



## Grand Chamber to examine case concerning extradition to the USA

Jurisdiction has recently been **relinquished in favour of the Grand Chamber**<sup>1</sup> of the European Court of Human Rights in the following case:

**Harkins v. the United Kingdom** (application no. 71537/14), concerning an extradition order to face trial for first-degree murder in the United States of America (USA).

The applicant, Phillip Harkins, is a British national who was born in 1978 and lives in Manchester (the United Kingdom).

Mr Harkins is wanted for murder in the United States of America. Accused of having killed a man during an armed robbery attempt together with an accomplice, he was indicted in the USA in 2000. Mr Harkins was arrested in the UK in 2003 and the US authorities sought his extradition. In a Diplomatic Note issued on 3 June 2005 the United States Embassy assured the United Kingdom Government that the death penalty would not be sought. In June 2006 the British Secretary of State ordered Mr Harkins' extradition. He 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 the life sentence without parole imprisonment did 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 British Government were clear and sufficient to remove any risk of Mr Harkins being sentenced to death if extradited. As concerned his complaint about life imprisonment without parole, the Court was not persuaded that it would be grossly disproportionate for Mr Harkins to be given a mandatory life sentence in the US. 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](#)<sup>2</sup> (nos. 66069/09, 130/10 and 3896/10) of July 2013 and [Trabelsi v. Belgium](#)<sup>3</sup> (no. 140/10) of

<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 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."

<sup>2</sup> 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 violation of Article 3 of the Convention.

<sup>3</sup> 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.

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.

Mr Harkins then – on 11 November 2014 – 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 United States, alleging that a first-degree murder conviction in the United States carries a mandatory sentence of life in prison without parole.

Mr Harkins' extradition was suspended on the basis of an interim measure granted on 13 November 2014 by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the British Government that he should not be extradited to the USA until further notice.

The case was communicated<sup>4</sup> to the Government of the United Kingdom, 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. A [statement of facts](#) submitted to the Government is available on the Court's website.

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

A Grand Chamber hearing will take place in Strasbourg on 11 January 2017.

---

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](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

#### Press contacts

[echrpres@echr.coe.int](mailto:echrpres@echr.coe.int) | tel: +33 3 90 21 42 08

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

Nina Salomon (tel: + 33 3 90 21 49 79)

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

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

**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.

<sup>4</sup> 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.