



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF FEDERICI v. FRANCE

(Application no. 52302/19)

JUDGMENT

Art 6 § 1 (criminal) and Art 6 § 3 (b) • Fair trial • Rights of the defence • Refusal of an accused's request to be questioned outside the glass dock in which he was appearing at his criminal trial • Complaint unsubstantiated and manifestly ill-founded in the present case

Art 6 § 2 Presumption of innocence • Refusal by an assize court ruling on appeal to question the accused outside the glass dock in which he was appearing at hearings • Sufficiently spacious and equipped open-roofed glass enclosure, a permanent fixture in the courtroom, from which the accused asked to be removed only at the close of the appeal proceedings • No objective reasons to fear that this could have presented him in a negative light were put forward • Unsubstantiated allegations of hearing impairment • Risk stemming from the fact that the accused had been on the run for several years • Need to ensure security in view of the violent nature of the alleged offences • Accused free to move around and to communicate with his lawyers in complete confidentiality • No breach of the presumption of innocence in the circumstances of the case

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 April 2025

FINAL

03/07/2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Federici v. France,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

María Elósegui, *President*,
Mattias Guyomar,
Armen Harutyunyan,
Stéphanie Mourou-Vikström,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the application (no. 52302/19) against the French Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a French national, Mr Jean-François Federici (“the applicant”), on 2 October 2019,

the decision to give notice of the application to the French Government (“the Government”),

the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

the observations received from the National Council of Bar Associations, which was granted leave to intervene by the President of the Section;

Having deliberated in private on 3 April 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicant’s appearance in a glass dock during the proceedings before an assize court of appeal, and that court’s refusal to allow him to answer questions from the witness stand rather than from the dock. The applicant alleged violations of Article 6 §§ 1, 2 and 3 (b) of the Convention.

THE FACTS

2. The applicant was born in 1957 and is detained in Venzolasca. He was represented by Ms C. Waquet, a lawyer.

3. The Government were represented by their Agents, Mr F. Alabrune, Director of Legal Affairs at the Ministry of European and Foreign Affairs, and subsequently by Mr D. Colas, his successor in that office.

I. THE APPLICANT'S CRIMINAL TRIAL

4. The applicant was indicted and then committed for trial at the Bouches-du-Rhône Assize Court (Aix-en-Provence) on charges of murder committed as a member of an organised group and conspiracy to commit a crime.

5. In 2011, having failed to comply with the conditions of a court supervision order, he absconded. On 3 December 2014 the Assize Court, ruling *in absentia*, sentenced the applicant to thirty years' imprisonment. In 2016 the applicant was arrested, placed in pre-trial detention and brought before the Assize Court. In a judgment of 27 January 2017 the Assize Court again sentenced him to thirty years' imprisonment and imposed a confiscation measure. The applicant lodged an appeal.

6. The appeal hearings took place from 3 to 6 April and from 9 to 13 April 2018 in the Aix-en-Provence Law Courts, "in its standard courtroom", according to the trial record. The applicant was assisted by two lawyers. He appeared in a glass dock, "free and only accompanied by guards to prevent him from escaping", in accordance with the provisions of Article 318 of the Code of Criminal Procedure (see paragraph 21 below).

7. The Government provided a description, supported by three photographs and undisputed by the applicant, of the dock in question. It was an open-roofed glass enclosure, measuring 3.68 metres in length and 2.47 metres wide. It had two sets of perforations in the glass panels (*hygiaphones*), 20 cm in diameter, at human height, allowing communication with the defence lawyers (whose bench was located directly adjacent to and below those perforations), and two slots, measuring 8 cm by 30 cm, for passing documents. The dock was equipped with two fixed microphones on swivel legs, allowing the accused's voice to be heard in the courtroom. It was also equipped with a loudspeaker, which, at its pre-set volume, transmitted the sound picked up by the other microphones in the room (the presiding judge's microphone and the microphones of the parties), thus enabling the accused to hear those sounds from inside the dock. The dock included a glass door that provided access to the courtroom, and a solid security door leading to a secure waiting area.

8. On 6 April 2018 the applicant was heard by the Assize Court, ruling on appeal, regarding his personality; he made no comments about experiencing hearing difficulties and did not ask to be questioned outside the dock.

