



Forthcoming Grand Chamber judgment in the *Del Río Prada* case

The European Court of Human Rights will be delivering a Grand Chamber judgment in the case of **Del Río Prada v. Spain** (application no. 42750/09) at a public hearing on Monday 21 October 2013 at 11.30 a.m. (local time) in the Human Rights Building, Strasbourg.

The case concerns the postponement of the final release of a person convicted of terrorist offences, on the basis of a new approach – known as the “Parot doctrine” – adopted by the Supreme Court after she had been sentenced.

Principal facts

The applicant, Inés del Río Prada, is a Spanish national who was born in 1958 and is currently serving a prison sentence in the region of Galicia (Spain). Between December 1988 and May 2000, in eight separate sets of criminal proceedings, she received a number of prison sentences for various offences linked to terrorist attacks carried out between 1982 and 1987. In all, the sentences amounted to over 3,000 years.

However, under Article 70.2 of the 1973 Criminal Code, as in force at the relevant time, the maximum “term to be served” (*condena*) by a convicted person was 30 years. This rule was also applicable where multiple sentences (*penas*) had been imposed in different proceedings if, as in Ms del Río Prada’s case, the offences in question could have been tried as a single case because of the legal and chronological links between them. In November 2000 the *Audiencia Nacional* decided to combine the applicant’s sentences and set a maximum term to be served, thus reducing the total of 3,000 years to a term of 30 years’ imprisonment.

Following several decisions taken between 1993 and 2004 by judges responsible for the execution of sentences, Ms del Río Prada was granted remissions of sentence amounting to almost nine years for the work she had done while in prison, in accordance with Article 100 of the 1973 Criminal Code. In April 2008, having deducted these remissions from the maximum term of 30 years, the authorities at Murcia Prison (Spain), where Ms del Río Prada was being held at the time, proposed 2 July 2008 to the *Audiencia Nacional* as the date for her release.

In the meantime, the Spanish Supreme Court had departed from its previous case-law concerning remissions of sentence. Having found in a judgment of 8 March 1994 that the maximum 30-year term provided for in Article 70.2 of the 1973 Criminal Code was to be seen as a “new, independent sentence” to which all remissions of sentence were to be applied, it took the view in a judgment of 28 February 2006 that this term should no longer be treated as a separate sentence from those imposed in the various judgments convicting the accused, but rather as the maximum term a convicted person should spend in prison. Accordingly, remissions of sentence were henceforth to be applied to each of the sentences taken individually.

In the light of this new approach – known as the “Parot doctrine” – the *Audiencia Nacional* asked the prison authorities to change the proposed date of Ms del Río Prada’s release and calculate a new date in line with the Supreme Court’s recent case-law. In an order of 23 June 2008, based on a fresh proposal by the prison authorities, the *Audiencia Nacional* set the date for the applicant’s final release at 27 June 2017. An appeal by the applicant to the *Audiencia Nacional* was rejected in July 2008, and her subsequent *amparo* appeal to the Constitutional Court was dismissed in February 2009.

Complaints and procedure

Relying on Article 7 (no punishment without law) of the European Convention on Human Rights, Ms del Río Prada complains that the Supreme Court's departure from the case-law concerning remissions of sentence was retroactively applied to her after she had been sentenced, thus extending her detention by almost nine years. Under Article 5 § 1 (right to liberty and security), she further alleges that she has been kept in detention in breach of the requirements of "lawfulness" and "a procedure prescribed by law".

The application was lodged with the European Court of Human Rights on 3 August 2009. In a [Chamber judgment](#) of 10 July 2012 the Court held that there had been a violation of Article 7 and Article 5 § 1 of the Convention. On 4 October 2012 the Government requested that the case be referred to the Grand Chamber under Article 43 of the Convention (referral to the Grand Chamber). On 22 October 2012 the panel of the Grand Chamber accepted that request. A hearing before the Grand Chamber was held on 20 March 2013.

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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.