



Grand Chamber hearing on the applicants' continued compulsory confinement following a legislative amendment

The European Court of Human Rights is holding a **Grand Chamber¹** hearing today, **Wednesday 21 October 2020 at 10 a.m.**, in the case of **Denis and Irvine v. Belgium** (applications nos. 62819/17 and 63921/17).

The case concerns the refusal by the Belgian courts to order the release of the applicants, both of whom are being held in compulsory confinement. The applicants consider that they ought to have been released following the entry into force in 2016 of the Compulsory Confinement Act of 5 May 2014.

On account of the Covid-19 health crisis the Court has had to introduce special measures for holding its public hearings, valid until further notice. All oral submissions will be made by videoconference, and hearings at the Human Rights Building will not be open to the public. However, since all hearings are filmed in their entirety, the video recording of today's hearing will be available on the Court's website (www.echr.coe.int) from 2.30 p.m.

After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will be made at a later stage.

The applicants, Jimmy Denis and Derek Irvine, are both being held in compulsory confinement in Belgium. The first applicant is a Belgian national who was born in 1984 and the second is a British national who was born in 1964.

Mr Denis and Mr Irvine complain about the fact that they continue to be held in compulsory confinement, although, they argue, there has been no legal basis for it since the entry into force of the Compulsory Confinement Act (Law of 5 May 2014).

The Law of 5 May 2014, which entered into force in October 2016, provides that compulsory confinement can only be imposed after crimes or serious offences resulting in physical harm or psychological injury to another person. The applicants, who were confined for offences classified as theft (Mr Denis in 2007) and attempted aggravated burglary (Mr Irvine in 2002), under the Social Protection Act of 9 April 1930, applied to the Belgian courts for release on the basis of the new legislation, but were unsuccessful.

Procedure

The applications were lodged with the European Court of Human Rights on 21 August 2017.

Both applicants allege, in particular, that their continued compulsory confinement since the entry into force of the 2014 Act is contrary to Article 5 § 1 (e) (right to liberty and security) and 5 § 4 (right to a speedy decision on the lawfulness of detention) of the European Convention on Human Rights.

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its Protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

In its Chamber [judgment](#) of 8 October 2019, the Court took the view that the interpretation by the national authorities, in the present case, of the new law on compulsory confinement had not been arbitrary or manifestly unreasonable and that the applicants' imprisonment continued to be based on judicial decisions taken under the former social protection legislation. The maintaining of the confinement measure after the entry into force of the new law had thus been compatible with Article 5 § 1 of the Convention. It found, unanimously, that there had been no violation of Article 5 § 1. Moreover, the Court noted that in the applicants' case the legal condition of having been granted conditional discharge for three years prior to unconditional release had only constituted a secondary ground among the various reasons for which the social protection bodies had refused their immediate and unconditional release. The Court also held, unanimously, that there had been no violation of Article 5 § 4 of the Convention.

On 24 February 2020 the Grand Chamber Panel accepted the applicants' request that the case be referred to the Grand Chamber.

Composition of the Court

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

Robert Spano (Iceland), *President*,
Ksenija Turković (Croatia),
Paul Lemmens (Belgium),
Síofra O'Leary (Ireland),
Yonko Grozev (Bulgaria),
Helen Keller (Switzerland),
Aleš Pejchal (the Czech Republic)
Krzysztof Wojtyczek (Poland),
Egidijus Kūris (Lithuania),
Mārtiņš Mits (Latvia),
Georgios A. Serghides (Cyprus),
Lado Chanturia (Georgia),
Ivana Jelić (Montenegro),
Gilberto Felici (San Marino),
Arnfinn Bårdsen (Norway),
Darian Pavli (Albania),
Saadet Yüksel (Turkey), *judges*,
Peeter Roosma (Estonia),
Pauliine Koskelo (Finland),
Ganna Yudkivska (Ukraine), *substitute judges*,

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

Representatives of the parties

Government

Isabelle Niedlispacher, *Agent*,
Koen Lemmens, *Counsel*,
Justine Lefebvre, *Adviser*;

Applicant

Peter Verpoorten, *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.