9. During the hearing of 10 April 2018, with a view to the accused's questioning on the following day, his lawyer made supplementary submissions. Referring to Article 6 of the Convention, the preliminary Article of the Code of Criminal Procedure and recital 20 of Directive (EU) 2016/343, he requested that the applicant appear in the courtroom itself rather than in the glass dock, given, first, the fact that the members of the public present in the courtroom had undergone several security checks and, secondly, that the

accused had a hearing impairment, which “sometimes made it more difficult to hear the questions put to him”.

10. On 11 April 2018 the President of the Assize Court questioned the applicant, who remained in the glass dock.

11. In an interlocutory judgment of 13 April 2018 the Assize Court dismissed the supplementary submissions. It considered, first, that it could be inferred from Articles 318 and D. 294 of the Code of Criminal Procedure (see paragraph 21 below) that the court was to take the security measures necessary for an accused’s appearance in court in view of the danger that he or she purportedly posed and the need to protect him or her. It pointed out that Article 5 of Directive (EU) 2016/343 (see paragraph 24 below) did not prevent member States from imposing physical restraints where necessary for security reasons in specific cases, or to prevent suspects or accused persons from absconding or coming into contact with third parties.

12. The Assize Court noted that the applicant had been charged with murder committed as part of an organised group and with criminal conspiracy, that he faced a sentence of life imprisonment and that he was being held in pre-trial detention after having absconded for more than four years. From the outset of the trial, the court had been able to observe that, despite his hearing problems, the applicant, who was free to move about without hindrance, could answer the questions put to him and communicate confidentially with his lawyers. The Assize Court concluded that the applicant’s placement in the glass dock had been lawful, proportionate and necessary, and did not infringe the presumption of innocence, individual dignity or the rights of the defence.

13. More specifically, the interlocutory judgment reads as follows:

“Having regard to Article 316 of the Code of Criminal Procedure;

Jean-François FEDERICI’s defence lawyer has filed submissions seeking to have the accused appear outside the glass dock of the Assize Court,

Preliminary Article III of the Code of Criminal Procedure provides, *inter alia*, that ‘The coercive measures to which such a person may be subjected are taken by or under the effective control of judicial authority. They should be strictly limited to the needs of the process, proportionate to the gravity of the offence charged and not such as to infringe human dignity’;

Article 318 of the Code of Criminal Procedure adds that ‘the accused appears free and only accompanied by guards to prevent him escaping’, and this is supplemented by Article D294 of the same Code, which specifies that ‘precautions must be taken in order to prevent escapes and any other incidents during transfers’;

It follows that courts are to take the requisite security measures to secure the accused’s appearance, in view of the danger that he or she purportedly poses and the need to protect him or her;

Article 5 of European Directive 2016/343 of 9 March 2016 recommends that Member States take appropriate measures to ensure that suspects and accused persons are not presented, at the hearing or in public, as being guilty through the use of physical coercive measures. However, it does not prevent Member States from applying physical

coercive measures that are necessary for reasons related to the particular case relating to security or the need to prevent suspects or accused persons from absconding or coming into contact with third parties;

In the present case:

- the accused has been committed for trial before the Assize Court ... on charges of murder committed by an organised group and criminal association,
- is liable to a sentence of life imprisonment,
- is being detained on remand, after having absconded for more than four years;

Since the beginning of the trial the court has observed that, despite his hearing problems, Jean-François FEDERICI has been able to answer the questions put to him and to communicate confidentially with his defence team;

The security system consisting of a glass enclosure was lawful, given that the accused was free to move about in it without hindrance and that there was a system enabling the accused to communicate freely and confidentially with his lawyers;

Accordingly, in the present case, the measures criticised by the applicant appear to have been proportionate and necessary, infringing neither the presumption of innocence, individual dignity nor the rights of the defence;

The application must therefore be dismissed.”

14. In a judgment of the same date the Assize Court found the applicant guilty of a double murder, committed as a member of an organised group, and sentenced him to thirty years’ imprisonment.

15. The applicant appealed on points of law. In support of his argument criticising the decision to reject his request to appear outside the glass dock, he referred to the Public Defenders’ Office’s decision of 17 April 2018 (see paragraph 19 below), and also to *Yaroslav Belousov v. Russia* (nos. 2653/13 and 60980/14, 4 October 2016). He criticised the Assize Court of Appeal for failing to give sufficient reasons, arguing that it had not examined whether the staff and security measures available had been sufficient to enable him to appear freely at the witness stand, which, he submitted, was the general rule.

16. In his submissions, the Advocate General expressed the opinion that this ground of appeal should be dismissed, as it was contrary to the case-law of the Court of Cassation (see paragraphs 26-29 below).

