



Chamber hearing concerning an extraordinary rendition

The European Court of Human Rights is holding a **Chamber** hearing today **Tuesday 23 June 2015 at 9 a.m.** in the case of **Nasr and Ghali v. Italy** (application no. 44883/09).

The case concerns the “extraordinary rendition” - the abduction by CIA agents, with the cooperation of Italian nationals - of Egyptian imam Abu Omar, and his transfer to Egypt, followed by his secret detention there for several months.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (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 applicants, Osama Mustafa Hassn Nasr, alias Abu Omar, and Nabila Ghali, are a married couple. They are both Egyptian nationals who were born in 1963 and currently live in Alexandria (Egypt). The applicant arrived in Italy in 1997. He became the imam of a Milan mosque in 2000 and obtained refugee status in 2001, as a member of the Islamist group al-Gama'a Islamiyya, which the Egyptian Government considers as a terrorist formation. Preliminary investigations were instigated against him by the Milan public prosecutor's office concerning his relations with fundamentalist networks, under suspicion, among other things, of conspiracy to commit violent acts of international terrorism.

On 17 February 2003, while he was walking down a street in Milan, Mr Nasr was abducted by men speaking in Italian and taken to the USAFE (United States Air Forces in Europe base) in Aviano, where he was put on board an aeroplane for Germany and then transferred to a military aircraft and flown to Cairo. On his arrival there he was questioned by the Egyptian intelligence services on his activities in Italy, his family and his travel abroad. The applicant was secretly detained until 19 April 2004 in tiny insalubrious cells, from which he was regularly dragged out for interrogation, during which he was abused and tortured. Mr Nasr claims to have been subjected to the *martaba* torture, whereby an electric current was passed through a wet mattress to which he was tied. On 19 April 2004 he was released, in his view because he had said what had been expected of him, on condition that he did not leave Alexandria and remained silent about his experience in prison. Despite this order, Mr Nasr phoned his wife in order to reassure her that he was still alive. Some 20 days after his release he was arrested again and detained – in solitary confinement for long stretches – until February 2007, when he was released without charges. The authorities claimed that his “administrative” detention had been based on Egyptian anti-terrorist legislation. Permanently deprived of the right to leave Egyptian territory, Mr Nasr currently lives in Alexandria.

The Milan public prosecutor's office had instigated an inquiry into the applicant's disappearance as early as February 2003. Telephones were tapped, a number of people questioned and a search carried out of the *SISMI* (Italian Military Intelligence Service) HQ, confirming Mr Nasr's version of events and identifying some 20 US nationals involved, including members of the diplomatic and consular staff in Italy and the CIA Station Chief in Milan at the time, Mr Lady. It also emerged that six *SISMI* agents had also been involved in the abduction. The outcome of the inquiry was extensively reported on in the press and on Internet.

The second phase of the inquiry concerned the involvement of Italian nationals, including a number of State officials. The investigations showed that two senior *SISMI* officials had been aware of the CIA plan to abduct the applicant and of possible *SISMI* participation. Mr Farina, a journalist, was also suspected of having attempted to put the investigators off the track at the request of a number of

SISMI agents. In July 2006 the President of the Council of Ministers stated that the information and documents requested by the prosecutor's office were covered by State secrecy and that the conditions for lifting secrecy had not been fulfilled. Under a Constitutional Court judgment of March 2009 on a number of appeals which had been lodged on this matter during the trial of the suspects, a great deal of the evidence produced was declared confidential and unusable.

On 4 November 2009 the Milan Court passed sentence on the accused. In the end, 22 CIA agents and senior officials and a US army officer were sentenced *in absentia* to prison terms of between seven and nine years for the abduction of the applicant – eight years in the case of Mr Lady. Two members of *SISMI* were found guilty of impeding the inquiry and sentenced to three years' imprisonment. The cases against the former Head and Deputy Head of *SISMI*, Mr Pollari and Mr Mancini, as well as three former members of *SISMI*, were dropped on grounds of State secrecy. The US nationals were also ordered to pay the applicants damages, the amount of which was to be established under civil proceedings. The Milan Court provisionally awarded Mr Nsar one million euros (EUR) and Ms Ghali EUR 500 000. The applicants have still not received their compensation, and the Italian authorities have not yet requested the extradition of the convicted US nationals.

Relying on Articles 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair trial) and 13 (right to an effective remedy), Mr Nsar complains of his abduction with the participation of the Italian authorities, the ill-treatment endured during his transfer and detention, the impunity enjoyed by the persons responsible on grounds of State secrecy, and the failure to enforce the sentences passed on the convicted US nationals owing to the refusal of the Italian authorities to request their extradition. Lastly, the two applicants complain of a violation of Article 8 (right to respect for private and family life), given that Mr Nsar's abduction and detention resulted in their forcible separation for more than five years.

Procedure

The application was lodged with the European Court of Human Rights on 6 August 2009 and was [communicated](#) by the Court to the Italian Government on 22 November 2011.

Composition of the Court

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

Päivi Hirvelä (Finland), *President*,
Guido Raimondi (Italy),
George Nicolaou (Cyprus),
Ledi Bianku (Albania),
Nona Tsotsoria (Georgia),
Paul Mahoney (the United Kingdom),
Krzysztof Wojtyczek (Poland), *judges*,
Faris Vehabović (Bosnia and Herzegovina),
Yonko Grozev (Bulgaria), *substitute judges*,

and also Françoise Elens-Passos, *Section Registrar*.

Representatives of the parties

Government

Paola Accardo and Luca Mauro Pellegrini, *Co-Agents*,
Massimo Giannuzzi, *Counsel*,
Romina Incutti and Alessandro Di Taranto, *Advisers*;

Applicants

Luca Bauccio, Carmelo Scambia and Luca Favero, *Counsel*.

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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.