

Press release issued by the Registrar

**GRAND CHAMBER JUDGMENT
RAMIREZ SANCHEZ v. FRANCE**

The European Court of Human Rights has today delivered at a public hearing its Grand Chamber judgment¹ in the case of *Ramirez Sanchez v. France* (application no. 59450/00).

The Court held:

- by twelve votes to five that there had been **no violation of Article 3** (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights on account of the length of time the applicant had spent in solitary confinement;
- unanimously that there had been **a violation of Article 13** (right to an effective remedy) of the Convention.

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 10,000 euros (EUR) for costs and expenses. He made no claim for compensation for damage.

(The judgment is available in English and French.)

1. Principal facts

Ilich Ramirez Sanchez, better known as “Carlos the Jackal”, is a 56 year-old Venezuelan national who is currently detained in Clairvaux Prison (France).

He was placed under investigation in connection with a series of terrorist attacks carried out in France and sentenced to life imprisonment on 25 December 1997 for the murder of two police officers and an acquaintance in 1975.

For eight years and two months – from his detention in La Santé Prison on 15 August 1994 until his transfer to Saint-Maur Prison on 17 October 2002 – the applicant was held in solitary confinement. The reasons generally given to justify the decisions to prolong his detention in solitary confinement were his dangerousness, the need to maintain order and security in the prison and the risk of his absconding. On each occasion, the applicant underwent medical examinations to determine his fitness for solitary confinement. Although initially they did not oppose the measure, from July 2000 onwards the doctors were no longer prepared to sanction it and refused to certify that the applicant was fit enough to remain in solitary confinement.

The solitary-confinement regime meant that the applicant was detained alone in a cell measuring 6.84 square metres, which, he said, was dilapidated and poorly insulated. He had no contact with other prisoners or prison warders and was authorised to leave his cell only for a two-hour daily walk. The applicant further alleged that his only recreation was provided by

¹ Grand Chamber judgments are final (Article 44 of the Convention).

newspapers and a rented television set, and that the only visits he received were from his lawyers and, once a month, a cleric.

On 17 October 2002 the applicant was transferred from La Santé Prison to Saint-Maur Prison, where he was held under the ordinary prison regime until 18 March 2004. However, following a telephone interview for a television programme in which the applicant among other things refused to express any remorse to the victims of his crimes (he put the number of dead at between 1,500 and 2,000), the applicant was transferred to Fresnes Prison, where he was once again held in solitary confinement.

From 18 March 2004 to 5 January 2006 the applicant was held in solitary confinement in Fresnes, Fleury-Mérogis and La Santé Prisons. Since his transfer on 5 January 2006 to Clairvaux Prison he has been held under the ordinary prison regime.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 20 July 2000 and declared admissible on 19 February 2004.

In a judgment of 27 January 2005 (see press release [038](#) from 2005), a Chamber of the Court held by four votes to three that there had been no violation of Article 3 and unanimously that there had been a violation of Article 13 of the Convention.

The applicant requested that the case be referred to the Grand Chamber under Article 43¹ (referral to the Grand Chamber) and on 6 June 2005 the panel of the Grand Chamber accepted that request.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Luzius **Wildhaber** (Swiss), *President*,
Christos **Rozakis** (Greek),
Jean-Paul **Costa** (French),
Nicolas **Bratza** (British),
Boštjan M. **Zupančič** (Slovenian),
Volodymyr **Butkevych** (Ukrainian),
Josep **Casadevall** (Andorran)
John **Hedigan** (Irish),
Margarita **Tsatsa-Nikolovska** (citizen of “the former Yugoslav Republic of Macedonia”),
Kristaq **Traja** (Albanian),
Lech **Garlicki** (Polish),
Javier **Borrego Borrego** (Spanish),
Elisabet **Fura-Sandström** (Swedish),

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Alvina **Gyulumyan** (Armenian),
Renate **Jaeger** (German),
Danutė **Jočienė** (Lithuanian),
Dragoljub **Popović** (Serbian), *judges*,

and also Erik **Fribergh**, *Registrar*.

3. Summary of the judgment¹

Complaints

The applicant complained that his prolonged solitary confinement from 15 August 1994 to 17 October 2002 and from 18 March 2004 to 6 January 2006 had violated Article 3 of the European Convention on Human Rights. He also alleged that the authorities had not followed the correct procedure for prolonging his solitary confinement, in breach of Article 13 of the Convention.

Decision of the Court

Article 3

The Court considered that it should confine its examination to the conditions in which the applicant had been held from 15 August 1994 to 17 October 2002, as the parties had not provided any information on the conditions in which the applicant had been kept in solitary confinement during the period from March 2004 to January 2006 and the applicant had not exercised his right to challenge the measure relating to the latter period on the merits.

The Court observed that, even in the most difficult circumstances, such as the fight against terrorism and organised crime, the Convention prohibited in absolute terms torture and inhuman or degrading treatment or punishment.

It acknowledged that the applicant's detention had posed serious difficulties for the French authorities and understood that they should have considered it necessary to take extraordinary security measures to detain a man who during the 1970s was viewed as the most dangerous terrorist in the world and who, in addition, had never expressed any remorse.