17. In a judgment of 10 April 2019 the Court of Cassation dismissed the applicant’s appeal on points of law, finding that the Assize Court’s reasoning did not indicate that he had been prevented from communicating with his lawyers.

18. In so far as it concerned the present case, the Court of Cassation’s judgment reads as follows:

“In dismissing the accused’s request to appear outside the dock provided, the Assize Court gave its ruling on the grounds set out in the appeal;

In the light of those considerations, based on its unfettered discretion, and since it does not appear that the accused had been prevented from communicating with his lawyers, the complaint is inadmissible;

There was therefore no ground of appeal...”

II. OTHER RELEVANT INFORMATION

The Opinion of the Public Defender’s Office

19. In Opinion no. 2018-128 of 17 April 2018, the Public Defender’s Office recommended to the Minister of Justice and the Minister of the Interior that the regulatory provisions (see paragraph 23 below) providing for the installation of secure docks in courtrooms be repealed. It recommended that their use be limited to exceptional cases requiring extra security and be subject to supervision by judges, who were responsible for law and order in courtrooms. It concluded that the systematic use of this measures for the purpose of securing criminal hearings “disproportionately affect[ed] the fundamental rights of the defendants”.

The Inspector-General of Custodial Premises’ report for 2018

20. During 2018, the Inspector-General of Custodial Premises (“the CGLPL”) visited seven courts of first instance. On that occasion, he made the following observations:

“The arrangement consisting in enclosed courtroom docks can sometimes hinder exchanges between defendants and their lawyers or, at the very least, undermine their confidentiality. In two of the courts visited, these docks appeared to hinder the fluidity of exchanges between the accused and his or her lawyer, and possibly the interpreter. Several different types of arrangements exist; the most secure are those that most flagrantly violate the rights of the persons appearing before the court. Inside one of these structures, what is said in the room is not heard; communication with the lawyer takes place through one of the rectangular openings in the glass, against which the ear must be placed; and the microphones, not all of which work, are not adjustable. All this leads to a distant auditory perception of the courtroom exchanges, in which the litigant is reduced to a mere spectator. The judges no longer allow persons appearing before the court to take up a position outside the dock, a practice that they once accepted at the lawyer’s request. In a more recent set-up, walls consist of thick secured glass, as does the ceiling, which has skylights at two different heights. The same difficulties arise, compounded by the lack of sound transmission (from courtroom to dock) and poor visibility on account of glare. There are more problems with the new set-up than with the previous one.

Admittedly, the enthusiasm apparent in 2017 for installing these docks has diminished considerably, as a result of the Minister of Justice’s decision in December 2017 to put installation plans on hold, and the removal of some of the docks installed in the new Paris Court of First Instance. Nevertheless, those that remain continue to infringe the rights of the defence and represent a failure to comply with Directive (EU) 2016/343.

Accordingly, the CGLPL advises the complete removal of glass docks from courtrooms and recommends, at the most, the installation, on a case-by-case basis in the most dangerous situations, of portable barriers or docks, fitted with the necessary facilities to ensure respect for the rights of the defence.”

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

A. Code of Criminal Procedure

21. The relevant provisions of the Code of Criminal Procedure, as worded at the material time, read as follows:

Preliminary Article

“III. Every person suspected or prosecuted shall be presumed innocent until his or her guilt has been established. Breaches of his or her right to the presumption of innocence shall be proscribed, compensated and punished in the circumstances laid down by law.

...

The coercive measures to which a suspect or person being prosecuted may be subjected shall be taken by decision of the courts, or under their effective review. They should be strictly limited to the needs of the procedure, proportionate to the gravity of the offence in question and not such as to infringe human dignity.”

Article 309

“The president shall be responsible for the proper management of the trial and shall direct the proceedings.

He shall reject anything that is calculated to undermine their dignity or prolong them without creating the hope of more certain results.”

Article 318

“The accused shall appear free and only accompanied by guards in order to prevent his escape.”

Article 408

“If the defendant is deaf, the president shall of his own motion appoint a sign-language interpreter, or any other qualified person who is able to talk to or communicate with deaf people, to provide assistance during the trial. Interpreters shall swear an oath upon their honour and conscience to assist the court.

The president may also decide to resort to any other technical device that will facilitate communication with the deaf person.

If the defendant can read and write, the presiding judge may also communicate with him or her in writing. ...”

