



## Grand Chamber hearing concerning professor's criminal conviction for refusal to make research material available

The European Court of Human Rights is holding a Grand Chamber<sup>1</sup> hearing today **Wednesday, 28 September 2011, at 9.15 a.m.** in the case of **Gillberg v. Sweden** (application no. 41723/06).

**The case concerns a professor's criminal conviction for refusing to comply with a court decision granting access to the University of Gothenburg's research on hyperactivity and attention deficit disorders in children to other researchers.**

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://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, Christopher Gillberg, is a Swedish national, who was born in 1950. He is a professor and Head of the Department of Child and Adolescent Psychiatry at the University of Gothenburg. For several years, he was responsible for a long-term research project on hyperactivity and attention-deficit disorders in children. Certain assurances were made to the children's parents, and later to the young people themselves, concerning confidentiality. According to Mr Gillberg, the university's ethics committee had made it a precondition for the project that sensitive information about the participants would be accessible only to him and his staff, and he had therefore promised absolute confidentiality to the patients and their parents.

In 2002, requests by a sociological researcher and a paediatrician to be granted access to the research material were refused by the University of Gothenburg. Both researchers appealed against the decisions and, in February 2003, the Administrative Court of Appeal found that they should be granted access to the material, as they had shown a legitimate interest and could be assumed to be well acquainted with the handling of confidential data. The university was to specify the conditions for access in order to protect the interests of the individuals concerned. In August 2003, the Administrative Court of Appeal lifted some of the conditions imposed by the university and subsequently a new list of conditions was set for each of the two researchers, which included restrictions on the use of the material and prohibited the removal of copies from the university premises.

Notified by the university's vice-chancellor that the two researchers were entitled to immediate access by virtue of the judgments, Mr Gillberg refused to hand over the material. Following discussions about the matter, the university decided in January and February 2004 to refuse access to the sociological researcher and to impose a new condition on the paediatrician, asking him to demonstrate that his duties required access to the research material in question. Those university decisions were annulled by two

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<sup>1</sup> 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.

judgments of the Administrative Court of Appeal on 4 May 2004. A few days later, the research material was destroyed by colleagues of Mr Gillberg.

In January 2005, the Swedish Parliamentary Ombudsman brought criminal proceedings against Mr Gillberg, and in June he was convicted of misuse of office. He was given a suspended sentence and a fine of the equivalent of 4,000 euros. The university's vice-chancellor and the officials who had destroyed the research material were also convicted. Mr Gillberg's conviction was upheld in February 2006 by the Court of Appeal. In April 2006, leave to appeal to the Supreme Court was refused.

Mr Gillberg complains in particular that his criminal conviction breached his rights under Articles 8 (right to respect for private and family life) and 10 (freedom of expression), because his promise of confidentiality to the participants in the research was allegedly imposed on him by the university's ethics committee, as a precondition for carrying out his research.

## Procedure

The application was lodged with the European Court of Human Rights on 10 October 2006. In its [Chamber judgment](#) of 2 November 2010 the European Court of Human Rights held that there had been no violation of Articles 8 and 10. On 11 April 2011 the case was referred to the Grand Chamber at the request of the applicant<sup>2</sup>. On 11 April 2011 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:

Jean-Paul **Costa** (France), *PRESIDENT*,  
Nicolas **Bratza** (the United Kingdom),  
Françoise **Tulkens** (Belgium),  
Nina **Vajić** (Croatia),  
Dean **Spielmann** (Luxembourg),  
Corneliu **Bîrsan** (Romania),  
Elisabeth **Steiner** (Austria)  
Elisabet **Fura** (Sweden),  
Ljiljana **Mijović** (Bosnia and Herzegovina),  
Egbert **Myjer** (the Netherlands),  
Danutė **Jočienė** (Lithuania),  
Päivi **Hirvelä** (Finland),  
Ledi **Bianku** (Albania),  
Mihai **Poalelungi** (Moldova),  
Nebojša **Vučinić** (Montenegro),  
Kristina **Pardalos** (San Marino),  
Paulo **Pinto de Albuquerque** (Portugal), *JUDGES*,  
Karel **Jungwiert** (the Czech Republic),  
Ganna **Yudkivska** (Ukraine),  
Linos-Alexandre **Sicilianos** (Greece), *SUBSTITUTE JUDGES*,

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and also Erik **Fribergh**, *REGISTRAR*.

## Representatives of the parties

### Government

Carl Henrik **Ehrenkrona**, *COUNSEL*,  
Anders **Rönquist**, Charlotte **Hellner**, Gunilla **Isaksson**, Mathias **Säfsten** and Anita  
**Stawarz**, *ADVISERS*;

### Applicant

Clarence **Crafoord**, Anna Rogalska **Hedlund** and Elias **Eriksson**, *COUNSEL*,  
Bertil **Bjernstam** and Sebastian **Scheiman**, *ADVISERS*.

The applicant, Christopher **Gillberg**, will also attend the hearing.

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### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

**Nina Salomon (tel: + 33 3 90 21 49 79)**

Emma Hellyer (tel: + 33 3 90 21 42 15)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Denis Lambert (tel: + 33 3 90 21 41 09)

**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.