



Grand Chamber hearing concerning the conviction of a lawyer for instigating public defamation

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 21 May 2014 at 9.15 a.m.** in the case of **Morice v. France** (Application no. 29369/10)

The case concerns the conviction of a lawyer for instigating public defamation of the judges responsible for investigating the death of Judge Bernard Borrel in Djibouti, following the publication of an article in the daily newspaper *Le Monde*.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

The applicant, Olivier Morice, is a French national who was born in 1960 and lives in Paris. He is the lawyer of Elisabeth Borrel, the widow of the French judge Bernard Borrel, whose dead body was found, partly burnt, on 19 October 1995, 90 kilometres from the city of Djibouti. He had been seconded by the French authorities to the Ministry of Justice in Djibouti. The investigation conducted by the local gendarmerie concluded that he had committed suicide by self-immolation. In February 1997 Ms Borrel disputed the suicide hypothesis and filed a complaint as a civil party for premeditated murder. A judicial investigation was opened and assigned to Judges M. and L.L. On 21 June 2000 the case was withdrawn from the two investigating judges by the Paris Court of Appeal. On 6 September 2000 Mr Morice and another lawyer acting for the Borrel children wrote to the French Minister of Justice requesting an administrative investigation, alleging numerous shortcomings in the judicial investigation, in particular a failure to transmit to the new investigating judge a video tape that had not been registered among the evidence in the file.

On 7 September 2000 the newspaper *Le Monde* published an article entitled "Borrel Case: Judge M.'s impartiality called into question". The journalist stated that Ms Borrel's lawyers had "vigorously" criticised Judges M. and L.L. before the Minister of Justice, accusing them of "conduct which was completely at odds with the principles of impartiality and fairness".

Following a criminal complaint by the two judges in question, Mr Morice was found guilty of instigating the public defamation of Judges M. and L.L.

Relying on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, Mr Morice alleges that his case was not determined fairly and impartially by the Court of Cassation. He maintains that one of the judges on the bench which had ruled on his appeal on points of law had previously and publicly expressed support for Judge M. at the general meeting of judges of the Paris *tribunal de grande instance*, in the context of another high-profile case in which he had been acting as lawyer. Under Article 10 (freedom of expression) of the Convention, Mr Morice alleges that there has been a breach of his right to freedom of expression.

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.

Procedure

The application was lodged with the European Court of Human Rights on 7 May 2010.

In its [Chamber judgment](#) of 11 July 2013 the European Court of Human Rights held, unanimously, that there had been a violation of Article 6 § 1. It found that a member of the Court of Cassation bench which had ruled on the applicant's appeal on points of law had previously expressed his support for Judge M. when she had been in conflict with Mr Morice in another case. The Court found that serious doubts could be raised as to the impartiality of the Court of Cassation, and that Mr Morice's fears in that connection could be regarded as objectively justified.

The Court held, by a majority, that there had been no violation of Article 10 of the Convention. It was of the view that the national courts had been justified in finding that the comments made by Mr Morice, as published in the newspaper *Le Monde*, had overstepped the limits that lawyers had to observe in publicly criticising the justice system.

On 3 October 2013 the applicant requested that the case be referred to the Grand Chamber under Article 43² (referral to the Grand Chamber) and on 9 December 2013 the panel of the Grand Chamber [accepted](#) that request.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Josep **Casadevall** (Andorra),
Guido **Raimondi** (Italy),
Ineta **Ziemele** (Latvia),
Isabelle **Berro-Lefèvre** (Monaco),
Ján **Šikuta** (Slovakia),
George **Nicolaou** (Cyprus),
Luis **López Guerra** (Spain),
Mirjana **Lazarova Trajkovska** ("the Former Yugoslav Republic of Macedonia"),
Ann **Power-Forde** (Ireland),
Zdravka **Kalaydjieva** (Bulgaria),
Julia **Laffranque** (Estonia),
Erik **Møse** (Norway),
André **Potocki** (France),
Johannes **Silvis** (the Netherlands),
Valeriu **Grițco** (the Republic of Moldova),
Ksenija **Turković** (Croatia), *judges*,
Egidijus **Kūris** (Lithuania),
Robert **Spano** (Iceland),
Khanlar **Hajiyev** (Azerbaijan), *substitute judges*,

and also Michael **O'Boyle**, *Deputy Registrar*.

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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.

Representatives of the parties

Government

Nathalie **Ancel**, *Agent*,
Aurélien **Letocart**, Marie-Aude **Recher**, Patricia **Rouault-Chalier** and Emmanuelle **Topin**, *Counsel*;

Applicant

Laurent **Pettiti** and Claire **Audhoui**, *Counsel*,
Nicolas **Hervieu**, Julien **Tardif** and Célia **Chauffray**, *Advisers*.

The applicant, Mr Olivier **Morice**, will also attend the hearing.

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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.