



Grand Chamber hearing H.F. and M.F. v. France and J.D. and A.D. v. France

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 29 September 2021 at 9.15 a.m.** in the case of **H.F. and M.F. v. France and J.D. and A.D. v. France** (application nos. 24384/19 and 44234/20).

The case concerns unsuccessful requests by the applicants for the repatriation by the French authorities of their respective daughters and grandchildren, who are being held in the al-Hol camp in north-eastern Syria run by the Syrian Democratic Forces.

A recording of the hearing will be available 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.

Application no. 24384/19

The applicants, H.F. and M.F., are French nationals who were born in 1958 and 1954 respectively. Their daughter, L., left France on 1 July 2014 together with her partner, for the territory in Syria then controlled by the so-called Islamic State. L. and her partner – who died in February 2018 – had two children who were born in Syria on 14 December 2014 and 24 February 2016. L. and her two children were reportedly arrested on 4 February 2019 and have apparently been held since then in the al-Hol refugee camp run by the Syrian Democratic Forces (SDF) in Kurdish-controlled north-eastern Syria.

In January and May 2018 the applicants' lawyer sent a number of letters to the Minister for Europe and Foreign Affairs, the President of France and his chief of staff, requesting that L. and her children be repatriated to France. On 5 April 2019 the applicants applied to the urgent applications judge at the Paris Administrative Court seeking an order directing the Minister to arrange for the repatriation of their daughter and grandchildren, who, they submitted, were exposed to inhuman and degrading treatment and to a serious and manifestly unlawful interference with their right to life.

In a decision of 10 April 2019 the urgent applications judge rejected their case. The applicants appealed and on 23 April 2019 the Conseil d'Etat dismissed their appeal.

Application no. 44234/20

The applicants, J.D. and A.D., are French nationals who were both born in 1955. Their daughter, who was born in 1989, left France in early July 2015 with her partner to travel to Iraq and later to Syria. She gave birth to a child on 28 January 2019 in Syria. Mother and child were apparently held in the al-Hol camp from March 2019 before being transferred to the Roj camp. The father has reportedly been taken into a Kurdish prison.

In a decision of 7 May 2020 the urgent applications judge of the Paris Administrative Court rejected an application by the applicants for an order directing the Minister for Europe and Foreign Affairs to arrange for the repatriation of their daughter and grandson. In a decision of 25 May 2020 the same court found that it had no jurisdiction to rule on an appeal against the implicit refusal by the

¹ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber."

authorities to repatriate the applicants' family members. An appeal on points of law by the applicants to the *Conseil d'Etat* was dismissed in a decision of 15 September 2020.

Procedure

The applications were lodged with the European Court of Human Rights on 6 May 2019 and 7 October 2020.

On 23 January 2020 the French Government were given notice² of application no. 24384/19, together with questions from the Court. Notice of application no. 44234/20 was given to the Government on 16 February 2021, and at that stage the parties were not asked to submit observations. At the same time, the Chamber decided to grant the cases priority under Rule 41 of the Rules of Court.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants allege that the refusal to repatriate their respective daughters and grandchildren expose them to inhuman and degrading treatment. They also allege that the refusal is in breach of Article 3 § 2 of Protocol No. 4 ("No one shall be deprived of the right to enter the territory of a State of which he is a national") to the Convention. Relying on Article 3 § 2 of Protocol No. 4 taken together with Article 13 (right to an effective remedy), they complain of the lack of an effective remedy by which to challenge the French authorities' refusal to repatriate their family members.

On 16 March 2021 the Chamber to which the cases had been allocated relinquished jurisdiction in favour of the Grand Chamber³. Seven member States of the Council of Europe sought leave to intervene in the proceedings: Norway, Denmark, the United Kingdom, the Netherlands, Belgium, Spain and Sweden. Leave to intervene was also granted to the non-governmental organisations Reprieve; Rights and Security International; and Avocats sans Frontières; as well as to: the French National Advisory Commission on Human Rights; the Défenseur des droits; the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions; the United Nations Special Rapporteur on trafficking in persons, especially women and children; the Clinique des droits de l'homme; and Ghent University.

In addition, the Council of Europe Commissioner for Human Rights submitted comments in writing (Article 36 § 3 of the Convention).

Composition of the Court

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

Robert Spano (Iceland), *President*,
Jon Fridrik Kjølbro (Denmark),
Ksenija Turković (Croatia),
Georges Ravarani (Luxembourg),
Síofra O'Leary (Ireland),
Yonko Grozev (Bulgaria),
Ganna Yudkivska (Ukraine)

² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

³ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber."

Krzysztof **Wojtyczek** (Poland),
Mārtiņš **Mits** (Latvia),
Stéphanie **Mourou-Vikström** (Monaco),
Ivana **Jelić** (Montenegro),
Arnfinn **Bårdsen** (Norway),
Darian **Pavli** (Albania),
Erik **Wennerström** (Sweden),
Peeter **Roosma** (Estonia),
Mattias **Guyomar** (France),
Ioannis **Ktistakis** (Greece), *judges*,
Lorraine **Schembri Orland** (Malta),
Pere **Pastor Vilanova** (Andorra),
Lado **Chanturia** (Georgia), *substitute judges*,

and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government of France

François **Alabrune**, *Agent*,
Benoît **Chamouard**, Jean-Baptiste **Desprez**, Alexis **Le Cour Grandmaison**, Camille **Faure**, Flora **Diana-Martinez**, Alexandra **Roux**, and Laure **Neliaz**, *Advisers*;

Applicants

Marie **Dosé** and Laurent **Pettiti**, *Counsel*,
Sébastien **Van Drooghenbroeck**, *Adviser*,

Third parties

Oral intervention of the Commissioner for human rights

Dunja **Mijatović**, *Commissioner for human rights*,
Giancarlo **Cardinale** and Matthieu **Birker**, *Adviser*,

Joint oral intervention for the 7 States concerned made by

Babette **Koopman**, *Agent, the Netherlands*,
Sir James **Eadie QC**, *Adviser, United Kingdom*,

Delegation of the United Kingdom

Jason **Pobjoy**, *Counsel*,
Daniel **Breger**, *Adviser*,

Delegation of the Netherlands

Clarinda **Coert** and Anne **Aagten**, *Advisers*,

Delegation of Spain

Alfonso **Brezmes Martinez De Villarreal**, *Agent*,
Heide-Elena **Nicolas Martinez** et Luis **Vacas Chalfoun**, *Co-Agents*,
Gabriel Maria **Sistiaga Ochoa De Chinchetru**, *Adviser*,

Accompanying person of Norway

His Excellency Ambassador Helge **Seland**,

Accompanying person of Denmark

Sigrid **Walsøe Sørensen**, *Adviser*,

Delegation of Sweden

Carl Magnus **Nesser**, *Agent*,

Adrian **Engman**, *Co-Agent*,

Victor **Hagstedt**, *Adviser*.

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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.