

## How can we record a trial of a huge terrorist attack?

### I. History of filmed trials

Nuremberg trial, created to judge the Nazis commanders, was the first audience filmed. The goal was to keep a record for the History (*Videos about this trial*: <https://www.dailymotion.com/video/x6goszs>)

In 1987, in France, it's the trial of Klaus Barbie, which was filmed, for the first time. Klaus Barbie was a former Gestapo chief in Lyon during the occupation. (*Videos about this trial* : [https://www.youtube.com/watch?v=zAFq011j\\_Es](https://www.youtube.com/watch?v=zAFq011j_Es))

### II. What does the law say?

The Article 38 of the law of 29 July 1881 related to press freedom forbids the use of cameras inside the court room in order to protect the serenity of debates and privacy. But the law of 11 July 1985 by Robert Badinter, allows recordings for a historical purpose.

The conditions are very strict. The images will only be able to be shown after 50 years. Before that, only scientists and historians can have access. National archives remain owners of the images that cannot be shown without their authorization.

### III. What about trial judging terrorist attack in France ?

In 2012, after the Toulouse terrorist attacks, the court refused to record the trial because they were judging the brother and an accomplice of the attacker even if this terrorist attack profoundly marked French society.

In June 2020, the First President of the Court of Appeal authorized the recording of the trial of the January 2015 terrorist attacks. Normally forbidden, filming a trial can be allowed exceptionally.

The first President of the Paris Court of Appeal justified his decision to record the debate for the January 2015 attacks by saying "this trial clearly presents an interest for historical judiciary archives and cannot be considered as damaging presumption nor disrupting the debates". The 2015 attacks have a really symbolic place regarding all the emotions they created among the population with the huge spontaneous demonstrations, the symbol of press freedom, an attack against the State and the Jewish community.

The 8<sup>th</sup> September 2021 opened the trial of 13 November 2015, sadly day marked by terrorist attacks. The first president of the special court authorized the recording also. If a sonor recording is planned for the proof, a visual recording is also acting for the History. This trial has another particularity, because the sonor recording is shared with civil parties who can't or won't come to the audience. This web radio, is nevertheless, accessible only by the civil party leaving on metropolitan France on live.

### IV. In another countries, what are their positions?

Whereas in France, the recording is the exception, in USA, all trials are filmed since 1959, this practice is become a standard now. Nevertheless, if it's become a standard now, it's just a possibility and not an obligation. In fact, this possibility belongs to the judge at the start of the audience.

In Spain, since 2000, the recording (visual and sonor) is an obligation for all essentials acts of civil procedure. In 2009, we will see a globalization of this practice to criminal, social and administrative procedure.

In Canada, since the 2 March 1993, the Supreme Court allowed the journalist to film audience only for 3 reporting: first, the money about keeping children, then, legal right to suicide assist and finally about tax deduction. Nowadays, the Canadian Supreme court recording itself, audiences, for educational goal.

V. Go to a diffusion on TV channel?

If in USA, there is a diffusion of trial on TV channel, this practice can it applied in France?

In France, audiences are publics. It's means that the audience, expect when an audience is at "huis clos" ( not open to the public, just the court, the accused, the victim and attorney), everyone can come see how the justice is applied. In add, the French law don't allow the recording practice for all audience, for the moment. Actually, only recording of audience for the history or a reporting is authorized.

However, Eric Dupont Morreti, ex attorney becoming now minister of the France justice, considers reforming this point of French law and want to go out there. Actually, the minister, plans to allow the recording of all types of audience: *criminal, civil, social audience*.

The goals are that French peoples understand how the justice works and restore confidence of citizens in institute.

Contrary to USA, the French project is to diffuse the recording of the audience after the sentence and not in live as USA.

With this project some questions come: which channel could diffuse the video? Could there be a right to forgot this video, especially with social network ? what about the sensitive pictures and implication of CSA (organism charged to regule audiovisual) ?Is there a risk of a "*starification*" ( French expression means become a star) of attorneys or criminals? And in terrorist case, is there a risk of propaganda if the accused use their audience to diffuse their theories?