April 2024
This factsheet does not bind the Court and is not exhaustive

Extradition and life imprisonment

See also the factsheet on "Life imprisonment".

Article 3 of the European Convention on Human Rights:
"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Nivette v. France

3 July 2001 (decision on the admissibility)

The applicant, an American national who was suspected of having murdered his girlfriend, submitted in particular that his extradition to the United States would be in breach of Article 3 of the European Convention on Human Rights if he were to be sentenced to life imprisonment without any possibility of early release.

The European Court of Human Rights declared the application **inadmissible** as manifestly ill-founded. Noting in particular that the Sacramento County District Attorney had given an undertaking under oath that, whatever the circumstances, the State of California would not charge one of the special circumstances which must be charged for the death penalty or a sentence of life imprisonment without any possibility of early release to be imposable and that her undertaking was binding on her successors and on the State of California, the Court found that the assurances obtained by the French Government were such as to avert the danger of the applicant's being sentenced to life imprisonment without any possibility of early release. His extradition therefore could not expose him to a serious risk of treatment or punishment prohibited by Article 3 of the Convention.

See also: ***Olaechea Cahuas v. Spain***, judgment of 10 August 2006.

Einhorn v. France

16 October 2001 (decision on the admissibility)

The applicant, an American national, left the United States after being accused of murdering his former partner. He was found guilty, in his absence, of murder and sentenced to life imprisonment. The French Government agreed to extradite him, on the ground that he would benefit from a new and fair trial if returned to Pennsylvania and that he would not face the death penalty. He appealed and the French *Conseil d'Etat* rejected his appeal. Before the Court, the applicant submitted that his extradition had been granted in breach of Article 3 of the Convention in that, in particular, he was likely to have to serve a life sentence without any real possibility of remission or parole.

The Court declared the application **inadmissible** as manifestly ill-founded. Reiterating that it cannot be ruled out that the imposition of an irreducible life sentence could raise an issue under Article 3 of the Convention and referring in this respect to Council of Europe's documents on the subject[1], it concluded from this that it was likewise not to be excluded that the extradition of an individual to a State in which he runs the risk of being sentenced to life imprisonment without any possibility of early release may raise an issue

[1]. See the general report on the treatment of long-term prisoners, drawn up by Sub-Committee no. XXV of the European Committee on Crime Problems (Council of Europe, 1977), and Resolution (76) 2 on the treatment of long-term prisoners, adopted by the Committee of Ministers of the Council of Europe in the context of the Sub-Committee's work.

under Article 3 of the Convention. In the instant case, however, the Court noted that the Governor of Pennsylvania could commute a life sentence to another one of a duration which afforded the possibility of parole. Consequently, although the possibility of parole for prisoners serving life sentences in Pennsylvania was limited, it could not be inferred from that that if the applicant was sentenced to life imprisonment after a new trial in Pennsylvania, he would not be able to be released on parole, and he did not adduce any evidence to warrant such an inference.

See also: ***Schuchter v. Italy***, decision on the admissibility of 11 October 2011; ***Segura Naranjo v. Poland***, decision on the admissibility of 6 December 2011.

Harkins and Edwards v. the United Kingdom

17 January 2012 (judgment)

Both applicants faced extradition from the United Kingdom to the United States where, they alleged, they risked the death penalty or life imprisonment without parole. The US authorities provided assurances that the death penalty would not be applied in their cases and that the maximum sentence they risked was life imprisonment.

Regarding the risk of life imprisonment without parole, the Court held that there would be **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention **if** one or the other applicant was **extradited** to the United States, finding that neither applicant had demonstrated that there would be a real risk of treatment reaching the Article 3 threshold as a result of his sentence. In the first applicant's case, the Court was not persuaded that it would be grossly disproportionate for him to be given a mandatory life sentence in the United States. 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. And 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. As regards the second applicant, he faced – at most – a discretionary life sentence without parole. Given that it could only be imposed after consideration by the trial judge of all relevant factors and only if he were convicted for a pre-meditated murder, the Court concluded that such a sentence would not be grossly disproportionate.

Babar Ahmad and Others v. the United Kingdom

10 April 2012 (judgment)

The applicants were indicted on various charges of terrorism in the United States, which requested their extradition. They complained about the risk of serving their prison term in a super-max prison, where they would be subjected to special administrative measures, and of being sentenced to irreducible life sentences.

The Court held, as regards five of the applicants[2], that there would be **no violation of Article 3** of the Convention as a result of the length of their possible sentences if they were extradited to the United States. It noted in particular that it was not certain that, if extradited, the applicants would be convicted or that a discretionary life sentence would be imposed on them. However, even if such a sentence was imposed on the applicants, given the gravity of their charges, the Court did not consider that they would be grossly disproportionate. Moreover, since none of the applicants had yet been convicted or started serving their sentence, the Court considered that they had not shown that, upon extradition, their incarceration in the United States would not serve any legitimate penological purpose. It was further uncertain whether, should that point ever be reached, the US authorities would refuse to avail themselves of mechanisms available in their system to reduce the applicants' potential sentences.

