



## Man's dual conviction over 1995 Paris terrorist attacks and special bench Assize Court reasoning complies with European Convention

In today's **Chamber judgment**<sup>1</sup> in the case of **Ramda v. France** (application no. 78477/11) the European Court of Human Rights held, by a majority, that there had been:

**no violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, and  
no violation of Article 4 of Protocol No. 7 (right not to be tried or punished twice).**

The case concerned the reasoning of the judgment convicting the applicant delivered by an Assize Court composed exclusively of professional judges and compliance with the *ne bis in idem* principle in the case of a final conviction by the ordinary criminal courts followed by a criminal conviction by the Assize Court.

The Court found that the applicant in the present case had benefited from sufficient safeguards to enable him to understand his conviction by the special bench of the Assize Court of Appeal, considering that in view of the combined consideration of the three closely reasoned committal orders, the debates during the hearings of the applicant, as well as the many detailed questions put to the Assize Court, he could not claim not to know the reasons for his conviction (Article 6 § 1 of the Convention).

Furthermore, the Court concluded that the applicant had not been prosecuted or convicted in the framework of the criminal proceedings for facts which had been substantially the same as those of which he had been finally convicted under the prior summary proceedings (Article 4 of Protocol No. 7).

The Court reiterated that it was legitimate for the Contracting States to take a firm stance against persons involved in terrorist acts, which it could in no way condone, and that the crimes of complicity in murder and attempted murder of which the applicant had been convicted amounted to serious violations of the fundamental rights under Article 2 of the Convention.

### Principal facts

The applicant, Rachid Ramda, is an Algerian national who was born in 1969. He is currently detained in Lannemezan Prison.

In 1995 eight terrorist attacks were carried out in France, in particular in Paris, near the Maison Blanche metro station, at the Gare d'Orsay and at the Saint-Michel RER station.

Although there was no explicit claim of responsibility for the attacks, some factors, such as the existence of virulent statements against France and the mode of operation, pointed to the involvement of the *Groupeement Islamique Armé* (GIA).

In the framework of a judicial investigation geared to identifying the perpetrators, phone tapping was carried out in various phone boxes, leading to the arrest of several persons. The trail eventually

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

led to the applicant. The latter, who is a member of the *Front Islamique du Salut*, had left Algeria to settle in London, where he was suspected of being a GIA leader in the United Kingdom, particularly owing to his involvement in the *Al Ansar* periodical which the GIA used as an information outlet abroad.

The applicant was the subject of three international arrest warrants, for the attack carried out on 6 October 1995 near the Maison Blanche metro station, the 17 October 1995 attack at the Gare d'Orsay and the 25 July 1995 attack at the Saint-Michel RER station, respectively.

On 1 December 2005 he was handed over to the French authorities, who remanded him in custody.

**Proceedings in the ordinary criminal courts** - By judgment of 29 March 2006, which included over thirty pages of reasoning, the Paris Criminal Court found the applicant guilty of criminal association in the framework of a terrorist conspiracy, and sentenced him to ten years' imprisonment, banning him from French territory for life.

On 18 December 2006 the Paris Court of Appeal upheld that judgment. With explicit reference to the statement of facts set out in the judgment, it devoted some thirty pages to analysing those facts and setting out its reasoning on the charges against the applicant. Having provided further information on the development and operation of the GIA, it observed that the applicant had been the group's main spokesperson in Europe, its principal propaganda agent outside Algeria, while simultaneously playing a central role in the London cell, and, lastly, that he had played a strategic role in the external organisation of the GIA. The applicant's appeal on points of law was dismissed on 14 March 2007.

**Criminal proceedings in the Assize Court** – By three judgments of 13 February, 3 August and 27 November 2001 concerning the attacks carried out in Paris on 17 October, 25 July and 6 October 1995 respectively, the Investigations Division of the Paris Court of Appeal ordered the applicant's committal for trial before a special bench of the Assize Court (made up exclusively of professional judges) to be tried for complicity in crimes of murder, attempted murder, destruction of or damage to property belonging to others by the effect of explosive substances having caused death, mutilations and/or permanent disability, temporary total unfitness for work of over eight days and of a maximum eight days, committed in the framework of a terrorist conspiracy, as well as the related offence of infringement of explosives legislation in the framework of a terrorist conspiracy.