Article D. 294

“Precautions shall be taken to avoid escapes and other incidents during the transportation and transfer of detained persons.

Under the responsibility of the senior escorting officer, such detained persons may be placed in handcuffs or, if necessary, restraints...

Where a detained person is considered to be dangerous or to require special supervision, the head of the institution shall give all necessary information and advice to the senior escorting officer.”

22. The provisions of Article 296 of the Code of Criminal Procedure, concerning the composition of assize courts, and of Article 304 of the same Code, concerning the address given by the president of the assize court to the jurors (in particular, as a reminder of the presumption of the accused’s innocence), are set out in *Farhi v. France* (no. 17070/05, § 14, 16 January 2007).

B. The Ministerial Order of 18 August 2016

23. The Order of the Minister of Justice of 18 August 2016, approving the Ministry’s defence and security policy, was published in the official bulletin of the Ministry of Justice on 31 August 2016. An appended document provided for the division of all law courts into different zones, largely for security reasons. Thus, certain zones were designated for holding prisoners prior to and then during their appearance in the courtroom. With regard to secure docks in courtrooms, point 5.1.3.2.6 of the Order states: “two types of security arrangement are recommended for the dock: the first entails full glazing, while the second entails bars at the front, with glazing on the sides facing the public and the prosecutors and judges.”

II. EUROPEAN UNION LAW

24. The relevant provisions of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and the right to be present at trial in criminal proceedings read as follows:

Recital 20

“The competent authorities should abstain from presenting suspects or accused persons as being guilty, in court or in public, through the use of measures of physical restraint, such as handcuffs, glass boxes, cages and leg irons, unless the use of such measures is required for case-specific reasons, either relating to security, including to prevent suspects or accused persons from harming themselves or others or from damaging any property, or relating to the prevention of suspects or accused persons from absconding or from having contact with third persons, such as witnesses or victims. The possibility of applying measures of physical restraint does not imply that the competent authorities are to take any formal decision on the use of such measures.”

Article 5

Presentation of suspects and accused persons

“1. Member States shall take appropriate measures to ensure that suspects and accused persons are not presented as being guilty, in court or in public, through the use of measures of physical restraint.

2. Paragraph 1 shall not prevent Member States from applying measures of physical restraint that are required for case-specific reasons, relating to security or to the prevention of suspects or accused persons from absconding or from having contact with third persons.”

Article 14
Transposition

“1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 April 2018. They shall immediately inform the Commission thereof.”

25. According to the Report from the Commission to the European Parliament and the Council on the implementation of Directive (EU) 2016/343 of 31 March 2021, France was not among the countries which had failed to communicate to the Commission all the necessary measures for compliance.

III. RELEVANT DOMESTIC CASE-LAW

A. The Court of Cassation

26. In two judgments of 20 February and 15 May 1985 (nos. 84-94.750 and 84-95.752), the Court of Cassation accepted that a glass dock could be used for security reasons during the appearance of an accused, either because he or she was particularly dangerous or where it was found that the accused had been able to move around freely in the dock and that there were arrangements “enabling him ... to communicate freely and secretly with ... counsel”.

27. In a judgment of 28 November 2018 (no. 18-82.010), it dismissed two requests that it transmit requests for preliminary rulings on constitutionality (*questions prioritaires de constitutionnalité – QPC*) in respect of Article 318 of the Code of Criminal Procedure authorising the use of a glass dock, since the provisions of that Article “[did] not preclude the application of those of Article 309 of the same Code, according to which it is for the president of the assize court, in the exercise of his public-order powers, of his own motion or at the request of the public prosecutor, a party or the latter’s lawyer, and subject to the scrutiny of the Court of Cassation, to ensure, on a case-by-case basis, the balance between, on the one hand, the safety of the various participants in the proceedings and, on the other, respect for the rights of the defence, as the practical arrangements for the defendant’s appearance before the court must allow him to participate effectively in the proceedings and to confer confidentially with lawyers, in a dignified and suitable space or outside it; lastly, Article 304 of the [Code of Criminal Procedure] expressly includes the reminder of the principle of the presumption of innocence in the oath that each juror is required to take, from the beginning of the hearing.”

28. In a judgment of 13 May 2020 (no. 19-17.070), the Court of Cassation declared inadmissible an appeal on grounds of gross negligence or denial of justice on the part of the State, lodged by the Paris Bar Council and its President, as those entities had not acted in the capacity of users of the public justice service.

