



## Forthcoming hearings in June 2016

The European Court of Human Rights will be holding the following four hearings in June 2016:

**Moreira Ferreira v. Portugal (No. 2)** (no. 19867/12), concerning the rejection by the Supreme Court of a request lodged by the applicant for revision of a criminal judgment following a judgment delivered by the European Court of Human Rights.

**Khlaifia and Others v. Italy** (no. 16483/12), concerning the detention in a reception centre on Lampedusa and subsequently on ships moored in Palermo harbour, as well as the return to Tunisia, of clandestine migrants who had landed on the Italian coast in 2011 during the events linked to the “Arab Spring”.

**Al Nashiri v. Romania** (no. 33234/12) and **Abu Zubaydah v. Lithuania** (no. 46454/11), concerning the “rendition” of two men suspected of terrorist acts to the CIA secret detention sites at which illegal interrogation methods were used.

*After these hearings the Court will begin its deliberations, which will be held in private. Its ruling in the cases will, however, be made at a later stage. A limited number of seats are reserved for the press. To be sure of having a place, you need to book in advance by contacting the Press Unit (+33 (0)3 90 21 42 08).*

### On 1 June 2016 at 9.15 a.m.: Grand Chamber hearing in the case *Moreira Ferreira v. Portugal* (n° 2) (application no. 19867/12)

The applicant, Francelina Moreira Ferreira, is a Portuguese national who was born in 1961 and lives in Matosinhos (Portugal).

The case concerns a judgment of the Supreme Court of 21 March 2012 rejecting a request for revision of a criminal judgment that had been submitted by the applicant following a judgment delivered by the European Court of Human Rights finding a violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights (*Moreira Ferreira v. Portugal*, no. 19808/08, 5 July 2011).

In the present case the Supreme Court held that the judgment of the European Court of Human Rights was not irreconcilable with the conviction that had been pronounced against the applicant and did not raise serious doubts regarding the merits of that conviction as required under Article 449 § 1 (g) of the Code of Criminal Procedure.

According to the applicant, there has been a violation of Articles 6 § 1 and 46 § 1 (binding force and execution of judgments) of the Convention as a result of an incorrect interpretation by the Supreme Court of the judgment of the European Court of Human Rights.

The application was lodged with the European Court of Human Rights on 30 March 2012. On 12 January 2016 the Chamber to which the case had been allocated [relinquished jurisdiction](#) in favour of the Grand Chamber<sup>1</sup>.

<sup>1</sup> 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

## On 22 June 2016 at 9.15 a.m.: Grand Chamber hearing in the case *Khlaifia and Others v. Italy* (no. 16483/12)

The applicants, Saber Ben Mohamed Ben Ali Khlaifia, Fakhreddine Ben Brahim Ben Mustapha Tabal and Mohamed Ben Habib Ben Jaber Sfar, are Tunisian nationals who were born in 1983, 1987 and 1988 respectively. Mr Khlaifia lives in Om Laarass (Tunisia) and Mr Tabal and Mr Sfar live in El Mahdia (Tunisia).

On 16 and 17 September 2011 they left Tunisia by sea; their boats were subsequently intercepted by the Italian authorities. The applicants were then escorted to the island of Lampedusa, where they were transferred to a first reception centre (*Centro di Soccorso e Prima Accoglienza – “CSPA”*) in Contrada Imbriacola.

According to the applicants, the conditions of hygiene in the centre were appalling: there were no doors separating the toilets and showers from the other rooms and water supplies were limited. They also submitted that owing to overcrowding the migrants had to sleep on the floor and that, furthermore, they were allowed no contact with the outside.

On 20 September the reception centre suffered fire damage following a riot by the migrants. The applicants were taken to a sports complex for the night, where they managed to evade detection by the law enforcement agencies and reach the village of Lampedusa, where they joined in a protest demonstration with almost 1,800 other migrants. Having been arrested by the police, the applicants were finally transferred by air to Palermo and placed on two ships moored in that city's harbour, where they spent four days aboard.

The applicants were finally removed to Tunisia on 27 and 29 September 2011. Before their departure they were interviewed by the Tunisian Consul, who, according to the applicants, merely recorded their identities in accordance with the agreements of April 2011 between Italy and Tunisia.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, the applicants complain of their conditions of detention in the reception centre and on board the ships. They also allege that their detention was contrary to Article 5 § 1 (right to liberty and security), Article 5 § 2 (right to be promptly informed of the reasons for deprivation of liberty) and Article 5 § 4 (right to a decision on the lawfulness of detention). Relying on Article 13 (right to an effective remedy), they also submit that they had no effective domestic remedy by which to complain of the violation of their rights. Finally, the applicants submit that they were subjected to collective expulsion, which is prohibited under Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens).

In its Chamber [judgment](#) of 1 September 2015, the Court held, unanimously, that there had been a violation of Article 5 §§ 1, 2 and 4 of the Convention, finding that the applicants had been deprived of their liberty without a sufficient legal basis, that they had not been duly informed of the reasons for the measure, and that they had been unable to challenge it.

The Chamber further held, unanimously, that there had been no violation of Article 3 in respect of the conditions of detention on board the ships and, by five votes to two, that there had been a violation of Article 3 in respect of the conditions of detention in the Contrada Imbriacola first reception centre. Concerning the conditions of the applicants' detention in that centre, the Chamber took account of the exceptional humanitarian crisis facing Italy on the island of Lampedusa in 2011 in the wake of the Arab Spring (55,298 migrants had landed around the time the applicants had been present there). The Chamber nonetheless concluded that the conditions in which the applicants

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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".

were held had diminished their human dignity, although that had not been the case on board the ships moored in Palermo harbour.

