



Applicant's extradition to Michigan for murder trial did not risk inhuman or degrading punishment

In its decision in the case of [McCallum v. Italy](#) (application no. 20863/21) the Grand Chamber of the European Court of Human Rights has unanimously declared the application **inadmissible**. The decision is final.

The case concerned the applicant's potential extradition to the United States of America, where she was wanted as a suspect in the murder of her then husband and the burning of his corpse.

The Court ruled Ms McCallum's application inadmissible, as the US authorities had given a commitment that she could not be sentenced to life imprisonment without the possibility of parole and she thus was not at risk of a sentence that would amount to inhuman or degrading punishment.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Beverly Ann McCallum, is a US national who was born in 1960 and is currently in detention in the United States of America. At the time she applied to the Court she was detained in Rome pending extradition to the USA.

Ms McCallum was wanted in the State of Michigan as a suspect, along with others, in the murder of her then husband and the disinterment and burning of his corpse in the town of Charlotte in that State. The murder took place in 2002, but his identity was established only in 2015.

Ms McCallum's daughter, D.D., and her friend, C.M., were charged with first-degree murder in connection with the incident. It was believed that Ms McCallum herself had fled the country. A warrant for her arrest was issued.

C.M. pled guilty to second-degree murder and was sentenced to 15 to 31 years' imprisonment; D.D. was found guilty on the original charge and was sentenced to life imprisonment without the possibility of parole.

In February 2020 Ms McCallum was arrested in Rome. The US authorities sought her extradition for trial in the USA, and on 8 March 2021 the Minister of Justice granted the extradition, following a Court of Appeal decision. That decision was confirmed by the Court of Cassation. In respect of the risk of Ms McCallum's receiving a life sentence with no possibility of parole, the courts referred to the appeals process, and to the possibility of pardon or commutation of sentence from the Governor of Michigan. The extradition decree stated, among other things, that there were no reasons to believe that the applicant would be subjected to cruel, inhuman or degrading punishment or treatment or to acts violating her fundamental rights in the USA.

On 3 December 2021 the US authorities sent a diplomatic note to the Italian authorities informing them that the Eaton County prosecutors had given a commitment to try Ms McCallum on the lesser charge of second-degree murder, which had a maximum penalty of a life sentence *with* eligibility for parole. It further stated that she would not be tried for conspiracy, but that the charge of disinterment and mutilation of a dead body would be pursued. The US authorities amended their original extradition request accordingly.

As a result of this commitment, a new extradition order was issued by the Italian authorities on 7 Dec 2021.

Ms McCallum was extradited to the USA on 8 July 2022.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 April 2021.

Relying on Article 3 (prohibition of inhuman or degrading treatment or punishment) of the European Convention on Human Rights, the applicant complained that if extradited to the United States, she faced a real risk of life imprisonment without parole.

Following a request by the applicant, on 22 April 2021 the Court decided to indicate to the Italian Government, under Rule 39 of the Rules of Court, that the applicant should not be extradited, ultimately deciding to prolong the measure for the duration of the proceedings before it. At the same time, the Court decided to grant the case priority under Rule 41 of the Rules of the Court. The interim measure was lifted on 21 January 2022.

On 28 May 2021 the President of the First Section decided to give notice of the application to the Government of Italy, with questions from the Court.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 7 September 2021. A Grand Chamber hearing was held in the case on 23 February 2022.

The decision was given by the Grand Chamber of 17 judges, composed as follows:

Jon Fridrik **Kjølbro** (Denmark), *President*,
Robert **Spano** (Iceland),
Síofra **O’Leary** (Ireland),
Georges **Ravarani** (Luxembourg),
Marko **Bošnjak** (Slovenia),
Krzysztof **Wojtyczek** (Poland),
Yonko **Grozev** (Bulgaria),
Alena **Poláčková** (Slovakia),
Tim **Eicke** (the United Kingdom),
Arnfinn **Bårdsen** (Norway),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),
Saadet **Yüksel** (Türkiye),
Anja **Seibert-Fohr** (Germany),
Peeter **Roosma** (Estonia),
Ana Maria **Guerra Martins** (Portugal),
Ioannis **Ktistakis** (Greece),

and also Johan **Callewaert**, *Deputy Grand Chamber Registrar*.

Decision of the Court

The Court noted that a key fact in the case changed when the Michigan prosecutors gave a commitment to try Ms McCallum with the main lesser offence of “homicide murder – second degree”. This commitment on the part of the US authorities was given to their Italian counterparts via a diplomatic note. The Court reiterated that diplomatic notes “carr[ie]d a presumption of good faith and that, in extradition cases, it was appropriate that that presumption be applied to a requesting State which had a long history of respect for democracy, human rights and the rule of law, and which had longstanding extradition arrangements with Contracting States ...”. That applied in this case. The applicant could only be tried within the terms of the diplomatic note.

As concerns the applicant's argument that the life sentence would be "irreducible" given the Michigan Governor's role, the Court referred to today's Grand Chamber judgment in [Sanchez-Sanchez v. the United Kingdom](#) (no. 22854/20), holding that procedural safeguards which would apply in the domestic context in a Convention State were not prerequisites in the system of a third State which was requesting extradition. Furthermore, the Court essentially found that she had not made out that argument, as it appeared the Governor had no role in sentence review in the parole procedure.

The Court held that Ms McCallum had not proven she faced a real risk of a sentence that would constitute inhuman or degrading punishment. As a result, it ruled the complaint manifestly ill-founded and declared her application inadmissible.

The decision is available only in English.

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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.