29. In a judgment of 18 November 2020 (no. 20-84.893), it ruled on the necessity of keeping an accused person in a secure dock after he had requested to be removed from it. The Court of Cassation reproduced the arguments put forward by the Investigation Division, which, after describing the structure in question in detail and noting that it met the security standards recommended by the Ministry of Justice, had stated that the lawyer was able to confer effectively and in complete confidentiality with his client, as the microphone was switched off by the court on request. According to the Investigation Division, the dock's specific positioning in the courtroom and the presence of a microphone enabled the accused to express himself in a perfectly clear and audible manner, to follow the proceedings, and to see and be seen from the court. Thus, the dock in question guaranteed the safety both of the persons inside it and of those present in the courtroom. The Court of Cassation also noted that the accused had previously been convicted of violent crimes, and concluded that his appearance in a glass dock was necessary to ensure security at the hearing.

B. The *Conseil d'État*

30. In a judgment of 21 June 2021, the *Conseil d'État*, on an application by a lawyers' trade union to have the Ministerial Order of 18 August 2016 (see paragraph 22 above) set aside, held that Article 318 of the Code of Criminal Procedure, providing for the free appearance of the accused, did not prevent his or her appearance in a secure glass dock if circumstances warranted. It stressed that the effective participation in the proceedings of persons appearing in such a dock, and their unrestricted and confidential communication with their lawyer, continued to be guaranteed by the president of the court under the scrutiny of the Court of Cassation. In the *Conseil d'État's* view, with such safeguards in place, any breach of the presumption of innocence or of the principle of a fair trial was to be ruled out.

THE LAW

I. PRELIMINARY OBSERVATIONS ON THE SCOPE OF THE COMPLAINTS

31. Relying on Article 6 §§ 1, 2 and 3 (b) of the Convention, the applicant submitted that his right to appear freely and to participate effectively in the

proceedings had been restricted in an unnecessary and disproportionate manner, in breach of the right to a fair trial, the rights of the defence and the presumption of innocence.

32. The Court notes that the applicant's complaints concern a violation of his right to participate effectively in the proceedings, and of his right to the presumption of innocence, in view of his questioning by the Assize Court on 11 April 2018 from inside a glass dock.

33. The applicant did not dispute the manner in which he had appeared at first instance. Nor did he claim that his appearance in the dock during the appeal proceedings had amounted to degrading treatment within the meaning of Article 3 of the Convention or impacted the quality of the exchanges with his lawyers during the trial, within the meaning of Article 6 § 3 (c) (contrast *Insanov v. Azerbaijan*, no. 16133/08, §§ 168-170, 14 March 2013, and *Mariya Alekhina and Others v. Russia*, no. 38004/12, §§ 144-150 and 1727, 172-17). In the absence of any evidence to the contrary, the Court proceeds on the assumption that the applicant's placement in the glass dock during the appeal hearings complied with the requirements of those articles.

II. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (b) OF THE CONVENTION

34. The applicant alleged that there had been a violation of Article 6 §§ 1 and 3 (b) of the Convention. The relevant parts of that provision read as follows:

"1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...

3. Everyone charged with a criminal offence has the following minimum rights:

...

(b) to have adequate time and facilities for the preparation of his defence;"

Admissibility

1. The parties' submissions

35. The Government observed at the outset that the applicant had not asked to be removed from the dock until the day before he was due to be questioned, after six days of hearings, and that he had not produced any evidence to substantiate the alleged auditory impairment, although he had already been questioned on his personality from the same dock on 6 April 2018 and the previous year, during his first trial.

36. They argued that the applicant's claim was vague and unsubstantiated, in that he had not explained to what extent his hearing impairment could have affected the quality of the exchanges with his lawyer or his ability to follow

the proceedings and answer questions. In the Government's view, the applicant's request, submitted in such circumstances, had made it materially impossible for the court to secure such an arrangement by mobilising a sufficient number of appropriate police officers. They further noted that no request had been made asking the Assize Court to take formal note of potential difficulties arising from the alleged disability.

37. Furthermore, the Government considered that the interlocutory judgment had been duly reasoned; in concluding that the arrangement had been proportionate and necessary, it had taken into account the crimes of which the applicant was accused and his previous escape, as well as the impact of the glass dock's design on communication with his lawyers and with the Assize Court.

38. In the Government's submission, the circumstances of the case called for maximum security, particularly given the criminal nature of the offences with which the applicant was charged (which carried a maximum sentence of life imprisonment), his membership of an active Corsican organised criminal group and his escape during the judicial investigation. In the Government's view, the applicant's previous conduct could give grounds to believe that there existed a substantiated risk of his absconding at the hearing were he to have appeared outside the glass dock.

