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### **Grand Chamber hearing concerning measures taken according to UN Resolutions against a person accused of ties with al-Qaeda and the Taliban**

The European Court of Human Rights is holding a **Grand Chamber** hearing today **Wednesday 23 March 2011 at 9.15 a.m.** in the case of **Nada v. Switzerland** (Application no. 10593/08)

*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)).*

The applicant, Youssef Moustafa Nada, is an Italian national who was born in 1931 and lives in Campione D'Italia, an Italian enclave of 1.6 km in the Swiss Canton of Ticino.

On 15 October 1999 the United Nations Security Council adopted Resolution 1267 (1999) providing for sanctions against the Taliban and setting up a Committee responsible for their implementation. On 19 December 2000, by the adoption of Resolution 1333 (2000), the sanctions regime was extended to include Osama bin Laden and al-Qaeda. In its resolutions, the Security Council called upon the Committee to maintain a list of individuals and entities associated with bin Laden and al-Qaeda. Under those resolutions, on 2 October 2000 the Swiss Federal Council adopted an order laying down measures against individuals and entities associated with Osama bin Laden, al-Qaeda or the Taliban (the "anti-Taliban order"). The order provided for the freezing of assets and financial resources of those concerned, and prohibited the provision to them of funds or financial resources. It further restricted their entry into or transit through Switzerland.

On 9 November 2001 Mr Nada and a number of organisations associated with him were placed on the list of the United Nations Committee. On 30 November 2001 those names were added by the Swiss authorities to the list of people concerned by the anti-Taliban order.

On 22 September 2002 Mr Nada requested the deletion from the list of his name and those of the organisations associated with him, mainly because a Swiss investigation against him had been discontinued. However, his request and subsequent administrative appeals were rejected. The Federal

Council referred his case to the Federal Court, considering that the restrictions on Mr Nada's property rights had, under the European Convention on Human Rights, to be assessed by an independent and impartial tribunal. On 14 November 2007 the Federal Court dismissed Mr Nada's appeal. It found that Switzerland had acted in accordance with its international obligations. It nevertheless requested the Swiss authorities to ascertain whether it was possible, having regard to their international obligations, to waive the measure barring Mr Nada from entering the country. As he lived in a small Italian enclave in Switzerland he found himself virtually under house arrest. Mr Nada has stated that following that judgment he has asked the Swiss authorities several times to let him enter or pass through Switzerland, but without success.

Further to the communication of this application to the Swiss authorities (see below, "procedure"), Mr. Nada's name has been removed from the list of the United Nations' Committee for the implementation of the Resolutions at issue, and the Swiss anti-Taliban order has been modified accordingly.

Relying on Article 5 §§ 1 and 4 (right to liberty and security), Mr Nada complains that he was deprived of his liberty by the Swiss authorities and had no effective procedure through which to challenge the restrictions on his freedom of movement. He further takes the view that the measures at issue were contrary to Article 8 (right to respect for private and family life). Lastly, he alleges that there has been a violation of Article 13 (right to an effective remedy), in that there was no remedy available in Switzerland by which he could have complained of a breach of Articles 5 and 8.

#### **Procedure**

The application was lodged with the European Court of Human Rights on 19 February 2008. It was communicated to the Swiss authorities, with questions from the Court, on 12 March 2009. The Governments of France and the United Kingdom were authorized by the Chamber to intervene as third parties (Article 36 § 2 of the Convention).

On 30 September 2010 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber<sup>[1]</sup>.

#### **Composition of the Court**

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

Jean-Paul **Costa** (France), *President*,  
Nicolas **Bratza** (the United Kingdom),  
Françoise **Tulkens** (Belgium),  
Josep **Casadevall** (Andorra),  
Nina **Vajić** (Croatia),  
Dean **Spielmann** (Luxembourg),  
Christos **Rozakis** (Greece),  
Karel **Jungwiert** (the Czech Republic),  
Khanlar **Hajiyev** (Azerbaijan),  
Sverre Erik **Jebens** (Norway),  
David Thór **Björgvinsson** (Iceland),

Isabelle Berro-Lefèvre (Monaco),  
Giorgio Malinverni (Switzerland),  
George Nicolaou (Cyprus),  
Mihai Poalelungi (Moldova),  
Kristina Pardalos (San Marino),  
Ganna Yudkivska (Ukraine), *Judges*,  
Corneliu Bîrsan (Romania),  
Ján Šikuta (Slovakia),  
Ireneu Cabral Barreto (Portugal), *substitute Judges*,

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

### **Representatives of the parties**

#### **Government**

Frank Schürmann, *Agent*,  
Jürg Lindenmann, *Counsel*,  
Roxane Bourguin and Cordélia Ehrich, *Advisers*;

#### **Applicant**

Jeremy McBride, *Counsel*.

The applicant, Youssef Moustafa Nada, and his wife, Amal Jijakly, will also attend the hearing.

### **Third-party intervener**

#### **Government of the United Kingdom**

Derek Walton, *Agent*,  
Sam Wordsworth, *Counsel*,  
Catherine Holmes, *Adviser*.

*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.*

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