



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

Published on 10 August 2026

FIFTH SECTION

Application no. 5437/26
Vicente Jesús SALA MARTÍNEZ
against Spain
lodged on 9 February 2026
communicated on 10 July 2026

SUBJECT MATTER OF THE CASE

The application concerns the alleged defects of the jury trial stage of the criminal proceedings leading to the acquittal of the sole defendant charged with the murder of the applicant's mother.

On 9 December 2016 the applicant's mother was shot dead in a car wash area. The victim's son-in-law, who was also a manager of the car wash area, was charged with the murder and illicit possession of weapons. Once the investigation was completed, he was tried in jury trial before the *Audiencia Provincial* of Alicante. At some point the jury reached its verdict.

On 8 November 2019 the Presiding Judge of the Jury Court summoned the parties, the Public Prosecutor, the Court Clerk and the members of the jury to a hearing after receiving the jury's verdict, announcing that it was convened pursuant to Article 64 ("Explaining reasons for returning the verdict") of the Institutional Law of the Jury Court to return the verdict and to explain its defects and the reasons for its return, namely the failure to: identify any direct evidence capable of supporting the circumstantial evidence; to specify particular evidence relied upon; and to address certain exculpatory evidence presented by the defence. No hearing under Article 53 of the Institutional Law on the Jury Court (providing that the Presiding Judge had to hear the parties before submitting the object of the verdict to the jury) had been held. During the hearing under Article 64, the Presiding Judge allegedly made comments such as "This verdict form is mine", "They keep bothering me", "Pay

attention to me” and “That is as far as I can go”. The applicant’s lawyer and the Public Prosecutor lodged an objection. The returned verdict was not disclosed to the parties, and the parties did not request to study it, or to be informed of the conclusions reached by the jury.

On 10 November 2019, the jury (in the initial composition except for one juror, replaced during the second deliberations by a substitute juror for health reasons) read out a new verdict. The jury found, by six votes to three, that the defendant was not guilty of the murder and unlawful possession of weapons. On 18 November 2019 the written judgement of acquittal was issued. It was clarified by a decision of 22 November 2019.

The applicant and the Public Prosecutor requested the Court Clerk to provide them with a copy of the first verdict, but the Court Clerk informed them that it had not been included in the case file and later clarified that it had been destroyed. His procedural orders were not appealed against.

The applicant and the Public Prosecutor appealed against the judgment. The High Court of Justice of the Valencian Community dismissed both appeals. Pursuant to the applicant’s appeal on points of law, the Supreme Court ruled that a new trial be held with a different jury composition and a new Presiding Judge. The Supreme Court found that the consolidation of the two hearings provided for in Articles 53 and 64 of the Institutional Law on the Jury Court, which were meant to be separated (the first attended only by the parties and the Public Prosecutor’s Office, for the purpose of conducting a legal debate on the return of the verdict form, and the second attended also by the members of the jury), together with the destruction of the verdict form that was not disclosed, and the suspicion (without any evidence to support it) that the jury changed its position regarding the guilt or innocence of the accused after the explanations given by the Presiding Judge, affected the applicant’s right to effective judicial protection. The Supreme Court also noted that the applicant’s attitude was not compliant and that the decision to return the verdict had already been taken when the hearing was convened pursuant to Article 64 of the Institutional Law on the Jury Court. One of the judges gave a dissenting opinion.

The defendant lodged an action on the annulment of proceedings that was dismissed by the Supreme Court. The defendant then lodged an *amparo* appeal that was upheld by the Constitutional Court. The Constitutional Court concluded that the defendant’s fundamental right to effective judicial protection and due process had been infringed, quashed the judgment handed down by the Supreme Court and upheld the judgment of the High Court of Justice of the Valencian Community. The Constitutional Court noted the asymmetry in the rights of the prosecution and the defence, with particular emphasis on the defendant’s right to the presumption of innocence. The court established that in order to justify the overturning of an acquittal, in balancing the constitutional rights of the prosecution and the defence, a breach of a fundamental safeguard of due process to the detriment of the prosecution was

required. It also considered that the applicant had had the opportunity to raise objections regarding the grounds for returning the verdict before it had actually taken place. The court acknowledged that the lack of prior access to the verdict and the fact that the return had been made before the jury members constituted a procedural irregularity which however did not result in a breach of constitutional guarantees. The Constitutional Court also took into account the applicant's failure to request access to the verdict. It further found that any potential influence on the jury for holding the hearing in their presence had been merely hypothetical. Two of the judges gave a dissenting opinion.

Referring to Articles 2 and 8 of the Convention, the applicant complains that, due to the absence of a prior technical hearing and the inability to make submissions, the destruction of the first verdict form and the impossibility of exercising effective judicial scrutiny over the return of the verdict together with the Presiding Judge's expressions, the proceedings were in breach of (i) the State's procedural obligations under Article 2 of the Convention; and (ii) the State's positive obligation to ensure effective mechanisms capable of clarifying the circumstances of the applicant's mother's death under Article 8 of the Convention.

QUESTIONS TO THE PARTIES

1. Having regard to the procedural protection of the right to life (see *Salman v. Turkey* [GC], no. 21986/93, § 104, ECHR 2000-VII), did the proceedings as a whole satisfy the requirements of the positive obligation to protect lives through the law ensured by Article 2 of the Convention (see *Öneryıldız v. Turkey* [GC], no. 48939/99, §§ 95-96, ECHR 2004-XII and *Ali and Ayşe Duran v. Turkey*, no. 42942/02, §§ 61-62, 8 April 2008)? In particular, was the judicial response ensured by the authorities adequate in terms of the Court's case-law?

(i) Did the manner in which the Presiding Judge conducted the proceedings provide sufficient safeguards for an effective procedure for the finding of facts and the attribution of criminal responsibility (see *McKerr v. the United Kingdom*, no. 28883/95, § 134, ECHR 2001-III)? In this connection, in cases where the record of the verdict is to be returned to the jury, what is the importance of holding the hearings provided for in Articles 53 as referred to in Article 63(3), and Article 64 of the Organic Law of the Jury Court? Did the investigation including the trial stage complied with the independence requirement (see *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 223, 14 April 2015)?

(ii) With reference to the applicant's alleged inability to obtain a copy of the first verdict, was the applicant, as the next of kin of the victim, involved in the procedure to the extent necessary to safeguard his legitimate interests (see *Güleç v. Turkey*, 27 July 1998, § 82, *Reports* 1998-IV)?

2. The parties are requested to provide the Court with copies of documents regarding the proceedings for clarification, as well as those regarding the action for annulment of proceedings.