39. The Government also submitted that the arrangements in place were such as to ensure that the accused could hear the questions put by the Assize Court and communicate with his lawyers. In the Government's opinion, use of the perforations and slots built into the dock made it possible and easy for the accused to communicate verbally and in writing with his lawyers, in complete discretion and confidentiality, whereas the microphones and loudspeaker enabled him to follow the proceedings and be heard. Lastly, they pointed out that, as the applicant had appeared free (without restraints) and alone in the dock, his right to the presumption of innocence had not been breached.

40. The Government concluded that the applicant's placement in the glass dock had been compatible with the requirements of the Convention.

41. The applicant did not submit any observations on the admissibility and merits of the application, but requested amounts in just satisfaction.

2. The third-party comments

42. In the view of the National Bar Council ("the CNB"), which referred to "glass cages", these fixtures fundamentally undermined human dignity and the rights of the defence.

43. More specifically, the CNB criticised the systematic and indiscriminate use of secure docks, explaining that those structures had appeared in courtrooms in the 2000s, giving rise to criticism from lawyers, the *Défenseur des droits* (defender of rights) and the CGLPL (see paragraphs 19, 20, 28 and 30 above).

44. The CNB considered that France had not yet expressly complied with its obligation to transpose Directive (EU) 2016/343 into domestic law (see paragraph 24 above) and that the order of 16 August 2018 (see paragraph 22 above) did not constitute a sufficient legal basis for the use of glass docks.

3. *The Court's assessment*

(a) **General principles**

45. The Court reiterates that the requirements of Article 6 § 3 of the Convention are specific aspects of the right to a fair trial guaranteed by Article 6 § 1 of the Convention (see *Gutsanovi v. Bulgaria*, no. 34529/10, § 191, ECHR 2013 (extracts)). In evaluating the overall fairness of the proceedings, the Court will take into account, if appropriate, of the minimum rights listed in Article 6 § 3, which exemplify the requirements of a fair trial in respect of typical procedural situations which arise in criminal cases. They can be viewed, therefore, as specific aspects of the concept of a fair trial in criminal proceedings in Article 6 § 1. These minimum rights guaranteed by Article 6 § 3 are, nevertheless, not ends in themselves: their intrinsic aim is always to contribute to ensuring the fairness of the criminal proceedings as a whole (see *Hamdani v. Switzerland*, no. 10644/17, § 29, 28 March 2023, with further references).

46. For the general principles concerning the effective participation of an accused in his or her trial, the Court refers to *Grigorievskikh v. Russia* (no. 22/03, §§ 78-83, 9 April 2009, with further references). It also reiterates that the installation of security features in courtrooms does not in itself render a criminal trial unfair, the decisive factors being the nature, extent, manner of application and underlying justification for their use (see *Simon Price v. the United Kingdom*, no. 15602/07, § 88, 15 September 2016).

47. The Court has found a violation of Article 6 §§ 1 and 3 (c) of the Convention where the glass dock lacked space and/or where the applicants were separated from their lawyers but were constantly surrounded by armed guards with dogs and photographed (see *Yaroslav Belousov and Mariya Alekhina and Others*, both cited above).

(b) **Application in the present case**

48. The Court reiterates that its task is not to review the relevant law and practice *in abstracto*, but to determine whether the manner in which they were applied to, or affected, the applicant gave rise to a violation of the Convention (see, for example, *Narbutas v. Lithuania*, no. 14139/21, § 326, 19 December 2023, and the case-law cited therein). Accordingly, it is not the Court's task to determine *in abstracto* whether installing secure docks in courtrooms could be potentially detrimental to those appearing before the court, or to analyse in general the domestic rules on the use of glass docks in criminal proceedings.

49. The Court's task in the present case is to determine whether the refusal to grant the applicant's request to be questioned by the Assize Court from the witness stand, and thus outside the glass dock, breached his right to a fair trial.

50. As the Court has already noted (see paragraphs 32-33 above), the applicant did not claim that his placement in a glass dock had affected the quality of his exchanges with his lawyers. Thus, even supposing that his appearing in the dock could in itself have had an impact on his ability to concentrate, the applicant had been provided with the necessary legal assistance throughout the trial (see *Kadagishvili v. Georgia*, no. 12391/06, § 170, 14 May 2020).