[2]. The examination of the sixth applicant's complaints was adjourned and the Court decided to consider them under a new application number (no. 17299/12).

Čalovskis v. Latvia

24 July 2014 (judgment)

The case concerned the applicant's arrest and detention pending extradition, as well as authorisation of his extradition to the United States for prosecution on the allegation of his involvement in cybercrime-related offences. The applicant alleged in particular that, if extradited from Latvia, he would risk being subjected to torture and given a disproportionate prison sentence.

The Court held that there had been **no violation of Article 3** of the Convention as concerned the granting of the applicant's extradition to the United States, finding that he would not be exposed to a real risk of ill-treatment if he were extradited to the United States by virtue of his being indicted of cybercrime-related offences. With regard in particular to the applicant's allegation that his sentence in the United States would be much higher than in Latvia, the Court noted that this comparison was not sufficient to demonstrate a "gross disproportionality". Nor had the applicant argued that he could be given a life sentence in the United States without review or complained that the maximum penalties could be imposed on him without due consideration of all relevant mitigating and aggravating factors.

Trabelsi v. Belgium

4 September 2014 (judgment)

This case concerned the extradition, which had been effected despite the indication of an interim measure by the Court, under Rule 39 of the Rules of Court[3], of a Tunisian national from Belgium to the United States, where he is being prosecuted on charges of terrorist offences and is liable to life imprisonment. The applicant complained in particular that his extradition to the United States of America would expose him to treatment incompatible with Article 3 of the Convention. He contended in this regard that some of the offences for which his extradition had been granted carried a maximum life prison sentence which was irreducible *de facto*, and that if he were convicted he would have no prospect of ever being released.

The Court considered that the life sentence to which the applicant was liable in the United States was irreducible inasmuch as US law provided for no adequate mechanism for reviewing this type of sentence, which meant that his extradition to the United States had amounted to a **violation of Article 3** of the Convention.

The Court reiterated in particular that the imposition of a sentence of life imprisonment on an adult offender was not in itself prohibited by any provision of the Convention, provided that it was not disproportionate. On the other hand, if it was to be compatible with Article 3 such a sentence should not be irreducible *de jure* and *de facto*. In order to assess this requirement the Court had to ascertain whether a life prisoner could be said to have any prospect of release and whether national law afforded the possibility of review of a life sentence with a view to its commutation, remission, termination or the conditional release of the prisoner. Moreover, the prisoner had to be informed of the terms and conditions of this review possibility at the outset of his sentence. The Court also reiterated that Article 3 implied an obligation on Contracting States not to remove a person to a State where he or she would run the real risk of being subjected to prohibited ill-treatment. In the present case, the Court considered that in view of the gravity of the terrorist offences with which the applicant stood charged and the fact that a sentence could only be imposed after the trial court had taken into consideration all relevant mitigating and aggravating factors, a discretionary[4] life sentence would not be grossly disproportionate. It held, however, that the US authorities had at no point provided any concrete assurance that the applicant would be spared an irreducible life

[3]. Interim measures are measures taken as part of the procedure before the Court which are binding on the State concerned. They do not prejudge the Court's subsequent decisions on the admissibility or merits of the cases concerned. If the Court allows the request for an interim measure the applicant's expulsion is suspended while the Court examines the application (however, the Court follows the applicant's situation, and can lift the measure during its examination of the case). See also the factsheet on "Interim measures".

[4]. "Discretionary" in the sense that the judge can impose a less severe sentence, ordering a set number of years' imprisonment.

sentence. The Court also noted that, over and above the assurances provided, while US legislation provided various possibilities for reducing life sentences (including the Presidential pardon system), which gave the applicant some prospect of release, it did not lay down any procedure amounting to a mechanism for reviewing such sentences for the purposes of Article 3 of the Convention.

Findikoglu v. Germany

7 June 2016 (decision on the admissibility)

In 2015 the applicant was extradited to the United States of America where he was wanted in connection with an international conspiracy he was alleged to have led to attack the computer networks of financial service providers for financial gain. The applicant complained that the range of offences for which he had been extradited carried a maximum prison sentence of 247.5 years, which meant that, if convicted, he would have no prospect of being released.

The Court held in particular that, in the applicant's case, the existence of a risk of a prison sentence amounting to life imprisonment could not be assumed and the problem of whether or not the applicant would have any chance of being released if convicted was not relevant. It therefore declared the application **inadmissible** as being manifestly ill-founded, finding that the applicant had not demonstrated that his extradition to the United States exposed him to a real risk of treatment reaching the Article 3 of the Convention's threshold as a result of the likely sentence.

