



Forthcoming Grand Chamber ruling: *Harkins v. the United Kingdom*

The European Court of Human Rights will be delivering a **Grand Chamber** ruling in the case of **Harkins v. the United Kingdom** (application no. 71537/14) in writing on 10 July 2017 at 11 a.m. in the Human Rights Building, Strasbourg.

The case concerns the extradition of a British national to the United States of America (USA) to face trial for first-degree murder.

Principal facts and complaints

The applicant, Phillip Harkins, is a British national who was born in 1978.

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 the death penalty or a sentence of life imprisonment without the possibility of parole. In 2007 the High Court found that there would be no risk of the death penalty if Mr Harkins were to be extradited and, in 2011, it found that a life sentence without the possibility of 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*, application no. 9146/07). In January 2012 a Chamber of 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. 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.

Mr Harkins was not extradited and following the ECtHR judgments in the cases of *Vinter and Others v. the United Kingdom* (nos. 66069/09, 130/10 and 3896/10, Grand Chamber)¹ of July 2013 and *Trabelsi v. Belgium* (no. 140/10)² of September 2014 he brought new proceedings before the domestic courts in which he argued that developments in the Court's Article 3 case-law on life sentences without the possibility of parole were such as to require the re-opening of the proceedings. However, in November 2014 the High Court refused to re-open the proceedings,

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 found that Mr Trabelsi's extradition to the US had been in breach of Article 3 of the Convention as it exposed him to the risk of a life sentence without the possibility of parole.

finding that the ECtHR judgments in [Vinter and Others v. the United Kingdom](#) and [Trabelsi v. Belgium](#) had not recast Convention law to such an extent that his 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, arguing that if convicted in Florida he would face a mandatory sentence of life in prison without the possibility of parole.

Procedure

The application was lodged with the European Court of Human Rights on 11 November 2014.

On 14 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 it should stay Mr Harkins' extradition.

The case was [communicated](#)³ 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.

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 was held in the case on 11 January 2017.

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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.

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.