51. As to the "right to participate effectively in the proceedings" at issue, the Court notes the following. First, although the applicant had participated in several appeal hearings and had been questioned about his personality while he was in the glass dock, he had never, until the day before his examination on appeal, informed the court of his physical disability and had not requested that a note be made of the resulting difficulties (see *Stanford v. the United Kingdom*, 23 February 1994, Series A no. 282-A, and, conversely, *Timergaliyev v. Russia*, no 40631/02, 14 October 2008, and *Grigorievskikh*, cited above).

52. Secondly, the Court cannot but agree with the Government that the applicant did not explain the nature of his alleged disability or clarify the extent to which that impairment compromised his ability to understand the questions asked. He also failed to produce any relevant medical documents. More generally, the applicant has not shown how the refusal of his request, which was lodged only on appeal and at an advanced stage of the proceedings, during which he had never called for the application of Article 408 of the Code of Criminal Procedure, purportedly undermined the overall fairness of his trial (see, *mutatis mutandis*, *Kadagishvili*, cited above, § 170).

53. Thirdly, the applicant did not dispute the Government's description of the dock, particularly concerning its open-roofed nature and the existence of a loudspeaker to pick up the sound in the courtroom, and also the perforations and microphones (see paragraph 7 above). The Court reiterates in this connection that the former Commission already had occasion to conclude that the presence of a set of perforations and microphones inside a glass dock were factors enabling an applicant to communicate with lawyers and the Assize Court and also to follow the proceedings (see *Auguste v. France*, no. 11837/85, Commission's report of 7 June 1990, DR no. 69, p. 104).

54. Lastly, the Court observes that the Assize Court delivered a duly reasoned interlocutory judgment, noting that the applicant was able to answer the questions put to him and to communicate confidentially with his lawyers (see paragraph 12 above).

55. Having regard to all these factors, the Court concludes that the complaint under Article 6 §§ 1 and 3 (b) is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

56. The applicant alleged that his right to the presumption of innocence, as guaranteed by Article 6 § 2 of the Convention, had been infringed. This provision reads as follows:

“2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

A. Admissibility

57. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. The merits

1. *The parties' submissions*

58. The applicant did not submit any observations.

59. The Government reiterated their observations on the admissibility of the complaint under Article 6 §§ 1 and 3 of the Convention (see paragraphs 35-40 above).

60. The third-party intervener considered that “glass cages” breached the principle of the presumption of innocence. It submitted that the use of such fixtures inevitably created an impression in the minds of those present in the courtroom that the accused was dangerous, and therefore guilty.

2. *The Court's assessment*

(a) **Case-law of the Convention institutions on the subject**

61. For the general principles concerning the presumption of innocence, the Court refers to *Simon Price* (cited above, §§ 86-88) and *Rigolio v. Italy* (no. 20148/09, § 83, 9 March 2023, with further references). The Court notes that it has never found a violation of Article 6 § 2 of the Convention in respect of the installation of security features in the courtroom.

62. In a number of Russian cases the Court has found a violation of Article 3 where the accused were placed in metal cages, having regard to the latter's harsh appearance and the often humiliating conditions of detention in those structures (see *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, §§ 646-648, 25 July 2013; *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 4341/08, ECHR 2014 (extracts); *Urazov v. Russia*,

no. 42147/05, §§ 85-90, 14 June 2016; and *Valyuzhenich v. Russia*, no. 10597/13, § 34, 26 March 2019). In those judgments, the Court did not find it necessary to examine the complaints under Article 6 § 2 (see also *Karachentsev v. Russia*, no. 23229/11, §§ 44-54, 17 April 2018, where the Court found a violation of Article 3, but the question of the presumption of innocence did not arise).

63. In *Svinarenko and Slyadnev* (cited above, § 133), the Grand Chamber found, in support of its finding of a violation of Article 3, that the applicants had objective reasons to fear that their exposure in a metal cage during hearings in their case would convey to their judges a negative image of them as being dangerous to the point of requiring such an extreme physical restraint, thus undermining the presumption of innocence.

64. In *Ramishvili and Kokhreidze v. Georgia* (no. 1704/06, §§ 128-136, 27 January 2009) the Court found a violation of Article 5 § 4 of the Convention as regards the unacceptable conditions in which a hearing was held to decide on the applicants' pre-trial detention. In an *obiter dictum* (§ 132), the Court found that the humiliating and unjustified placement of the applicants in a barred cage at the back of the courtroom, forcing them to stand on chairs and shout to make themselves heard, while the hearing was being broadcast across the country, tainted the presumption of innocence.

