



Application to European Court of Human Rights from widow and daughter of Yasser Arafat declared inadmissible

In its decision in the case of [El Kodwa Arafat v. France](#) (application no. 82189/17) the European Court of Human Rights has unanimously declared the application inadmissible.

The applicants had complained of a breach of their right to a fair hearing, under Article 6 § 1 of the Convention, in proceedings, to which they were joined as civil parties, initiated by their criminal complaint against persons unknown alleging the premeditated murder of Yasser Arafat.

In its decision the Court found that a judicial investigation for premeditated murder had been initiated by the public prosecutor of Nanterre less than a month after the complaint was filed and three investigating judges had been appointed, thus showing that the domestic authorities had acted diligently upon the applicants' complaint. In addition, many investigative acts had been performed, both in France and abroad, and at all stages of the proceedings the applicants, assisted by their lawyers, had been able to exercise their rights effectively and to make their submissions on the various aspects at issue.

The Court also noted that the refusals of some of the applicants' requests, after being duly examined by the domestic judges and rejected in reasoned decisions, were not in themselves capable of calling into question the fairness of the proceedings as a whole. Those judges did not appear to have reached arbitrary conclusions based on the facts before them and their interpretation of the evidence in the file or the applicable law had not been unreasonable.

In the light of those considerations, the Court found that the application was manifestly ill-founded and therefore rejected it as inadmissible.

This decision is final.

Principal facts

The applicants, Suha El Kodwa Arafat and Zahwa El Kodwa Arafat, are French nationals who were born in 1963 and 1995 respectively.

They are the widow and daughter of Yasser Arafat, who died on 11 November 2004 in France at the Percy Military Hospital where he was being treated following a decline in his state of health at a time when he was in Ramallah, Palestine. On his widow's request, no post mortem was carried out.

In March 2012 traces of polonium 210, a highly radioactive material, suggesting that Y. Arafat might have been poisoned, were found on his personal belongings that his widow had recovered after his death. They were entrusted to a journalist from the Al Jazeera television channel, C.S., to be analysed.

In July 2012 the applicants initiated criminal proceedings, to which they were joined as civil parties, by filing a criminal complaint against persons unknown alleging the premeditated murder of Yasser Arafat. On 28 August 2012 the public prosecutor of Nanterre opened a judicial investigation on that charge. Three investigating judges were appointed and three experts were asked to determine the cause of the decline in Mr Arafat's health. Their operations took place in the presence of French and Swiss teams, together with a Russian team at the request of the Palestinian Authority.

The French judicial expert's report concluded that the result of radiological analyses did not prove the existence of exposure to polonium 210. The Swiss report disagreed with the French findings. An additional expert's report, ordered by the investigating judge, confirmed the findings of the French report. The applicants submitted a request for that additional report to be excluded from evidence as invalid.

Many witnesses were interviewed in Palestine, France and in other countries under international letters of request.

On 1 September 2015 the investigating judges gave a decision, with lengthy reasoning, discontinuing the investigation. In two judgments of 24 June 2016 the Investigation Division of the Court of Appeal of Versailles dismissed the plea of invalidity and upheld the discontinuance. The applicants appealed on points of law against those judgments.

On 28 June 2017 the Court of Cassation dismissed those appeals.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 5 December 2017.

Relying on Article 6 § 1 (right to a fair hearing), the applicants complained about the refusal to exclude from evidence an additional expert report, as they had requested on account of their doubts concerning the origin and traceability of the sample used for that assessment, the methodology applied and the results, which were contradicted by the results of Swiss experts. They also criticised the refusal to order a fresh expert report on their behalf and to grant their other claims, based on contradictions between the results obtained by the different experts, Swiss and French, from their respective measurements and analyses.

The decision was given by a Committee of three judges, composed as follows:

Ganna **Yudkivska** (Ukraine), *President*,
 Arnfinn **Bårdsen** (Norway),
 Mattias **Guyomar** (France),

and also Martina **Keller**, *Deputy Registrar*.

Decision of the Court

Article 6 § 1

The Court reiterated that, while the Convention guaranteed the right to a fair hearing under Article 6 it did not lay down any rules on the admissibility of evidence as such, this being primarily a matter for regulation by domestic law. It therefore did not fall within the Court's remit to substitute its own assessment of the facts and evidence for that of the domestic courts, its task being to ensure that the evidence was taken in a manner that guaranteed a fair hearing.

The Court noted that a judicial investigation for premeditated murder had been initiated by the public prosecutor of Nanterre less than a month after the complaint was filed and three investigating judges had been appointed, thus showing that the domestic authorities had acted diligently upon the applicants' complaint. In addition, many investigative acts had been performed, both in France and abroad.

In addition, it appeared that at all stages of the proceedings the applicants, assisted by their lawyers, had been able to exercise their rights effectively and to make their submissions on the various aspects at issue. The Court noted in particular that the interviews had been based on a list of

witnesses provided to the investigating judges by the applicants themselves and that their request for additional interviews had also been accepted.

The Court took the view that the refusals of some of the applicants' requests, after being duly examined by the domestic judges and rejected in reasoned decisions, were not in themselves capable of calling into question the fairness of the proceedings as a whole.

Lastly, it did not appear that those judges had reached arbitrary conclusions based on the facts before them or that their interpretation of the evidence in the file or the applicable law had gone beyond what was reasonable.

In those circumstances the Court declared the application inadmissible.

The decision is available only in French.

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 [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

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

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

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

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

Neil Connolly (tel: +33 3 90 21 48 05)

Jane Swift (tel: + 33 3 88 41 29 04)

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.