Conditions in which the applicant was held

During his detention in solitary confinement at La Santé Prison, the applicant was the sole occupant of a cell that was sufficiently large for one prisoner and contained a bed, a table and washing and toilet facilities; it also had a window which provided natural light. The applicant had books, newspapers and a television, and access to the exercise yard for two hours a day and to a cardiac-training room for one hour a day.

The Court found that the physical conditions in which the applicant had been detained were proper and complied with the European Prison Rules that had been adopted by the Committee of Ministers on 16 January 2006. These conditions had also been considered as "globally acceptable" by the CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) in its visit from 14 to 26 May 2000.

¹ This summary by the Registry does not bind the Court.

The Court further noted that the applicant had received twice weekly visits from a doctor, a once monthly visit from a priest and very frequent visits from one or more of his 58 lawyers, including his representative in the proceedings before the Court who was now his wife. He had received more than 640 visits from her over a period of four years and ten months and more than 860 visits in seven years and eight months from his other lawyers. The applicant's family, who were not subject to any restrictions on visiting rights, had never requested permission to visit and the only two requests which had been refused had come from journalists.

In those circumstances, the Court considered that the applicant had not been in complete sensory isolation or total social isolation, but in partial and relative isolation.

Duration of the solitary confinement

The Court noted that a prisoner's segregation from the prison community did not in itself amount to inhuman treatment. In many States parties to the Convention more stringent security measures existed for dangerous prisoners. These arrangements, which were intended to prevent the risk of escape, of attack or of disturbance of the prison community, were based on combination of a separate prison community and tighter controls.

However, in order to avoid any risk of arbitrariness, substantive reasons had to be given when a protracted period of solitary confinement was extended and such measures, which constituted a form of "imprisonment within the prison", were to be resorted to only exceptionally and after every precaution had been taken.

In that connection, the Court noted that the decisions to prolong the applicant's solitary confinement were taken in accordance with the instruction set out in the circular of 8 December 1998, which was applicable in his case. The applicant had received very regular visits from doctors who, although they no longer sanctioned his solitary confinement after July 2000, did not expressly state that his health had been adversely affected. Indeed, the applicant had refused psychological help in July 2002 and although he was examined by a psychiatrist on his arrival at Saint-Maur Prison, no follow-up treatment was prescribed. Indeed, the applicant himself had stated that he was in perfect mental and physical health.

The Court nevertheless wished to emphasise that solitary confinement, even in cases entailing only relative isolation, could not be imposed on a prisoner indefinitely. Moreover, it was essential that the prisoner should be able to have an independent judicial authority review the merits of and reasons for a prolonged measure of solitary confinement. It would also be desirable for alternative solutions to solitary confinement to be sought for persons considered dangerous and for whom detention in an ordinary prison under the ordinary regime was considered inappropriate. The Court noted in particular that after being held in normal conditions the applicant was returned to solitary confinement after giving an interview in which in which he had refused to express any remorse to the victims of his crimes. The authorities had not, therefore, sought to humiliate or debase him by systematically prolonging his solitary confinement, but to find a solution adapted to his character and dangerousness.

Lastly, the Court also had regard to the Government's concerns that the applicant might use communications either inside the prison or on the outside to re-establish contact with members of his terrorist cell, to seek to proselytise other prisoners or to prepare an escape.

In conclusion, while sharing the CPT's concerns about the possible long-term effects of the applicant's isolation, the Court nevertheless considered that, having regard in particular to his character and the danger he posed, the conditions in which the applicant was held during the period under consideration had not reached the minimum level of severity necessary to constitute inhuman or degrading treatment within the meaning of Article 3 of the Convention. Despite the very special circumstances obtaining in the case, the Court was concerned by the particularly lengthy period the applicant had spent in solitary confinement and had duly noted that since 5 January 2006 he had been held under the ordinary prison regime, a situation which, in the Court's view, should not in principle be changed in the future. In the circumstances, it found that there had been no violation of Article 3 of the Convention.

Article 13

In 1996 the applicant had appealed to the administrative court against an order for him to be held in solitary confinement. The appeal was dismissed on 25 November 1998, on the ground that the order was an internal measure that could not be referred to the administrative courts. In that connection, the Court noted that the *Conseil d'État* had changed its jurisprudence on that subject in July 2003 by accepting that a decision to place a prisoner in solitary confinement could be reviewed by the administrative courts.

Accordingly, the Court concluded that there had been a violation of Article 13, on account of the lack of a remedy in French law that would have allowed the applicant to contest the decision to prolong his detention in solitary confinement

Judge Casadevall, joined by Judges Rozakis, Tsatsa-Nikolovska, Fura-Sandström and Popović, expressed a dissenting opinion, which is annexed to the judgment.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Press Contacts

Emma Hellyer (telephone: 00 33 (0)3 90 21 42 15)

Stéphanie Klein (telephone: 00 33 (0)3 88 41 21 54)

Beverley Jacobs (telephone: 00 33 (0)3 90 21 54 21)

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.