EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
issued by the Registrar of the Court

ECHR 056 (2026)
05.03.2026

Conviction *in absentia* of individual attempting to travel to Syria after appealing against conviction for participating in terrorist-group activities did not breach right to fair trial

In today's **Chamber** judgment[1] in the case of Khattab v. Belgium (application no. 40272/18) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 6 (right to a fair trial) of the European Convention on Human Rights.

The application concerned the applicant's conviction *in absentia* on appeal and the dismissal of his action to have that judgment set aside.

After being convicted at first instance in Belgium for participating in the activities of a terrorist group in Syria, the applicant lodged an appeal and then left Belgium without letting the authorities know. He subsequently did not attend the hearings before the Brussels Court of Appeal and was convicted *in absentia*. Before the European Court, he complained about his conviction *in absentia*, arguing that he had been detained in Türkiye after being arrested at the Syrian border carrying false documents.

The Court considered that the Belgian authorities could not be held responsible for the applicant's voluntary decision to travel to Syria, which he had made despite the fact that the trip would inevitably jeopardise his participation in the appeal hearing and the preparation of his defence. The applicant could have reasonably foreseen the consequences of his actions. The Court further found that the Belgian courts had carefully examined the reasons given by the applicant to justify his failure to appear before them and had rejected them in duly reasoned decisions that did not appear arbitrary. They had observed, in particular, that the applicant had freely chosen to put himself in the situation that was allegedly in breach of Article 6 of the Convention. Accordingly, the domestic courts could not be criticised for refusing to re-examine the case on appeal.

Principal facts

The applicant is a Belgian and Syrian national. In 2013 he was prosecuted in Belgium for participating in the activities of a terrorist group in Syria. He was convicted at first instance in 2016 and sentenced to seven years' imprisonment and a fine of 18,000 euros. The court did not order his immediate arrest.

During the appeal proceedings the applicant decided to leave Belgium for Syria, but was arrested on 6 October 2016 in Türkiye while using a false identity and carrying false documents.

Meanwhile, on 3 October 2016 the Belgian authorities had summoned him to appear before the Brussels Court of Appeal on 18 November 2016. The bailiff, finding him absent, had placed the summons in his letter box.

The applicant, still detained in Türkiye, did not attend the hearing of 18 November 2016, or those held in April 2017. He was repatriated to Belgium on 24 May 2017.

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.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In a judgment of 2 June 2017, adopted *in absentia* in respect of the applicant, the Court of Appeal upheld the first-instance judgment and ordered his immediate arrest. It subsequently declared void the applicant's action to have that judgment set aside, finding that he was responsible for his failure to appear at the appeal hearings.

Complaints, procedure and composition of the Court

Relying on Article 6 (right to a fair trial) of the Convention, the applicant complained that he had been unable to appear in person in the proceedings before the Court of Appeal and that his action to have his conviction *in absentia* set aside had been declared void. He submitted in that regard that he had neither waived his right to appear and to defend himself nor intended to evade justice. In addition, he alleged that he had not had adequate time and facilities for the preparation of his defence in that, being detained in Türkiye, he had been unable to contact his Belgian lawyer for that purpose.

The application was lodged with the European Court of Human Rights on 22 August 2018.

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

Ivana **Jelić** (Montenegro), *President*,
Raffaele **Sabato** (Italy),
Frédéric **Krenc** (Belgium),
Davor **Derenčinović** (Croatia),
Alain **Chablais** (Liechtenstein),
Artūrs **Kučs** (Latvia),
Anna **Adamska-Gallant** (Poland),

and also Ilse **Freiwirth**, *Section Registrar*.

Decision of the Court

The Court began by noting that on 2 June 2016 the applicant had appealed against his conviction. He thus could have reasonably expected to be informed by the authorities of the date of his appeal hearing. Before receiving that notice, however, he left the country for Syria on 28 September 2016, without letting the Belgian authorities know. He had told the Court that he had decided to return to Syria because he could not bear to stand idly by and had wanted to help his people combat the regime in place. The Court considered that the applicant had made that decision knowingly and willingly and that the act could thus not be attributed to the Belgian authorities.

In the Court's view, the applicant had known that there were criminal proceedings against him and had been aware of the nature and cause of the accusation, especially since he himself had taken the initiative to lodge an appeal and request a new trial. He had, moreover, been represented at the first hearing before the Court of Appeal, which implied that he must have known about the summons to appear before that court.

Given that the applicant had deliberately left Belgium – despite his appeal – to travel to Syria under a false identity, and had been represented by his counsel before the Court of Appeal, he could be regarded as having waived his right to appear in person.

The Court attached weight to the fact that Belgian law offered persons convicted *in absentia* the possibility to obtain a fresh examination of their case by a court. Noting that Belgium had reformed the procedure for having a criminal conviction set aside, it considered that the legislature's concern to discourage unjustified absences or delaying tactics was a legitimate reason for that change with regard to the proper administration of justice. The Constitutional Court and the Court of Cassation had found likewise, emphasising the need to ensure compliance with the requirements of Article 6 § 3 (c) of the Convention, as interpreted by the Court, when the defendant's absence was not

prompted by a will either to waive his or her right to appear and to defend him- or herself or to evade justice.

In the case at hand, the domestic courts had found that the applicant's action to have his conviction set aside was admissible but void. In the Court's view, those courts had carefully examined the reasons given by the applicant to justify his failure to appear before them and had rejected them in duly reasoned decisions that did not appear arbitrary. They had observed, in particular, that the applicant had freely chosen to put himself in the situation that was allegedly in breach of Article 6 of the Convention. They had also emphasised that the applicant had had the opportunity to be represented by his counsel before the Court of Appeal and had taken up that option, before making the fully informed decision to waive that right in the course of the proceedings. The Court saw no reason to question those findings, which were supported by evidence. Accordingly, the domestic courts could not be criticised for refusing to re-examine the case on appeal.

As to the applicant's alleged difficulties in preparing his defence, the Court reiterated that the Belgian authorities could not be held responsible for the applicant's voluntary decision to travel to Syria, which he had made despite the fact that the trip would inevitably jeopardise his participation in the hearing and the preparation of his defence. The applicant could have reasonably foreseen the consequences of his actions.

The Belgian authorities had further had no responsibility in the applicant's detention in Türkiye for unlawful entry into that country. Nor, moreover, had they hindered communication between the applicant and his counsel, including his lawyer in Türkiye. They had, in fact, sent his counsel all relevant information concerning his situation in that country in a regular and timely manner. They had also taken the necessary steps to facilitate his return to Belgium.

Accordingly, there had been no violation of Article 6 §§ 1 and 3 (b) and (c) of the Convention.

The judgment is available only in French.

Press contacts
echrpress@echr.coe.int | tel: + 33 3 90 21 42 08

We are happy to receive journalists' enquiries via either email or telephone.

Inci Ertekin (tel: + 33 3 90 21 55 30)
Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Denis Lambert (tel: + 33 3 90 21 41 09)
Jane Swift (tel: + 33 3 88 41 29 04)
Claire Windsor (tel: + 33 3 88 41 24 01)