



Assize court proceedings in government minister murder case were unfair

The Court held that it could not call into question the lay jury system in itself but that, in Mr Taxquet's specific case, there had been insufficient safeguards in the proceedings for him to be able to understand why he had been found guilty

In today's Grand Chamber judgment in the case of [Taxquet v. Belgium](#) (application no 926/05), which is final¹, the European Court of Human Rights held, unanimously, that there had been a:

Violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights

The case essentially concerned Mr Taxquet's complaint that his conviction for murder had been based on a guilty verdict which had not included any reasons and could not be appealed against to a body competent to hear all aspects of the case

Principal facts

The applicant, Richard Taxquet is a Belgian national who was born in 1957 and is currently serving a 20-year prison sentence in Lantin (Belgium) for the murder, in July 1991 in Liège, of a government minister and for the attempted murder of the minister's partner.

Mr Taxquet was indicted on 12 August 2003. The indictment contained a detailed sequence of the police and judicial investigations and mentioned each of the offences with which he was charged. It stated, among other things, that an anonymous witness – as described by Mr Taxquet – had informed the investigators in June 1996 that the government minister's murder had been planned by six people, including the applicant and another leading politician. That witness was never interviewed by the investigating judge.

The trial of Mr Taxquet and his seven co-defendants lasted from 17 October 2003 to 7 January 2004. Many witnesses and experts gave evidence. In order to reach a verdict, the jury had to answer 32 questions put by the President of the Liège Assize Court. The questions were succinctly worded and identical for all the defendants. Four of them concerned the applicant, namely: was he guilty of intentional homicide and attempted intentional homicide and were each of those offences premeditated? The jury answered "yes" to all four questions. On 7 January 2004, he was sentenced by the Assize court to 20 years' imprisonment. His appeal on points of law against his conviction was rejected by the Court of Cassation on 16 June 2004.

¹ Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Complaints, procedure and composition of the Court

Relying on Article 6 § 1, Mr Taxquet complained that the criminal proceedings brought against him had been unfair since the ruling by the Assize court had not included a statement of reasons and could not be appealed against before a body competent to hear all aspects of the case. He also alleged under Article 6 §§ 1 and 3 (d) (right to obtain attendance and examination of witnesses) that he had not been able at any stage of the proceedings to examine the anonymous witness or have him examined.

The application was lodged with the European Court of Human Rights on 14 December 2004. In its [judgment](#) of 13 January 2009 ([press release](#)), the Chamber examining the case held, unanimously, that there had been a violation of Article 6 §§ 1 and 3 (d).

On 5 June 2009 the case was referred to the Grand Chamber at the Government's request. A Grand Chamber hearing took place in public in the Human Rights Building in Strasbourg on 21 October 2009. The Governments of France, Ireland and the United Kingdom were authorised to submit written observations as third parties.

Judgment was given by the Grand Chamber of 17, composed as follows:

Jean-Paul **Costa** (France), *President*,
Christos **Rozakis** (Greece),
Nicolas **Bratza** (the United Kingdom),
Peer **Lorenzen** (Denmark),
Françoise **Tulkens** (Belgium),
Josep **Casadevall** (Andorra),
Boštjan M. **Zupančič** (Slovenia),
Nina **Vajić** (Croatia),
Anatoly **Kovler** (Russia),
Elisabet **Fura** (Sweden),
Sverre Erik **Jebens** (Norway),
Isabelle **Berro-Lefèvre** (Monaco),
Päivi **Hirvelä** (Finland),
Luis **López Guerra** (Spain),
Mirjana **Lazarova Trajkovska** (the Former Yugoslav Republic of Macedonia),
Nona **Tsotsoria** (Georgia),
Zdravka **Kalaydjieva** (Bulgaria), *Judges*,

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

Decision of the Court

Article 6 § 1

The Court noted that several Council of Europe Member States had a lay jury system², the defining feature of which was that professional judges were unable to take part in the jurors' deliberations. That system was guided by the legitimate desire to involve citizens in the administration of justice, particularly in relation to the most serious offences. The jury existed in a variety of forms in different States, reflecting each State's history, tradition and legal culture. The lay jury system was just one example among others of the variety of legal systems in Europe, and it was not the Court's task to standardise them. Nor was it the Court's task to review the relevant legislation in the

