



Grand Chamber to examine case about secret rendition operation

The Chamber of the European Court of Human Rights to which the case **El-Masri v. "the former Yugoslav Republic of Macedonia"** (application no. 39630/09) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**¹.

The case concerns the complaints of a German national of Lebanese origin that he had been a victim of a secret "rendition" operation during which he was arrested, held in isolation, questioned, ill-treated in Skopje, and then transferred to CIA agents who shipped him to a secret detention facility in Afghanistan, where he was further ill-treated for over four months.

Principal facts

The applicant, Khaled El-Masri, a German national of Lebanese origin, was born in 1963 and is living in Ulm (Germany).

Mr El-Masri complains that the Macedonian police arrested him in December 2003, kept him locked for 23 days in a hotel in Skopje questioning him about alleged ties with terrorist organisations, and then handed him over to CIA agents who transferred him, blindfolded and chained, on a special flight to Afghanistan, where he remained in detention until May 2004. He submits that he was beaten, kicked and threatened while interrogated in the small, dirty, dark concrete cell in which he was kept in a brick factory, north of the Kabul business centre, known as the "Salt pit".

Mr El-Masri further submits that in March 2004 he started a hunger strike to protest about being kept in detention without charges. In April of the same year, 37 days into his hunger strike, he claims that he was force-fed through a tube which made him severely ill and bedridden for several days. In May 2004, he allegedly started a second hunger strike a week before he was taken, blindfolded and handcuffed, onto an airplane first to Albania and then to Germany – to Frankfurt International Airport. Mr El-Masri weighed then about 18 kilos less than a few months earlier when he had left Germany.

Immediately after his return to Germany, he contacted a lawyer and has brought several legal actions since.

His case has been discussed at large within the Parliamentary Assembly of the Council of Europe and the European Parliament. The position of the Government of "the former Yugoslav Republic of Macedonia" has been that Mr El-Masri had entered the country on 31 December 2003, had been interviewed by the police as suspected of travelling with false documents, had been allowed entry into the country and then had left over the border crossing into Kosovo².

¹ Article 30 of the European Convention on Human Rights and Rule 72 of the Rules of Court.

² All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Complaints

Relying on Article 3 (prohibition of inhuman and degrading treatment), Mr El-Masri complains in particular that he had been ill-treated in a hotel in Skopje, that he had been transferred to a CIA rendition team at the Skopje airport which had led to his ill-treatment in Afghanistan. Relying further on Articles 5 (right to liberty and security) and 8 (right to respect for private and family life), he alleges the direct responsibility of the "the former Yugoslav Republic of Macedonia" for the entire period of his captivity between 31 December 2003 and his return to Albania on 28 May 2004. In this connection, he complains that he had been detained unlawfully and kept *incommunicado*, without any arrest warrant, and that he had never been brought before a judge. The absence of a prompt and effective investigation by the Macedonian authorities into his credible allegations, he claims, had been in breach of Articles 3, 5 and 13 (right to an effective remedy). Lastly, he argues that he and the public, as a whole, had a right, under Articles 3, 5, 10 (freedom of expression and information) and 13 to the truth as to whether he had been subject to the secret rendition programme.

The application was lodged with the Court on 20 July 2009.

It was communicated³ to the Government of "the former Yugoslav Republic of Macedonia", with questions from the Court, on 28 September 2010. A statement of facts submitted to the Government is available only in English on the Court's website (<http://www.echr.coe.int>).

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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.

³ 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.