



Grand Chamber hearing in case of asylum-seekers held in Hungarian border zone before being sent to Serbia

The European Court of Human Rights is holding a **Grand Chamber¹** hearing today **Wednesday 18 April 2018 at 9.15 a.m.** in the case of **Ilias and Ahmed v. Hungary** (application no. 47287/15).

The case concerns the detention of two Bangladeshi asylum-seekers in the border zone for 23 days as well as their removal from Hungary to Serbia.

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 applicants, Md Ilias Ilias and Ali Ahmed, are Bangladeshi nationals who were born in 1983 and 1980.

The applicants transited through Greece, “the former Yugoslav Republic of Macedonia” and Serbia, eventually arriving in Hungary on 15 September 2015. They immediately applied for asylum. For the next 23 days they stayed within the Röszke transit zone situated on the border between Hungary and Serbia; they could not leave for Hungary as the zone was surrounded by a fence and guarded.

Following two sets of asylum proceedings, they were removed from Hungary. The removal decision referred to a Government Decree, introduced in 2015, listing Serbia – the last country through which the applicants had transited – as a safe third country. The asylum authorities notably found that psychiatrist reports, following visits to the applicants, had not shown that they had special needs which could not be met in the transit zone. Nor had the applicants referred to any pressing individual circumstances to substantiate their assertion that Serbia was not a safe country for them. The domestic court upheld this decision, which was served on the applicants on 8 October 2015. They were immediately escorted to the Serbian border, leaving the transit zone without physical coercion being applied.

Procedure

The application was lodged with the European Court of Human Rights on 25 September 2015.

Relying on Article 5 § 1 (right to liberty and security) and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) of the European Convention on Human Rights, the applicants allege that the 23 days they spent in the transit zone amounted to a deprivation of liberty which had no legal basis and which could not be remedied by an appropriate judicial review. Further relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the Convention, they allege that their protracted confinement in the transit zone in substandard conditions, especially given that they were suffering from post-traumatic stress disorder, was inhuman. Further relying on Article 3, they allege that their expulsion to Serbia,

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.

without a thorough and individualised assessment of their cases, exposed them to possible chain-*refoulement* – via Serbia and “the former Yugoslav Republic of Macedonia” – to Greece, where they were at risk of inhuman reception conditions. They further claim that the inadequacy of the asylum proceedings was aggravated by the fact that the only legal information the authorities had given the applicants, who were illiterate, was in writing, and that they were interviewed through interpreting which was not in their mother tongue and was of poor quality. Under Article 13 (right to an effective remedy) in conjunction with Article 3, they also complain of alleged deficiencies in the examination of their legal challenge to their expulsion.

In its Chamber [judgment](#) of 14 March 2017, the European Court of Human Rights held, unanimously, that there had been a violation of Article 5 §§ 1 and 4 (right to liberty and security) of the European Convention on Human Rights, finding that the applicants’ confinement in the Röske border zone had amounted to detention, meaning they had effectively been deprived of their liberty without any formal, reasoned decision and without appropriate judicial review. The Chamber further held, unanimously, that there had been no violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention as concerned the conditions of the applicants’ detention in the transit zone, but that there had been a violation of Article 13 (right to an effective remedy) as concerned the lack of an effective remedy to complain about their conditions of detention. Lastly, the Chamber held, unanimously, that there had been a violation of Article 3 on account of the applicants’ expulsion to Serbia as they had not had the benefit of effective guarantees to protect them from exposure to a real risk of being subjected to inhuman or degrading treatment.

The Chamber found in particular that, in the applicants’ asylum proceedings, the Hungarian authorities had failed to carry out an individual assessment of each applicant’s case; had schematically referred to the Government’s list of safe third countries; disregarded the country reports and other evidence submitted by the applicants; and had imposed an unfair and excessive burden on them to prove that they were at real risk of a chain-*refoulement* situation, whereby they could eventually be driven to Greece to face inhuman and degrading reception conditions.

On 18 September 2017 the Grand Chamber Panel accepted the Hungarian Government’s request that the case be referred to the Grand Chamber.

The following persons and organisations were granted leave to intervene in the written proceedings as third parties: the Governments of Bulgaria, Poland and Russia, the UN Refugee Agency (UNCHR), the Dutch Council for Refugees (DRC), the International Commission of Jurists (ICJ), the European Council on Refugees and Exiles (ECRE), and five Italian scholars: Serena Bolognese, Beatrice I. Bonafè, Maura Marchegiani, Loris Marotti and Alessio Sangiorgi.

Composition of the Court

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

Guido **Raimondi** (Italy), *President*,
Angelika **Nußberger** (Germany),
Linos-Alexandre **Sicilianos** (Greece),
Robert **Spano** (Iceland),
Ledi **Bianku** (Albania),
Işıl **Karakaş** (Turkey),
Nebojša **Vučinić** (Montenegro)
Erik **Møse** (Norway),
André **Potocki** (France),
Paul **Lemmens** (Belgium),
Aleš **Pejchal** (the Czech Republic),
Dmitry **Dedov** (Russia),

Jon Fridrik **Kjølbro** (Denmark),
Yonko **Grozev** (Bulgaria),
Georges **Ravarani** (Luxembourg),
Jolien **Schukking** (the Netherlands),
Péter **Paczolay** (Hungary), *judges*,
Mārtiņš **Mits** (Latvia),
Ksenija **Turković** (Croatia),
Stéphanie **Mourou-Vikström** (Monaco), *substitute judges*,

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

Representatives of the parties

Government

Zoltán **Tallódi**, *Agent*,
Mónika **Weller**, *Co-Agent*,
Aranka **Lőrincz**, *Adviser*;

Applicants

Barbara **Pohárnok**, *Counsel*,
Grusa **Matevzic** and Nuala **Mole**, *Advisers*.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Patrick Lannin (tel: + 33 3 90 21 44 18)

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

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

Inci Ertekin (tel: + 33 3 90 21 55 30)

Somi Nikol (tel: + 33 3 90 21 64 25)

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.