² The ten Council of Europe member States that have opted for a traditional jury system in criminal matters are Austria, Belgium, Georgia, Ireland, Malta, Norway (only in serious appeal cases), the Russian Federation, Spain, Switzerland (the Canton of Geneva), until 1 January 2011, and the United Kingdom (England, Wales, Scotland and Northern Ireland).

abstract but, as far as possible, to examine the issues raised by the specific case before it.

In that context, the institution of the lay jury could not in itself be called into question. The Contracting States enjoyed considerable freedom in the choice of the means to ensure that their judicial systems were in compliance with the requirements of Article 6. In Mr Taxquet's case, the Court's task was therefore to consider whether the method adopted to that end had led to results which were compatible with the Convention.

In previous cases before it, the Court has found that the absence of a reasoned verdict by a lay jury did not in itself constitute a breach of the accused's right to a fair trial. Nevertheless, for the requirements of a fair trial to be satisfied, sufficient safeguards had to be in place to enable the accused, and indeed the public, to understand the verdict that had been given. Such procedural safeguards could include, for example, directions or guidance provided by the presiding judge to the jurors on the legal issues at stake or the evidence given, and precise, unequivocal questions put to the jury by the judge, forming a framework on which the verdict could be based or sufficiently offsetting the fact that no reasons were given for the jury's answers.

However, in Mr Taxquet's case, neither the indictment nor the questions to the jury had contained sufficient information as to his involvement in the offences of which he had been accused.

The indictment, although having mentioned the offences of which he had been charged, had not indicated the prosecution's items of evidence against him.

Nor had precise questions been put to the jury, an indispensable requirement in order for Mr Taxquet to understand any guilty verdict reached against him.

Even in conjunction, the indictment and questions had not enabled Mr Taxquet to ascertain which of the items of evidence and factual circumstances discussed at the trial had ultimately caused the jury to answer the four questions concerning him in the affirmative. He had been unable, for example, to make a clear distinction between the co-defendants as to their involvement in the commission of the offence; to ascertain the jury's perception of his precise role in relation to the other defendants; to understand why the offence had been classified as premeditated murder (*assassinat*) rather than murder (*meurtre*); to determine what factors had prompted the jury to conclude that the involvement of two of the co-defendants in the alleged acts had been limited, carrying a lesser sentence; or, to discern why the aggravating factor of premeditation had been taken into account in his case as regards the attempted murder of the government minister's partner. This shortcoming was all the more problematic because the case was both factually and legally complex and the trial had lasted more than two months during which time many witnesses and experts had given evidence.

Lastly, the Belgian system made no provision for an ordinary appeal against judgments of the Assize Court. An appeal to the Court of Cassation concerned points of law alone and accordingly did not provide Mr Taxquet with adequate clarification of the reasons for his conviction.

In conclusion, Mr Taxquet had not been afforded sufficient safeguards to enable him to understand why he had been found guilty and the proceedings were therefore unfair, in violation of Article 6 § 1.

Article 6 § 3 (d)

Mr Taxquet's complaint under Article 6 § 3 (d) was closely linked to the facts which had led the Court to find a violation of Article 6 § 1. In the absence of any reasons for the

verdict, it was impossible to ascertain whether or not Mr Taxquet's conviction had been based on the information supplied by the anonymous witness. It was therefore unnecessary to examine separately the complaint of a violation of Article 6 §§ 1 and 3 (d).

Article 41 (just satisfaction)

The Court held that Belgium was to pay the applicant 4,000 euros (EUR) in respect of non-pecuniary damage and EUR 8,173.22 in respect of costs and expenses. It also noted that the Belgian Code of Criminal Procedure had been amended in 2007 to allow applicants to seek the reopening of their trial where the Court had found a violation in their case.

Separate opinion

Judge Jebens expressed a concurring opinion which is annexed to the judgment.

The judgment is available in English and French.

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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.