The Chamber also held, by five votes to two, that there had been a violation of Article 4 of Protocol No. 4, taking the view that the applicants had been subjected to a collective expulsion, as the refusal-of-entry decisions issued to them had not referred to their individual situations. The Chamber found in particular that an identification procedure was insufficient to rule out the existence of collective expulsion. It also noted that at the relevant time a large number of Tunisians had been removed by means of such fast-track procedures.

Lastly, the Court held, by five votes to two, that there had been a violation of Article 13 taken in conjunction with Article 3 of the Convention and Article 4 of Protocol No. 4, finding, first, that the applicants had not had an effective remedy by which to complain of the conditions of their detention in the Contrada Imbriacola first reception centre, because an application to a Justice of the Peace could concern only the lawfulness of their return to Tunisia and, second, that this form of action would not have the effect of suspending the measure at issue (namely removal to Tunisia), whereas that was one of the requirements of Article 13 of the Convention, taken together with Article 4 of Protocol No. 4.

On 1 February 2016 the case was referred to the Grand Chamber at the request of the Italian Government<sup>2</sup>.

On 29 June 2016 9.00 a.m.: Chamber hearing in the case *Al Nashiri v. Romania* (no. 33234/12)

The applicant, Abd Al Rahim Hussayn Muhammad Al Nashiri, is a Saudi Arabian national of Yemeni descent who was born in 1965. Mr Al Nashiri is currently detained in the Internment Facility at the United States (US) Guantanamo Bay Naval Base in Cuba. He has been suspected of the terrorist attack on the US Navy ship USS Cole in the harbour of Aden, Yemen, in October 2000 and of playing a role in the attack on the French oil tanker MV Limburg in the Gulf of Aden in October 2002.

Mr Al Nashiri alleges that he was a victim of an “extraordinary rendition” by the US Central Intelligence Agency (CIA), that is, of apprehension and extrajudicial transfer to CIA secret detention facilities in various countries, including Poland and Romania. He submits that he was held in a secret detention site in Romania, from 12 April 2004 to an unknown date before 6 September 2006, before being transferred and imprisoned at Guantanamo Bay, with the knowledge of the Romanian authorities for the purpose of interrogation, during which he was tortured.

Mr Al Nashiri’s complaints under the European Convention on Human Rights relate to three principal issues: his ill-treatment in Romania while in US custody, his transfer from Romania, and Romania’s failure to conduct an effective investigation into the circumstances surrounding his ill-treatment, detention and transfer from the Romanian territory. As regards his ill-treatment and detention in Romania, he alleges that Romania violated Articles 3 (prohibition of torture), 5 (right to liberty and security) and 8 (right to respect for family and private life) of the Convention in enabling his torture, ill-treatment and incommunicado detention on Romanian territory.

As regards his transfer from Romania, Mr Al Nashiri submits that, in knowingly and intentionally enabling his transfer despite substantial grounds for believing that there was a real risk that he would be subjected to the death penalty, Romania violated his rights under Articles 2 (right to life) and 3 of the Convention as well as Protocol No. 6 (abolition of death penalty) to the Convention.

<sup>2</sup> 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.

Furthermore, he submits that Romania violated his right to an effective remedy under Article 13 of the Convention by failing to conduct an effective investigation into the serious violations of his rights.

The case was lodged with the European Court of Human Rights on 1 June 2012.

**On 29 June 2016 at 2.45 p.m.: Chamber hearing in the case Abu Zubaydah v. Lithuania (no. 46454/11)**

The applicant, Abu Zubaydah is a stateless Palestinian, who was born in 1971 in Saudi Arabia. He is currently detained in the Internment Facility at the United States (US) Guantanamo Bay Naval Base in Cuba. At the time of his capture, he was considered by the US authorities as one of the key members of the terrorist network Al' Qaeda, who played a role in several terrorist operations, including planning the attacks of 11 September 2001 in the US.

Mr Abu Zubaydah submits that on 27 March 2002 he was captured in Pakistan and then kept in CIA secret detention facilities elsewhere, including Guantanamo Bay, Poland, Morocco and Lithuania. He alleges that from 17 February 2005 to 25 March 2006 he was held in a secret detention facility in Lithuania, constructed and equipped specifically for CIA detention, in accordance with prior authorisation from Lithuanian authorities. Subsequently, he was transferred to Guantanamo.

Mr Abu Zubaydah complains that the rendition process amounted to a violation of his rights under Article 3 (prohibition of torture) of the Convention. Although he was detained in Lithuania for over a year, his detention was not acknowledged, and no official trace of it existed in the public domain at that stage, in violation of Article 5 (right to liberty and security). It is further alleged that while in detention in Lithuania he was not permitted any contact with his family, nor was he allowed to establish contact with a lawyer, in breach of Article 8 (right to respect for private and family life). Lastly, he complains that Lithuania has violated, and continues to violate, Abu Zubaydah's rights under Articles 3, 5 and 8, as well as his right to an effective remedy under Article 13 of the Convention, by failing to conduct an effective investigation of his enforced disappearance, secret detention, torture and ill-treatment.

The case was lodged with the European Court of Human Rights on 14 July 2011.

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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.