

# Spanish court convicts 18 alleged Al Qaeda members

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The largest trial of suspects alleged to be involved in the 9/11 bombings ended in Spain on September 26. A three-judge panel of the Spanish High Court handed down sentences of between 6 and 27 years imprisonment to 18 of the 24 accused.

The convictions have been secured on the basis of often flimsy and circumstantial evidence, much of it obtained through wire-taps.

The prosecutions were brought by the Spanish judge, Baltasar Garzon. Human rights groups have attacked Garzon, declaring that the present trials are politically motivated and not based on factual evidence. Under the antidemocratic measures put in place in the name of the “war on terror,” some of the accused have been held for up to four years without trial.

Three of the 24 were charged with helping to plan and execute the September 11, 2001 attacks but cleared of killing 2,973 people in the attacks on New York and Washington. The other 21 stood trial on charges not directly related to September 11. Of those, 16 were convicted of belonging to or collaborating with a terrorist organisation and five were acquitted. The judges heard from more than 100 witnesses during a two-and-a-half month trial that ran from April to early July at a high-security courtroom on the outskirts of Madrid.

The sentences stated that “there can be and in fact there is terrorism without arms.” This ruling has fundamental implications for the future of democratic rights and the right to a fair trial. It in effect criminalises political dissent. This new legal principle is likely to also be applied in the trial, due to begin in two months time, of those arrested in connection with the March 11, 2004 terrorist bombings in Madrid.

Syrian-born businessman Imad Eddin Barakat Yarkas was sentenced to 27 years in jail—12 years for being the leader of a terrorist group and 15 years for conspiracy to commit a terrorist murder. The court ruled that Barakat “was aware of the sinister plans of imminent execution.” He was also convicted of having led a cell that raised money and

recruited men for Osama bin Laden’s Al Qaeda. But the judges were forced to comment that “the only thing proven is Yarkas’s conspiracy with the suicide terrorist” Mohamed Atta and other members of the Al Qaeda cell based in Hamburg, Germany, that carried out the 9/11 attacks.

Yarkas was accused of helping prepare a July 16, 2001 meeting in Tarragona, northeast Spain, attended by Mohammed Atta, the alleged 9/11 plot leader, and alleged attack coordinator Ramzi Binalshibh to decide last-minute details, including the date of the attacks. The same charge was made against co-defendant Driss Chebli, a Moroccan, who was jailed for six years.

The court ruled that prosecutors had not proved that Yarkas took part in the September 11 attacks, but agreed that there was evidence he had helped to think up the plot working with Atta’s group in Hamburg.

Two trials in Germany of those accused of belonging to the Hamburg group and participation in 9/11 failed to yield convictions. Moroccan Mounir el Motassadeq was convicted in connection with 9/11 in 2003, but acquitted in August 2005 in a retrial and only found guilty of belonging to a terror cell.

Much of the case concerning Yarkas’s alleged role in the 9/11 plot was circumstantial. His number was found in the phonebook of a person who had lived with Atta, for example. And in a wire-tapped phone conversation with Farid Hilali, another 9/11 suspect whose extradition Spain is seeking from London, Hilali is recorded as saying: “They are giving very good classes ... we have entered the area of aviation,” and “We have slit the bird’s throat.”

The judges said there was not enough evidence to convict the three main suspects, Yarkas, Driss Chebli and Ghasoub al Abrash Ghalyoun, of participating in the September 11 plot for which the prosecutor had asked for 74,000 years imprisonment—25 years for each of those killed in New York.

Ghasoub al Abrash Ghalyoun was acquitted on all counts at the trial. The accusation against him was that in 1997 he had taken film of the Twin Towers in New York which,

according to the Public Ministry, had been used by the suicide terrorists for the attack. Ghalyoun had stated that they were holiday pictures.

The trial was billed as a showcase of how to tackle terrorism “democratically.” It fell far short of such claims.

