



## Grand Chamber hearing concerning alleged secret rendition of a man suspected of terrorist ties

The European Court of Human Rights is holding a Grand Chamber hearing today **Wednesday 16 May 2012 at 09.15 a.m.** in the case of **El-Masri v. "The former Yugoslav Republic of Macedonia"** (application no. 39630/09)

The case concerns the complaints of a German national of Lebanese origin that he had been a victim of a secret "rendition" operation during which he was arrested, held in isolation, questioned and ill-treated in a Skopje hotel for 23 days, then transferred to CIA agents who shipped him to a secret detention facility in Afghanistan, where he was further ill-treated for over four months.

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

The applicant, Khaled El-Masri, a German national of Lebanese origin, was born in 1963 and lives in Ulm (Germany). According to his submissions, the Macedonian police arrested him in December 2003, kept him locked for 23 days in a hotel in Skopje questioning him about alleged ties with terrorist organisations, and then handed him over to CIA agents who transferred him, blindfolded and chained, on a special flight to Afghanistan, where he remained in detention until May 2004. He submits that he was beaten, kicked and threatened while interrogated in a small, dirty, dark concrete cell in which he was kept in a brick factory, north of the Kabul business centre.

Mr El-Masri further submits that in March 2004 he started a hunger strike to protest about being kept in detention without charges. In April of the same year, 37 days into his hunger strike, he claims that he was force-fed through a tube which made him severely ill and bedridden for several days. In May 2004, he allegedly started a second hunger strike a week before he was taken, blindfolded and handcuffed, by plane first to Albania and then to Germany. Mr El-Masri weighed then about 18 kilos less than a few months earlier when he had left Germany. Immediately after his return to Germany, he contacted a lawyer and has brought several legal actions since.

His case has been discussed at large within the Parliamentary Assembly of the Council of Europe and the European Parliament. The position of the Government of "The former Yugoslav Republic of Macedonia" has been that Mr El-Masri had entered the country on 31 December 2003, had been interviewed by the police as suspected of travelling with false documents, had been allowed entry into the country and then had left over the border crossing into Kosovo<sup>1</sup>.

Relying on Article 3 (prohibition of inhuman and degrading treatment), Mr El-Masri complains in particular of being ill-treated while kept in the hotel in Skopje, subjected to a "capture shock" by a CIA rendition team at the Skopje airport and ill-treated while in Afghanistan. Relying further on Articles 5 (right to liberty and security) and 8 (right to respect for private and family life), he alleges the direct responsibility of "The former

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<sup>1</sup> All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Yugoslav Republic of Macedonia” for the entire period of his captivity between 31 December 2003 and his return to Albania on 28 May 2004. In this connection, he complains that he was detained unlawfully and kept *incommunicado*, without any arrest warrant, and that he was never brought before a judge. The absence of a prompt and effective investigation by the Macedonian authorities into his credible allegations, he claims, was in breach of Articles 3, 5 and 13 (right to an effective remedy). Lastly, he argues that he and the public, as a whole, have the right, under Articles 3, 5, 10 (freedom of expression and information) and 13, to the truth as to whether he was subjected to the secret rendition programme.

## Procedure

The application was lodged with the Court on 20 July 2009. It was communicated to the Government of “The former Yugoslav Republic of Macedonia”, with questions from the Court, on 28 September 2010. On 24 January 2012 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.<sup>2</sup> The following organisations made written submissions as third parties: United Nations High Commissioner for Human Rights, Interights, Redress, Amnesty International and the International Commission of Jurists.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Nicolas **Bratza** (the United Kingdom), *President*,  
Françoise **Tulkens** (Belgium),  
Josep **Casadevall** (Andorra),  
Nina **Vajić** (Croatia),  
Dean **Spielmann** (Luxembourg),  
Peer **Lorenzen** (Denmark)  
Karel **Jungwiert** (the Czech Republic),  
Elisabeth **Steiner** (Austria),  
Khanlar **Hajiyev** (Azerbaijan),  
Luis **López Guerra** (Spain),  
Ledi **Bianku** (Albania),  
Işıl **Karakaş** (Turkey),  
Vincent A. **De Gaetano** (Malta),  
Julia **Laffranque** (Estonia),  
Linos-Alexandre **Sicilianos** (Greece),  
Erik **Møse** (Norway),  
Helen **Keller** (Switzerland), *judges*,  
Ann **Power-Forde** (Ireland),  
Isabelle **Berro-Lefèvre** (Monaco),  
Mark **Villiger** (Liechtenstein),  
Dragoljub **Popović** (Serbia), *substitute judges*,

and also Michael **O’Boyle**, *Deputy Registrar*.

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<sup>2</sup> 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. ”

## Representatives of the parties

### Government

Kostadin **Bogdanov**, *Agent*,  
Danica **Djonova**, Veronika **Stanojevska**, Nadica **Josifova**, Natalija **Tasevska**,  
*Advisers*;

### Applicant

James A. **Goldson**, Darian **Pavli**, *Counsel (Open Society Justice Initiative)*  
Rupert **Skilbeck**, *Adviser (Open Society Justice Initiative)*,  
Filip **Medarski**, *Adviser*.

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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.