



Court finds inadmissible an application by Yvan Colonna complaining of breaches of his right to be presumed innocent

In its decision in the case of [Colonna v. France](#) (application no. 4213/13) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns the assassination of the Prefect for the French Region of Corsica, Claude Erignac, in 1998. The criminal proceedings against Yvan Colonna culminated in a sentence of life imprisonment. During those proceedings he was referred to by various politicians in the press and on television as “the murderer of Prefect Erignac”, a description also used in a report by a Commission of Inquiry of the French Senate. The Paris public prosecutor, in response to questions from the parliamentary committee on the operation of security forces in Corsica, used the same phrase. Mr Colonna alleged that his right to be presumed innocent had been breached.

The Court noted that under French law there were specific remedies that Mr Colonna could have used, in particular the procedure specially provided for in Article 9-1 of the Civil Code, which protected the right to be presumed innocent. Mr Colonna could also have brought a civil suit alleging that his right had been breached by one of the means covered by the Freedom of the Press Act of 29 July 1881, or even defamation proceedings under that same Act.

The Court found that Mr Colonna had not – with only one exception – used all the remedies available under French law.

Principal facts

The applicant, Yvan Colonna, is a French national who was born in 1960 and is currently in Réau prison (France).

On 6 February 1998, Claude Erignac, the Prefect for the French Region of Corsica was shot dead in the street in Ajaccio. It was soon discovered that the weapon used had come from a robbery at the gendarmerie of Pietrosella, in southern Corsica, committed on 6 September by five hooded and armed men.

On 21 and 23 May 1999 the police arrested a number of individuals on suspicion of taking part in the assassination. The suspects were taken into police custody and interviewed without a lawyer. Most of them acknowledged their participation and some designated Mr Colonna as having fired the fatal shots.

On 22 May 1999 the daily newspaper *Le Monde* disclosed the names of certain individuals, including that of Mr Colonna, who had not been taken in for questioning by the police. Agreeing to be interviewed by a journalist, Mr Colonna denied any involvement in the shooting of Mr Erignac. On 23 May 1999, when police officers arrived at his house to arrest him, Mr Colonna had absconded. A warrant was issued for his arrest and this information was widely reported in the media.

On 16 August 1999 Mr Jean-Pierre Chevènement, then Minister of the Interior, made a statement to *Le Monde* in which he referred to the “heinous act of Yvan Colonna”. In a report filed on 16 November 1999, a Commission of Inquiry of the French Senate commented on the circumstances of the failure to arrest Mr Colonna, describing him as the “murderer of Prefect Erignac”. On 28 October 1999 the public prosecutor at the Paris *tribunal de grande instance*, in response to questions from the parliamentary committee on the operation of the security forces in Corsica, described Mr Colonna as the “principal perpetrator ... of the premeditated murder of Prefect Erignac”, and as

“murderer of Prefect Erignac”. Lastly, in January 2001 Mr Chevènement stated about Mr Colonna to the newspaper *Le Parisien*: “He’s a coward [who] prefers to cast aspersions on the anti-terrorism judges ...”.

After four years on the run, Mr Colonna was arrested on 4 July 2003. Mr Sarkozy, then Minister of the Interior, told a press conference that the police had arrested “Yvan Colonna, murderer of Prefect Erignac”. Mr Colonna was placed under judicial investigation and remanded in custody.

On 5 January 2007, Nicolas Sarkozy, then standing as candidate in the presidential elections, stated during a TV interview that he was not alone in believing that Mr Colonna was the Prefect’s assassin. On 6 February and 4 April 2007 Mr Colonna brought proceedings against Mr Sarkozy seeking an urgent ruling and a decision on the merits under Article 9-1 of the Civil Code, which protects the right to be presumed innocent. His application was dismissed by the urgent applications judge of the Paris *tribunal de grande instance*. On 18 April 2008, on an appeal by Mr Colonna, the Paris Court of Appeal ordered a stay of the proceedings until the expiry of a period of one month following the end of the defendant’s term of office as President. The Paris *tribunal de grande instance*, in response to an application for redress on the merits, also decided to stay the proceedings for the same reasons.

