



Statements made to the press by a member of an assize court jury after the applicant's conviction did not put in doubt the applicant's right to be presumed innocent and his right to an impartial tribunal

In its decision in the case of [Bodet v. Belgium](#) (application no. 78480/13) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns statements made to the press by a member of the jury in an assize court following that court's conviction of Mr Bodet.

With regard to the complaint concerning the **right to a fair trial (Article 6 § 1 of the Convention)**, the Court held that Mr Bodet's fears as to the impartiality of the assize court had not been objectively justified.

With regard to the complaint concerning the right to the **presumption of innocence (Article 6 § 2 of the Convention)**, the Court noted that it had not been demonstrated that the jury in question had started out with the preconceived idea that Mr Bodet was guilty of the offences for which he was being tried before the assize court.

The Court therefore declared the application manifestly ill-founded.

Principal facts

The applicant, Jacques Bodet, is a Belgian national who was born in 1959 and lives in Andenne (Belgium).

By a judgment of 20 December 2012, the Liège Assize Court found Mr Bodet guilty of the premeditated murder of C.K., the daughter of his partner. On the same day, Mr Bodet was given a life sentence for premeditated murder; this sanction was accompanied by a 15-year period, calculated from expiry of the effective principal penalty, during which the court responsible for the execution of sentences could order his continued detention. On 22 December 2012 the regional newspaper *La Meuse* published an interview with a member of the jury which had convicted the applicant. When asked what had been the most difficult part of the trial, this anonymous member of the jury stated: "It was not being able to show my feelings and my emotions... Jury members are forbidden from doing that...; I wanted to thump Bodet when he spoke."

Mr Bodet appealed on points of law, claiming that the jury member quoted by the press had shown subjective bias and infringed his right to be presumed innocent. The Court of Cassation dismissed his pleadings on the ground that the statements attributed to a member of the jury had not been taken from the documents in the case file.

On 23 June 2014 Mr Bodet lodged a complaint against X for breach of professional secrecy. A judgment delivered on 1 March 2016 acquitted C.L., holding that although she did indeed have certain traits in common with the profile which emerged from the press article in question, there was nonetheless not a single objective indication enabling her to be identified as the source of the comments complained of. Mr Bodet lodged an appeal.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 3 December 2013.

Relying on Article 6 § 1 (right to a fair trial) and Article 6 § 2 (presumption of innocence), Mr Bodet complained that the criminal charge against him had been examined by a court which was not impartial, and that his right to be presumed innocent had not been respected.

The decision was given by a Chamber of seven, composed as follows:

Işıl **Karakaş** (Turkey), *President*,
Paul **Lemmens** (Belgium),
Valeriu **Griţco** (the Republic of Moldova),
Ksenija **Turković** (Croatia),
Jon Fridrik **Kjølbro** (Denmark),
Stéphanie **Mourou-Vikström** (Monaco),
Georges **Ravarani** (Luxembourg), *Judges*,

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 6 § 1 (right to a fair hearing)

Mr Bodet complained about the fact that a member of the assize court jury, whose identity was hidden, had described her feelings during the trial and revealed aspects of the deliberations in an interview with a journalist, published two days after his conviction by the assize court. The question raised was therefore whether such statements by a member of a jury could, retrospectively, cast doubt on the assize court's impartiality within the meaning of Article 6 § 1 of the Convention.

The Court considered that statements made about a case or the parties concerned by a member of the entity judging the case, whether these were made before, during or after the trial, were capable of indicating the existence of a possible hostility or partiality on its part. The question of whether or not these statements constituted sufficient evidence of a lack of subjective or objective impartiality depends on the context and the content of the comments in issue.

In the present case, the comments complained of had been made after the verdict, that is, at a point when the jury member concerned no longer had a judicial role. It followed that the safeguards existing under Belgian law to ensure the jury's impartiality no longer applied as such, replaced by ban on violating the secrecy of the deliberations. Although the comments complained of did indeed reflect a negative perception of the defendant's case, on reading the interview as a whole the Court considered that it could not be deduced that the jury member in question had begun the trial with a preconceived idea about Mr Bodet's guilt, rather than developing this conviction in the course of the trial. Furthermore, the article contained elements indicating the opposite conclusion, as the jury member had indicated that the investigators' work and the precise timeline that they had drawn up "were of great help to the jury members" and then referred to the deliberations. Moreover, Mr Bodet did not allege that the jury member in question had externalised any opinion or emotion during the trial. Nor did he submit that he had requested that C.L. or another jury member be discharged during the trial.

With regard to the composition of the assize court, Belgian law provided that a lay jury was made up of twelve members and that it deliberated alone on the question of the defendant's guilt. Three professional judges joined the jury to formulate the reasons for the decision and to discuss together the sentence to be imposed. Mr Bodet had not advanced any specific evidence that could cast doubt on the capacity of the judicial bench that made up the assize court to form an opinion with complete impartiality. In the present case, that opinion had been formed at the close of deliberations, and had then taken tangible shape as two reasoned decisions that did not appear arbitrary.

In consequence, the **Court considered that Mr Bodet's fears as to the assize court's impartiality were not objectively justified.**

Article 6 § 2 (presumption of innocence)

The Court reiterated that the principle of the presumption of innocence required, *inter alia*, that when carrying out their duties, the members of a court should not start with the preconceived idea that the accused had committed the offence charged; the burden of proof was on the prosecution, and any doubt should benefit the accused. In the present case, it considered that it had not been demonstrated that the jury in question had started out with a preconceived idea that Mr Bodet was guilty of the offences for which he was being tried before the assize court.

In consequence, the Court declared the application manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

The decision is available only in 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.