loath to accept this or who relentlessly argue that the issue of compensation for crimes committed during the Second World War is no longer up for discussion should know one thing: Argyris Sfountouris and his colleagues will continue to fight for justice.

Since this blog began, I planned to feature contributions from colleagues to whom I owe much inspiration and motivation. Today's blog was written by Carsten Gericke. Carsten Gericke works as a lawyer in Hamburg and advises the European Center for Constitutional and Human Rights ([ECCHR](#)) on issues relating to international crimes and accountability. He is taking part in the current commemorative events together with the Distomo working group.