On 26 October 2007 the special bench of the Paris Assize Court, made up of seven professional judges, found the applicant guilty as charged in the framework of the three terrorist attacks. It sentenced him to life imprisonment, stipulating a twenty-two-year minimum term. The applicant appealed.

The appeal proceedings were conducted before the Paris Assize Court, sitting as a special bench of nine professional judges. One hundred and ninety-six individuals, as well as the RATP, the SNCF, the Guarantee Fund for victims of acts of terrorism and other crimes, the Treasury's judicial agent and the "SOS Attentats" association joined the proceedings as civil parties. Sixty-three questions concerning the applicant were put to the Assize Court of Appeal, indicating the various offences as charged and the dates and places of commission, in addition to a list of the victims' names and the types of damage they had sustained.

On 13 October 2009 the special bench of the Assize Court of Appel found the applicant guilty as charged and sentenced him to life imprisonment, specifying a twenty-two-year minimum term and banning him definitively from French territory. On 15 June 2011 the Court of Cassation dismissed the applicant's appeal on points of law, rejecting in particular his pleas concerning the failure of the Assize Court of Appeal to give reasons for its judgment and the alleged violation of the *ne bis in idem* principle owing to his previous final conviction by the Paris Court of Appeal on 18 December 2006.

## Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial) of the Convention, the applicant complained about an alleged error in the reasoning of the judgment delivered by a special bench of the Assize Court of Appeal which convicted him. He also complained under Article 4 of Protocol No. 7 (right not to be tried or punished twice) about a violation of the *ne bis in idem* principle owing to his criminal conviction despite his previous final conviction by the ordinary criminal courts.

The application was lodged with the European Court of Human Rights on 8 December 2011.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,  
 Erik **Møse** (Norway),  
 Nona **Tsotsoria** (Georgia),  
 André **Potocki** (France),  
 Síofra **O’Leary** (Ireland),  
 Mārtiņš **Mits** (Latvia),  
 Gabriele **Kucsko-Stadlmayer** (Austria),

and also Milan **Blaško**, *Deputy Section Registrar*.

## Decision of the Court

### Article 6 § 1 of the Convention

Having reiterated its case-law on the reasoning of judicial decisions, the Court noted that the present case concerned a special Assize Court bench made up solely of professional judges, without the participation of a lay jury.

While emphasising that in proceedings before professional judges the domestic courts had to provide sufficiently clear explanations of the grounds on which they based their decisions, the Court reiterated that the extent of the duty to give reasons varied according to the nature of the decision and should be determined in the light of the circumstances of the case. It therefore decided, in the light of the specific features of the proceedings in question, which were not unlike those conducted in assize courts with the participation of a lay jury, to assess the applicant’s complaint in the light of the principles identified in its *Taxquet* judgment (see *Taxquet v. Belgium* [GC], no. 926/05, ECHR 2010).

The Court first of all reiterated that all the accused persons, including the applicant, had been given information and provided with safeguards during the French criminal proceedings.

As regards the combined impact of the indictment and the questions put to the Assize Court in the present case, the Court firstly noted that the applicant had not been the only accused person and that the case had been complex. As for the three committal orders, despite their limited scope, because they had preceded the main proceedings in the trial each of them had concerned a separate terrorist attack and had been closely reasoned in terms of the offences charged, presenting the events in great detail. Moreover, during the first-instance proceedings the accused had already had an opportunity to evaluate the charges against him in detail, to put forward his pleas and to obtain further information on the charges and the reasons for which he had been liable to be convicted on appeal.

As for the questions put concerning the applicant, the Court noted that there had been sixty-three such questions, twenty-six of them relating to the circumstances of the terrorist attack of 25 July 1995, eighteen to the attack of 6 October 1995 and nineteen to that of 17 October 1995. Sixty-one of them had been answered “yes, on a majority vote”. The Court noted in particular that in addition

to the information on the places and dates in each case, as well as on the victims according to the damage sustained (death, mutilation or permanent disability, total unfitness for work of over eight days or a maximum eight days, destruction of and damage to property), the questions concerned in particular whether or not the applicant had acted with premeditation, as well as whether he had incited others to perpetrate certain offences, had aided and abetted the perpetration of the attacks and had given instructions on the commission of certain criminal offences. Noting that the applicant had not proposed amending the questions or putting different ones, the Court considered that the number and precision of the questions formed a framework on which the decision could appropriately be based.