On 13 December 2007 the Paris Assize Court sentenced Mr Colonna to life imprisonment for the premeditated murder of Prefect Erignac, in connection with a terrorist enterprise, for criminal conspiracy, and for the offences committed at Pietrosella. Mr Colonna and the public prosecutor appealed. On 27 March 2009 a different, specially formed bench of the Paris Assize Court upheld the conviction.

On 30 June 2010 the Court of Cassation quashed the judgment given on appeal confirming the applicant’s conviction and referred the case back to the Paris Assize Court. On that occasion Ms Alliot-Marie, then Minister of Justice, referred in a press release to the “guilt of Yvan Colonna”.

On 20 June 2011 Mr Colonna was again sentenced by the Paris Assize Court to life imprisonment. The Court of Cassation dismissed his appeal on points of law.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 11 January 2013.

Relying in particular on Article 6 § 2 (presumption of innocence), Mr Colonna alleged that the remarks made by various public figures describing him as the murderer of the Prefect of Corsica, Mr Erignac, had breached his right to be presumed innocent.

The decision was given by a Committee, composed as follows:

Ganna **Yudkivska** (Ukraine), *President*,
André **Potocki** (France),
Síofra **O’Leary** (Ireland), *Judges*,

and also Anne-Marie Dougin, acting Deputy Registrar.

Decision of the Court

Article 6 § 2

The Court reiterated the principle that a case could only be brought before it after domestic remedies had been exhausted.

It noted that under French law there were specific remedies that Mr Colonna could have used, in particular the remedy under Article 9-1 of the Civil Code, which enabled urgent proceedings to be

brought by anyone claiming a breach of the right to be presumed innocent, in addition to affording a right to redress.

Mr Colonna could also have brought a civil suit alleging that a breach of his right to be presumed innocent had been committed by one of the means covered by the Freedom of the Press Act of 29 July 1881, or even defamation proceedings under that same Act.

The Court found that Mr Colonna had not used the remedies available under French law, with only one exception, in 2007 when he brought proceedings against Mr Sarkozy.

While he complained of numerous instances where doubt had been cast on his presumed innocence, Mr Colonna had waited for eight years before bringing only one suit under Article 9-1 of the Civil Code for an urgent ruling and a decision on the merits. As he had brought proceedings on that basis, the Court took the view that the applicant had shown, contrary to his allegations, that he did believe that an effective remedy was available. It also noted that in those proceedings his claim had not been dismissed by either the urgent proceedings judge or by the court ruling on the merits. They had merely decided to adjourn the proceedings until a period of one month had expired after the end of the term of office of the French President in question. Mr Colonna had not subsequently applied for the proceedings before the urgent proceedings judge or on the merits to be resumed.

As regards the words used by the Senate's Commission of Inquiry, Mr Colonna admitted himself that there was no remedy in that connection, as parliamentary documents enjoyed total immunity. It followed that, as there was no remedy under domestic law, the matter should have been referred to the Court within six months from the publication of the report that Mr Colonna considered to have breached his right to be presumed innocent, and he had not lodged his application until over 13 years later.

It followed that this part of the application had to be rejected on account of Mr Colonna's failure to comply with the six-month rule and to exhaust domestic remedies.

Other Articles

Mr Colonna raised a number of other complaints under Article 6 § 1 (right to a fair hearing) taken alone and in combination with Article 13 (right to an effective remedy), and also under Article 6 § 2 together with Article 14 (prohibition of discrimination). Taking account of all the elements in its possession, the Court did not find any appearance of a violation of the rights and freedoms guaranteed by these Articles of the Convention and rejected the complaints as ill-founded.

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.