



Refusal to allow a prisoner convicted of terrorist offences to travel to her father's funeral did not breach the Convention

In today's Chamber judgment¹ in the case of [Guimon v. France](#) (application no. 48798/14) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the refusal to allow the applicant, who was imprisoned in Rennes for terrorist offences, to travel to a funeral parlour in Bayonne to pay her last respects to her deceased father.

The Court noted that the authorities had rejected the request on the grounds, firstly, of the applicant's criminal profile – she was serving several prison sentences for terrorist offences and continued to assert her membership of ETA – and, secondly, because it was impossible to organise a reinforced security escort within the time available.

The Court found that the respondent State had not exceeded the margin of appreciation afforded to it in this area and that the refusal to grant the applicant's request had not been disproportionate and had pursued legitimate aims.

Principal facts

The applicant, Laurence Guimon, is a French national who was born in 1969. She was detained in Rennes Prison (France) at the material time.

Ms Guimon, an active member of ETA until her arrest in 2003, was convicted on three occasions, primarily for involvement in a criminal conspiracy planning an act of terrorism, handling assets obtained by racketeering, and unlawful possession and transport of weapons and explosive substances or devices in connection with terrorism.

On 26 April 2006 she was sentenced to 8 years' imprisonment; on 29 November 2006 she was sentenced to 17 years' imprisonment with eligibility for parole only after two-thirds of the term had been served; and on 17 November 2008, she was sentenced to a 17-year prison term, the latter sentence to run concurrently with the second. In 2011 the courts ordered the partial concurrent serving (five years maximum) of the 8-year sentence and the 17-year sentence.

On 21 January 2014 the applicant's lawyer requested that she be granted a period of leave under escort so that she could pay her last respects to her father, who had died on the same day in a Bayonne hospital.

On 22 January the request was rejected by the Vice-President responsible for the execution of sentences at the Paris *tribunal de grande instance*, who held that, while a death in the family could constitute grounds for granting leave under escort, the request had to be assessed in the light of the prisoner's personality and the risk of escape.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 23 January Ms Guimon appealed. On 24 January 2014 the order of 22 January was upheld. The court of appeal held that although the request for authorisation was perfectly justified in human terms, the risk of public disorder implied increased security, especially because of the geographical distance involved, and because it was physically impossible to organise an escort at such short notice.

Ms Guimon lodged an appeal on points of law against that decision. By an order of 29 April 2014, the Court of Cassation dismissed that appeal, finding that there were no arguable grounds for setting the decision aside.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicant complained about the judicial authorities' refusal to grant her prison leave, under escort, to travel to the Bayonne funeral parlour so that she could pay her last respects to her deceased father.

The application was lodged with the European Court of Human Rights on 2 July 2014.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,
André **Potocki** (France),
Síofra **O'Leary** (Ireland),
Mārtiņš **Mits** (Latvia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Lətif **Hüseynov** (Azerbaijan),
Lado **Chanturia** (Georgia),

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Article 8

The Court reiterated that detention entailed inherent limitations on the applicant's private and family life. The right to prison leave was not guaranteed as such by the Convention.

The Court noted that the refusal to authorise escorted leave had been in accordance with the law, namely Article 723-6 of the Code of Criminal Procedure, and that the risks of escape and public disorder were inherent in granting temporary leave to a convicted prisoner, with or without an escort. Except in emergency situations, decisions on requests for leave under escort were taken after obtaining the opinion of the sentence enforcement board. The Court considered that the possible grounds for refusing Ms Guimon's request had been sufficiently foreseeable.

The Court noted that the judicial authorities, at first instance and on appeal, had examined Ms Guimon's request diligently and had held that her father's death was an exceptional ground which could justify granting escorted leave. However, the authorities had refused to grant her request on account, firstly, of her criminal profile – she was serving several prison sentences for terrorist offences and continued to assert her membership of ETA – and, secondly, because it was impossible to organise a reinforced security escort within the time available. Equally, the Court found no grounds for contradicting the Government's assessment that the time available was insufficient to organise an escort by officers who were specially trained in transferring and supervising prisoners convicted of terrorist offences, to include prior inspection of premises.

The Court considered that the judicial authorities had carried out a balancing exercise between the interests at stake, namely the applicant's right to respect for her family life on the one hand and public safety and the prevention of disorder and crime on the other. It held that the respondent State had not exceeded the margin of appreciation afforded to it in this area. In the circumstances of the case, the refusal to grant the applicant's request for leave under escort to travel to the Bayonne funeral parlour and pay her last respects to her father had not been disproportionate and had pursued legitimate aims.

It followed that there had been no violation of Article 8 of the Convention.

The judgment is available only in French.

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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.