Accordingly, having regard to the combined assessment of the three closely reasoned committal orders, the debates during the hearings at both first instance and the appeal proceedings brought by the applicant, as well as the many detailed questions put to the Assize Court, the applicant had benefited from sufficient safeguards to understand the criminal sentence passed on him.

There had therefore been no violation of Article 6 § 1 of the Convention.

#### Article 4 of Protocol No. 7

The Court reiterated at the outset that Article 4 of Protocol No. 7 should be understood as prohibiting the prosecution or trial of a second “offence” in so far as it arose from identical facts or facts which were substantially the same (see *Sergey Zolotukhin v. Russia* [GC], no. 14939/03, § 82, ECHR 2009, and *A and B v. Norway* ([GC], nos. 24130/11 and 29758/11, § 108, 15 November 2016).

It noted first of all that the applicant’s conviction in the ordinary criminal proceedings under the Paris Court of Appeal’s judgment of 18 December 2006 had become *res judicata* on 14 March 2007, when his appeal on points of law had been dismissed. The Assize Court criminal prosecution which had led to the applicant’s conviction by the special benches of the assize courts on 26 October 2007 and 13 October 2009 had not been discontinued.

As regards, firstly, the summary criminal proceedings, the Court noted that the court had taken care to present the facts in a detailed manner in its judgment of 29 March 2006. Having put the case back in context and assessed the factors possibly incriminating the applicant, the court had considered that his participation in a criminal association in the framework of a terrorist conspiracy was a proven fact. It then noted that the Paris Court of Appeal, in its judgment of 18 December 2006, had explained its reasoning, in particular by listing the facts establishing that the applicant had managed an agency financing the actions carried out in France by the GIA, and then setting out the facts demonstrating that the applicant had been the Group’s main spokesperson, organising its actions in Europe, the GIA’s main propaganda agent outside Algeria, the leader of the London cell, which also served as a rallying point for young recruits passing through the UK capital, and lastly, a strategic player in the external organisation of the GIA. The Court also noted that the appeal judgment highlighted the decisive part which the applicant had knowingly played in the external structure set up in Europe by the GIA in order to overthrow the Algerian regime by creating networks in Belgium and France, in particular, providing support to the Algerian underground fighters by supplying arms, munition and miscellaneous equipment, and also sending jihadists and creating refuge structures for underground fighters fleeing Algeria or arriving in order to carry out terrorist attacks.

Secondly, in connection with the criminal proceedings, the Court noted that the Investigations Division of the Paris Court of Appeal had delivered three judgments, on 13 February, 3 August and 27 November 2001, ordering the applicant’s indictment before the Paris Assize Court for complicity in the crimes committed on the occasion of the terrorist attacks of 25 July, 6 and 17 October 1995. Those judgments, which this time had concerned a specific criminal behaviour pursuing particular goals in the form of each of the three terrorist attacks, had listed detailed facts and emphasised the factual evidence on which the applicant’s prosecution had been based, highlighting specific facts peculiar to each attack.

In carrying out a comparative examination, on the one hand, of the 18 December 2006 judgment by which the Paris Court of Appeal had convicted the applicant, and on the other, of the three judgments delivered by the Investigations Division on 13 February, 3 August and 27 November 2001 committing him for trial before the special bench of the Assize Court, the Court noted that those decisions were based on a large number of detailed and distinct facts.

The Court concluded that the applicant had not been prosecuted or convicted in the framework of the criminal proceedings for facts substantially the same as those which had been the subject of the final conviction under summary proceedings.

Lastly, for all relevant purposes, the Court reiterated that it was legitimate for the Contracting States to take a firm stance against persons involved in terrorist acts, which it could in no way condone, and that the crimes of complicity in murder and attempted murder of which the applicant had been convicted amounted to serious violations of the fundamental rights under Article 2 of the Convention, in respect of which States are required to pursue and punish the perpetrators, subject to compliance with the procedural guarantees of the persons concerned, as was the situation for the applicant in the present case.

There had therefore been no violation of Article 4 of Protocol No. 7 to the Convention.

*The judgment is available only in French.*

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