



Grand Chamber hearing concerning an extradition to the USA

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 11 January 2017 at 9.15 a.m.** in the case of **Harkins v. the United Kingdom** (application no. 71537/14)

The case concerns an extradition order to face trial for first-degree murder in the United States of America (USA).

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, Phillip Harkins, is a British national who was born in 1978 and is currently detained in HMP Belmarsh (the United Kingdom).

In 2000 Mr Harkins was indicted in Florida for first degree murder and attempted robbery with a firearm. He was arrested in the UK in 2003 and the US authorities sought his extradition. In a Diplomatic Note issued on 3 June 2005 the US Embassy assured the UK Government that the death penalty would not be sought. In June 2006 the British Secretary of State ordered Mr Harkins' extradition. Mr Harkins then complained unsuccessfully before the British courts that, if extradited, he risked execution or a sentence of life imprisonment without parole. In 2007 the High Court found that there was no risk of execution if Mr Harkins were to be extradited and, in 2011, it found that a life sentence without parole would not violate Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

In the meantime, in 2007, Mr Harkins had applied to the European Court of Human Rights for the first time ([Harkins and Edwards v. the United Kingdom](#), no. 9146/07). In January 2012 the Court found that Mr Harkin's extradition would not violate Article 3 of the European Convention. It rejected as inadmissible the complaint concerning the alleged risk of the death penalty, considering that the diplomatic assurances, provided by the US to the UK Government, were clear and sufficient to remove any risk of Mr Harkins being sentenced to death if extradited. The Court also found that the imposition of a mandatory life sentence in the US would not violate Article 3. He had been over 18 at the time of his alleged crime, had not been diagnosed with a psychiatric disorder, and the killing had been part of an armed robbery attempt – an aggravating factor. Further, he had not yet been convicted, and – even if he were convicted and given a mandatory life sentence – keeping him in prison might continue to be justified throughout his life time. And if that were not the case, the Governor of Florida and the Florida Board of Executive Clemency could, in principle, decide to reduce his sentence.

Following this judgment, Mr Harkins raised further issues domestically, which ultimately resulted in a decision by the High Court in November 2014. The High Court principally refused to re-open the proceedings, finding that the ECtHR judgments in the cases of [Vinter and Others v. the United Kingdom](#)² (nos. 66069/09, 130/10 and 3896/10) of July 2013 and [Trabelsi v. Belgium](#)³ (no. 140/10) of

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, unless one of the parties to the case objects."

² In this judgment, the Court found that the domestic law concerning the Justice Secretary's power to release a whole life prisoner was unclear. It was therefore not persuaded that the applicants' life sentences were compatible with Article 3 and held that there had been a

September 2014 had not recast Convention law to such an extent that Mr Harkins' extradition would result in a violation of Article 3 of the Convention.

On 11 November 2014 Mr Harkins applied to the European Court a second time. Relying on Articles 3 (prohibition of inhuman or degrading treatment) and 6 (right to a fair trial) of the Convention, Mr Harkins complains about his extradition to the USA, alleging that a first-degree murder conviction in the US carries a mandatory sentence of life in prison without parole.

Procedure

The application was lodged with the European Court of Human Rights on 11 November 2014.

On 13 November 2014 the European Court of Human Rights granted an interim measure under Rule 39 of its Rules of Court, which indicated to the UK Government that the applicant should not be extradited.

The case was [communicated](#)⁴ to the UK Government, with questions from the Court, on 31 March 2015. At the same time, the Chamber decided to grant the case priority under Rule 41 of the Rules of the Court.

On 5 July 2016 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

The organisation Reprieve was granted leave to intervene in the written proceedings as a third party.

Composition of the Court

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

Guido **Raimondi** (Italy), *President*,
 András **Sajó** (Hungary),
 İşıl **Karakaş** (Turkey),
 Luis **López Guerra** (Spain),
 Mirjana **Lazarova Trajkovska** ("the former Yugoslav Republic of Macedonia"),
 Angelika **Nußberger** (Germany),
 Ledi **Bianku** (Albania),
 Kristina **Pardalos** (San Marino),
 Ganna **Yudkivska** (Ukraine),
 Julia **Laffranque** (Estonia),
 André **Potocki** (France),
 Aleš **Pejchal** (the Czech Republic),
 Robert **Spano** (Iceland),
 Carlo **Ranzoni** (Liechtenstein),
 Pauliine **Koskelo** (Finland),
 Tim **Eicke** (the United Kingdom),
 Lətif **Hüseynov** (Azerbaijan), *judges*,
 Helena **Jäderblom** (Sweden),
 Paul **Lemmens** (Belgium),

violation of Article 3 of the Convention.

³ In this judgment, the Court considered that the life sentence to which Mr Trabelsi was liable in the USA was irreducible inasmuch as US law provided for no adequate mechanism for reviewing this type of sentence, and that it was therefore in breach of Article 3 of the Convention.

⁴ 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.

Linos-Alexandre **Sicilianos** (Greece),
Branko **Lubarda** (Serbia), *substitute judges*,

and also Lawrence **Early**, *Jurisconsult*.

Representatives of the parties

Government

Rashmin **Sagoo**, *Agent*,
James **Eadie** QC and Clair **Dobbin**, *Counsel*,
Stephen **Jones**, *Adviser*;

Applicant

Edward **Fitzgerald** QC and Ben **Cooper**, *Counsel*,
Yasmin **Aslam**, Baljit Singh **Ahluwalia** and Aisha **Aslam**, *Counsel*.

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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.