



Grand Chamber hearing concerning the date of a convicted terrorist's release

The European Court of Human Rights is holding a Grand Chamber¹ hearing today **Wednesday 20 March 2013 at 9.15 a.m.** in the case of **Del Rio Prada v. Spain** (Application no. 42750/09)

The case concerns the postponement of the date of a convicted terrorist's release, in retroactive application of new case-law (the so-called "Parot doctrine").

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicant, Ines Del Rio Prada, is a Spanish national who was born in 1958. She is serving a prison sentence in the region of Galicia (Spain). In eight sets of criminal proceedings for offences linked to terrorist attacks, she was sentenced to various prison terms. Served successively, the prison sentences would have totalled more than 3,000 years.

The case concerns the postponement of the date of the applicant's release, in application of new case-law (the so-called "Parot doctrine"), adopted by the Supreme Court after she had been sentenced.

The applicant started serving her sentence in February 1989. In November 2000, having regard to the close legal and chronological connection between the offences, the Audiencia Nacional combined the various sentences and fixed the term to be served at 30 years, the maximum limit applicable under Article 70 of the 1973 Criminal Code, in force at the relevant time.

The case-law of the Spanish Supreme Court on prison benefits (particularly remission) changed in 2006. Although, under a judgment of 8 March 1994, the maximum term of 30 years provided for in Article 70 of the 1973 Criminal Code acted as a "new and autonomous sentence, to which the prison benefit provided for by law was applicable", the Supreme Court changed its position in a judgment of 28 February 2006 and introduced the so-called "Parot doctrine", under which remission was to be applied to each sentence individually, and not to the maximum 30-year term.

On 24 April 2008, allowing for remission for work done in prison, the prison authorities proposed to release Ms Del Rio Prada on 2 July 2008. On 19 May 2008, however, the Audiencia Nacional rejected this proposal and asked the prison authorities to revise their calculation in application of the "Parot doctrine", following which the Audiencia Nacional decreed 27 June 2017 as the final date for the applicant's release. The appeal lodged by

1 Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Ms Del Rio Prada before the Audiencia Nacional and the amparo appeal to the Constitutional Court were unsuccessful.

Relying on Article 7 (no punishment without law), Ms Del Rio Prada complains that the Supreme Court's case-law was applied retroactively. She also considers that her continued detention is contrary to Article 5 (right to liberty and security). Lastly, under Article 14 (prohibition of discrimination), she considers that the new case-law is applied by the Spanish courts for political reasons, to delay the release of prisoners convicted of acts of terrorism.

Procedure

The application was lodged with the European Court of Human Rights on 3 August 2009. In its [Chamber judgment of 10 July 2012](#) the European Court of Human Rights held that there had been a violation of Article 7 and of Article 5 § 1 as it considered that it had been impossible for Ms Del Rio Prada to foresee the retroactive application to her case of the change in the case-law on calculating remission, resulting in an extension of nine years to the length of her sentence. It further held that Spain was to ensure the applicant's release at the earliest possible date. On 4 October 2012 the Government requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 22 October 2012 the panel of the Grand Chamber accepted that request.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
 Guido **Raimondi** (Italy),
 Ineta **Ziemele** (Latvia),
 Mark **Villiger** (Liechtenstein),
 Isabelle **Berro-Lefèvre** (Monaco),
 Elisabeth **Steiner** (Austria),
 George **Nicolaou** (Cyprus),
 Luis **López Guerra** (Spain),
 Ledi **Bianku** (Albania),
 Ann **Power-Forde** (Ireland),
 Işıl **Karakas** (Turkey),
 Paul **Lemmens** (Belgium),
 Paul **Mahoney** (the United Kingdom),
 Aleš **Pejchal** (the Czech Republic),
 Johannes **Silvis** (the Netherlands),
 Valeriu **Griţco** (the Republic of Moldova),
 Faris **Vehabović** (Bosnia and Herzegovina), *judges*,
 András **Sajó** (Hungary),
 David Thór **Björgvinsson** (Iceland),
 Boštjan M. **Zupančič** (Slovenia), *substitute judges*,

and also Michael **O'Boyle**, *Deputy Registrar*.

Representatives of the parties

Government

Francisco **Sanz Gandasegui**, *Agent*,
Isaac **Salama Salama**, *Co-agent*,
Jaime **Requena Juliani** and Javier **Nistal Burón**, *Advisers*;

Applicant

Mark **Muller QC**, Sudhanshu **Swaroop** and Michael **Ivers**, *Counsel* ;
Amaia **Izko**, Urko **Aiartza** and Didier **Rouget**, *Advisers*.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.