



Forthcoming hearings in January 2017

The European Court of Human Rights will be holding the following two hearings in January 2017:

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);

Garib v. the Netherlands (no. 43494/09): concerning the complaint by a woman living on social welfare about residential restrictions in a district of Rotterdam as a result of which she was unable to freely choose her place of residence.

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 11 January 2017 at 9.15 a.m.: Grand Chamber hearing in the case **Harkins v. the United Kingdom (application no. 71537/14)**

The applicant, Phillip Harkins, is a British national who was born in 1978 and is currently detained in HMP Belmarsh (the United Kingdom).

In 2000 Mr Harkins was indicted in Florida for first degree murder and attempted robbery with a firearm. He was arrested in the UK in 2003 and the US authorities sought his extradition. In a Diplomatic Note issued on 3 June 2005 the US Embassy assured the UK Government that the death penalty would not be sought. In June 2006 the British Secretary of State ordered Mr Harkins' extradition. Mr Harkins then 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 a life sentence without parole would 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 UK Government, were clear and sufficient to remove any risk of Mr Harkins being sentenced to death if extradited. The Court also found that the imposition of a mandatory life sentence in the US would not violate Article 3. 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](#)¹ (nos. 66069/09, 130/10 and 3896/10) of July 2013 and [Trabelsi v. Belgium](#)² (no. 140/10) of 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.

On 11 November 2014 Mr Harkins 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 USA, alleging that a first-degree murder conviction in the US carries a mandatory sentence of life in prison without parole.

On 13 November 2014 the European Court of Human Rights granted an interim measure under Rule 39 of its Rules of Court, which indicated to the UK Government that he should not be extradited to the US until further notice.

The case was communicated³ to the UK Government, 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 Chamber⁴.

On 25 January 2017 at 9.15 a.m.: Grand Chamber hearing in the case Garib v. the Netherlands (no. 43494/09)

The applicant, Ms Rohiniedevie Garib, is a Netherlands national who was born in 1971. She is a single mother of two whose sole source of income is social welfare.

Ms Garib settled in the Tarwewijk district of Rotterdam in 2005, having previously lived outside the Rotterdam Metropolitan Region. She was subsequently asked by the owner of the property which she was renting to vacate the place, as he wished to renovate it for his own use. He offered to let to her another property in the same area, to which she agreed, given that the new flat was bigger and more suitable for her and her two young children.

In the meantime, the Tarwewijk district of Rotterdam – an area of high unemployment – had been designated under the Inner City Problems (Special Measures) Act as an area in which taking up new residence was only possible with a housing permit. Ms Garib duly lodged a request for such a permit in March 2007. Her request was refused by the authorities on the grounds that she had not been a resident in the Rotterdam Metropolitan Region for the six years immediately preceding the introduction of her request. Moreover, since her income was not from work, she did not meet the income requirement that would have qualified her for an exemption from the length-of-residence requirement.

Ms Garib's objection against that decision was dismissed by the city authorities and, in April 2008, the Regional Court dismissed her appeal. It argued in particular that the Inner City Problems (Special

¹ 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.

² 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.

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.

⁴ 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".

Measures) Act provided for the possibility of temporary restrictions on freedom of residence. Those restrictions aimed to reverse a process of overburdening the districts concerned by striving for a more mixed composition of residents from a socioeconomic point of view. Her further appeal was dismissed by the Council of State in February 2009. In September 2010 she moved to the municipality of Vlaardingen, where she still lives.

Ms Garib complains that the Inner City Problems (Special Measures) Act and the related city legislation violated her rights under Article 2 of Protocol No. 4 (freedom of movement / freedom to choose one's residence) to the European Convention on Human Rights.

In its Chamber [judgment](#) of 23 February 2016, the European Court of Human Rights held, by fives to two, that there had been no violation of Article 2 of Protocol No. 4. The Chamber found that the measure pursued a legitimate aim – namely, it intended to reverse the decline of impoverished inner-city areas and to improve the quality of life – and it was proportionate to that aim. In particular, the relevant legislation included several safeguard clauses for those who did not qualify for a housing permit; and Ms Garib had not been prevented from taking up residence in areas of Rotterdam not covered by the legislation in question.

On 12 September 2016 the Grand Chamber Panel accepted Ms Garib's request that the case be referred to the Grand Chamber⁵.

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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.

⁵ 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.