



## Grand Chamber to examine two applications concerning requests to repatriate two French women held in a camp in Syria with their children

The Chamber of the European Court of Human Rights to which the cases **H.F. and M.F. v. France** and **J.D. and A.D. v. France** (application nos. 24384/19 and 44234/20) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**<sup>1</sup>.

These two applications concern unsuccessful requests by the applicants for the repatriation by the French authorities of their respective daughters and grandchildren, who are being held in the al-Hol camp in north-eastern Syria run by the Syrian Democratic Forces.

### H.F. and M.F. v. France and J.D. and A.D. v. France (application nos. 24384/19 and 44234/20)

#### Principal facts

##### *Application no. 24384/19*

The applicants, H.F. and M.F., are French nationals who were born in 1958 and 1954 respectively. Their daughter, L., left France on 1 July 2014 together with her partner, for the territory in Syria then controlled by the so-called Islamic State. L. and her partner – who died in February 2018 – had two children who were born in Syria on 14 December 2014 and 24 February 2016. L. and her two children were reportedly arrested on 4 February 2019 and have apparently been held since then in the al-Hol refugee camp run by the Syrian Democratic Forces (SDF) in Kurdish-controlled north-eastern Syria.

In January and May 2018 the applicants' lawyer sent a number of letters to the Minister for Europe and Foreign Affairs, to the President of the Republic and to his chief of staff, requesting that L. and her children be repatriated to France. On 5 April 2019 the applicants applied to the urgent applications judge at the Paris Administrative Court seeking an order directing the Minister to organise the repatriation of their daughter and grandchildren, who, they submitted, were exposed to inhuman and degrading treatment and to a serious and manifestly unlawful interference with their right to life.

In a decision of 10 April 2019 the urgent applications judge rejected their case. The applicants appealed and on 23 April 2019 the *Conseil d'État* dismissed their appeal.

##### *Application no. 44234/20*

The applicants, J.D. and A.D., are French nationals who were born in 1955. Their daughter, who was born in 1989, left France in early July 2015 with her partner to travel to Iraq and later to Syria. She gave birth to a child on 28 January 2019 in Syria. Mother and child have been held in the al-Hol camp since March 2019. The father was reportedly taken into a Kurdish prison at that time.

In a decision of 7 May 2020, the urgent applications judge of the Paris Administrative Court rejected the applicants' request that the Minister for Europe and Foreign Affairs be ordered to organise the repatriation of their daughter and grandson. In a decision of 25 May 2020 the same court found that

<sup>1</sup> Under Article 30 of the European Convention of 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."

it had no jurisdiction to rule on an appeal against the implicit decision of the authorities to refuse the repatriation. Their appeal to the *Conseil d'Etat* was dismissed by a decision of 15 September 2020.

### Complaints and procedure

The applications were lodged with the European Court of Human Rights on 6 May 2019 and 7 October 2020.

On 23 January 2020 the French Government were given [notice](#)<sup>2</sup> of application no. 24384/19, with questions from the Court. Notice of application no. 44234/20 was given to the Government on 16 February 2021, and at that stage the parties were not asked to make observations. At the same time, the Chamber decided to grant the case priority under Rule 41 of the Rules of the Court.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants allege that the refusal to repatriate their respective daughters and grandchildren expose them to inhuman and degrading treatments. They also allege that this refusal is in breach of Article 3 § 2 of Protocol No. 4 ("No one shall be deprived of the right to enter the territory of a State of which he is a national") to the Convention. Relying on Article 3 § 2 of Protocol No. 4 taken together with Article 13 (right to an effective remedy), they complain about the absence of an effective remedy by which to challenge the French authorities' refusal to repatriate their family members.

After notice was given of application no. 24384/19, five member States of the Council of Europe sought leave to intervene in the proceedings: Norway; Denmark; the United Kingdom; the Netherlands and Belgium. Leave was also granted to a number of non-governmental organisations: the French National Advisory Commission on Human Rights; the *Défenseur des Droits*; the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions; Rights and Security International; and Reprieve.

The Chamber to which the cases had been allocated relinquished jurisdiction in favour of the Grand Chamber on 16 March 2021.

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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.

<sup>2</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.