65. By contrast, in *Ashot Haroutyunian v. Armenia* (no. 34334/04, §§ 136-140, 15 June 2010), the Court found a violation of Article 3 but no violation of Article 6 § 2 of the Convention, on the grounds that the metal cage was a permanent security measure and had not been specially installed for the applicant's trial, and that there was nothing in the case file to show that his appearance in the cage during his trial could have created a presumption of his guilt in the minds of the judges.

66. In addition, the Court has ruled in a series of judgments on the appearance of defendants in glass docks or behind security screens.

67. In 1990 it found no violation of Article 6 § 2 of the Convention in a case very similar to the present one (see *Auguste v. France*, Commission's report cited above). The Court noted that the glass dock was a permanent fixture. It also noted, however, that, according to the domestic courts, the applicant's placement in that dock had been necessary for security reasons.

68. Lastly, in *Simon Price* (cited above, § 88), the Court identified the factors to be taken into account in determining whether the installation of security equipment could render the criminal trial unfair (see paragraph 46 above), before concluding that the security screens installed in the courtroom had not been such as to violate the applicant's right to be presumed innocent.

(b) Application in the present case

69. The Court notes at the outset that the dock in which the applicant appeared is a permanent fixture (see also *Auguste v. France*, Commission's report cited above). The fixed nature of such a structure leads the Court to

question whether it is possible for the domestic courts to carry out a “case-by-case” assessment of the necessity for an accused to appear in a secure dock. Systematic recourse to such fixtures could, depending on the circumstances, be detrimental to the fundamental rights of a person accused of a criminal offence. The Court further notes that no exception was made in order to grant the applicant’s request that he be heard outside the dock. The Court emphasises, however, that – in contrast to the *Défenseur des droits* and the CGLPL – its task is not to assess, in general, the use of secure docks in various courtrooms (see paragraphs 19, 20 and 48 above), but to ascertain, in this specific case, whether the fact of questioning the applicant while he was inside the glass dock was such as to infringe his right to the presumption of innocence.

70. In this connection, the Court notes a number of points. First, the dock in question – an open-roofed, sufficiently spacious and well-equipped glass enclosure (see paragraph 7 above) – did not have the harsh appearance of a metal cage, and the applicant did not argue that there had been factors likely to humiliate him (such as being escorted by dogs or armed guards, or being constantly photographed while in the dock). Moreover, he had asked to be removed from the glass dock only at the end of the appeal proceedings, the day before he was due to be questioned, having already attended several hearings from inside it.

71. Secondly, reiterating that it is for applicants to substantiate their complaints both in law and in fact by providing the necessary factual evidence, the Court notes that this was not done in the present case. The applicant did not argue, or submit any observations to the Court, to the effect that he had objective reasons to fear that his exposure in a glass dock would be likely to convey a negative image to the Assize Court, and did not substantiate the allegations concerning his hearing impairment (see paragraphs 51-52 above). Before the domestic courts, he merely referred to the opinion of the *Défenseur des droits* and the concept of the presumption of innocence (see paragraphs 9 and 15 above).

72. The Court further observes that the refusal to grant the applicant’s request to appear on the witness stand, as an exception to the usual practice in that particular courtroom, in which the glass dock was a permanent fixture, resulted from an *in concreto* assessment of the attendant risk, having regard to the previous conduct of the applicant, who had evaded justice for several years. The Assize Court also had regard to the violent nature of the offences with which he was charged, finding that his placement in the dock was necessary to guarantee safety (see *Auguste v. France*, Commission report cited above, and *Simon Price*, §§ 89-90, cited above). It also verified that the applicant was free to move around and could communicate with his lawyers in complete confidentiality (see paragraphs 11-12 above). The Court of Cassation upheld this reasoning. The material in the case file does not enable the Court to call into question that detailed assessment, or to find that in the

present case the fact of questioning the applicant while he was in the glass dock was such as to breach his right to be presumed innocent.

73. Having regard to all the foregoing considerations, the Court concludes that, in the particular circumstances of the present case, there has been no violation of Article 6 § 2 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 2 of the Convention concerning the presumption of innocence admissible and the remainder of the application inadmissible;
1. *Holds* that there has been no violation of Article 6 § 2 of the Convention.

Done in English, and notified in writing on 3 April 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Registrar

María Elósegui
President