The daily *La Razon* wrote: “The first trial against Islamic terrorism in our country has finished with a certain sense of failure in not being able to prove a direct link between the accused and the September 11 attacks.”

Barcelona’s *La Vanguardia* said: “The sentence, way below that sought by the state attorney, is a blow to the judicial investigation and the prosecution.”

The conservative *El Mundo* was forced to cast doubt on the case made by the Spanish prosecutors. While declaring that there was no doubt that most of those convicted “formed part of a group dedicated to making propaganda for the jihad, financing fundamentalist Islamic movements, recruiting fanatics for Chechnya, Bosnia and Afghanistan and maintaining contacts with the Algerian GIA and other violent groups,” it continued, “It is another thing to try to connect this group with the preparation for September 11, which was the basis for reopening this investigation at the end of October 2001.”

It is a measure of the flimsy character of the evidence that it was reported by the world’s media in only the most cursory fashion. Considering that this is the first trial in which anyone has been jailed for direct involvement in 9/11, it is extraordinary that the news of the sentences was not treated as the major story of the day by either American or British news sources.

Defence attorneys and lawyers for the Arab Commission for Human Rights described the case as a sham because of the lack of evidence.

One of the most sinister aspects of the trial was the prosecution of Al Jazeera journalist Tayssir Allouni. The Arabic-language television network sharply criticized the convictions. Editor-in-chief Ahmer Sheik said, “This is a black day for the Spanish judiciary, which has deviated from all the norms of international justice.”

Allouni, sentenced to seven years imprisonment, denied all the charges against him. Prosecutors used an interview that he conducted in 2001 with Osama bin Laden as evidence that he had a link to Al Qaeda. According to *El Pais*, the magistrates considered that he helped several members of Al Qaeda, knowingly, “in order to obtain from those individuals exclusive and profitable information about the organization.”

Allouni is well known in the Middle East as a war correspondent for Al Jazeera. He was their Kabul correspondent during the Afghanistan war. When he was first detained, Al Jazeera accused the United States and

Israel of inciting Spain to incriminate him. Allouni witnessed and reported on many of the crimes committed by US forces. He was bureau chief in Kabul when the bombing of the city commenced on October 7, 2001, and provided exclusive reports. He barely escaped with his life after the US bombed the Al Jazeera office in Kabul. He was also witness to the killing of Spanish cameraman Jose Couso when the US military bombed the Palestine Hotel (home to many journalists) in Baghdad in April 2003.

Despite the prosecution’s failure to secure the sentences it had demanded, the BBC’s Rob Watson described the Spanish proceedings as “one of the most significant anti-terrorism trials in the modern era.”

Not only was this the first time in Europe that a defendant has been found guilty of direct links to the 9/11 attacks, after a string of failed cases elsewhere, but 17 others were convicted “not based on links to any specific attacks, but rather on membership and support of Al Qaeda—lesser charges which traditionally have been hard to prove.”

Securing these convictions had been made possible in part due to “the court’s willingness to consider wire-tap evidence, a practice not accepted everywhere in Europe.” But the judges “had also been under what might be described as considerable political pressure from prosecutors,” Watson added. This took the form of claims that successful convictions would prove the superiority of Spain’s justice system to that of the United States. Watson noted that the chief prosecutor in the case, Pedro Rubira, “had told the judges a successful outcome to the trial would show the world there was an alternative to invading countries and detention camps in the war against terrorism.”

Those convicted are now beginning long sentences not for having committed any actual crime, but for having been accused of associating with, sympathizing with or belonging to political organisations prescribed the state.

One aspect of the case that has received little attention is the fact that an appeal by Spanish prosecutors to be allowed to question the suspected coordinator of the 9/11 attacks, Ramzi Binalshibh, was rejected by the US. Binalshibh is being held by the US, and his presence at the meeting in Tarragona with Atta was central to the Spanish case. Earlier judges in the German cases against the alleged Hamburg cell had also complained that they had been denied access to testimony from key 9/11 suspects in American custody.



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