See also: ***López Elorza v. Spain***, judgment of 12 December 2017.

Harkins v. the United Kingdom

10 July 2017 (Grand Chamber – decision on the admissibility)

This case concerned the extradition of a British national to the United States of America to face trial for first-degree murder. The applicant complained that his extradition to the United States would violate Articles 3 and 6 (right to a fair trial) of the Convention, because if convicted in Florida he would face a mandatory sentence of life in prison without the possibility of parole. This is the second time the applicant has applied to the European Court with regard to his extradition. In 2012, in the judgment *Harkins and Edwards* (see page 1 above), the Court found that his extradition would not violate Article 3 of the Convention. However, the applicant was not extradited, and following the subsequent judgments of the Court in *Vinter and Others* and *Trabelsi* he argued before the national courts 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. The UK courts refused to re-open the proceedings and, in this second application to the Court, the applicant, relying on the recent case-law, once again complained that his extradition would breach his rights under Article 3.

The Grand Chamber declared both complaints **inadmissible**. It first held that the applicant's complaints under Article 3 of the Convention should be declared inadmissible as they were "substantially the same" (within the meaning of Article 35 § 2 (b) of the Convention) as the Article 3 complaint considered by the Court in 2012. In reaching this conclusion, the Grand Chamber rejected the applicant's argument that the development of its case-law in the *Vinter and Others* and *Trabelsi* cases could constitute "relevant new information" for the purposes of Article 35 § 2 (b). To find otherwise would undermine the principle of legal certainty and undermine the credibility and authority of the Court's judgments. As further concerned the applicant's complaint under Article 6 of the Convention, the Grand Chamber concluded that the facts of the case did not disclose any risk that the applicant would suffer a flagrant denial of justice. Lastly, the Grand Chamber also decided that the interim measure (under Rule 39 of the Rules of Court) indicating to the UK Government that it should stay the applicant's extradition was to be lifted.

Sanchez Sanchez v. the United Kingdom

3 November 2022 (Grand Chamber – judgment)

This case concerned the requested extradition of the applicant, a Mexican national, to the United States of America to face trial for drug dealing and trafficking, where he alleged that there was a possibility that he might, if convicted, be sentenced to life imprisonment without parole.

The Court held that the applicant's extradition to the United States would **not** be in **violation of Article 3** of the Convention. It found in particular that, while the principles set out in the Court's previous case-law must be applied in domestic cases, an adapted approach was called for in an extradition case such as this, where the applicant has been neither convicted nor sentenced, and where the finding of a violation could prevent him from standing trial. The Court subsequently overruled the case-law in *Trabelsi v. Belgium* (see above) for this non-domestic case, underlining, however, that that in no way undermined its position that the extradition of a person by a Contracting State raised problems where there were serious grounds to believe that he would run a real risk of being subjected to treatment contrary to Article 3 of the Convention in the requesting State. Lastly, the Court noted that, in extradition cases, first, it was up to the applicant to demonstrate that there was a real risk that, if convicted, he would be given a sentence of life imprisonment without parole. Then, in keeping with the essence of the case-law in *Vinter and Others v. the United Kingdom* (see above), the sending State must ascertain, prior to authorising extradition, that a mechanism of sentence review existed in the requesting state which would allow the domestic authorities to consider the prisoner's progress towards rehabilitation or any other ground for release based on his or her behaviour or other circumstances. In the case of the applicant in the present case, the Court held that he had not shown that, in the event of his conviction in the United States of the offences charged, there would be a real risk that he would be given a sentence of life imprisonment without parole. There was therefore no need to carry out the second stage of the analysis.

See also: ***Lang v. Ukraine***, judgment of 9 November 2023.

McCallum v. Italy

3 November 2022 (Grand Chamber – decision on the admissibility)

This case concerned the applicant's potential extradition to the United States of America, where she was wanted as a suspect in the murder of her then husband and the burning of his corpse. The applicant complained that if extradited to the United States, she faced a real risk of life imprisonment without parole.

The Court declared the application **inadmissible**, as being manifestly ill-founded, as the US authorities had given a commitment that the applicant could not be sentenced to life imprisonment without the possibility of parole and she thus was not at risk of a sentence that would amount to inhuman or degrading punishment. The Court noted in particular that a key fact in the case changed when the Michigan prosecutors gave a commitment to try the applicant with the main lesser offence of "homicide murder – second degree". This commitment on the part of the US authorities was given to their Italian counterparts via a diplomatic note. The Court reiterated that diplomatic notes "carr[ied] a presumption of good faith and that, in extradition cases, it was appropriate that that presumption be applied to a requesting State which had a long history of respect for democracy, human rights and the rule of law, and which had longstanding extradition arrangements with Contracting States ...". That applied in this case and the applicant could only be tried within the terms of the diplomatic note.

Bijan Balahan v. Sweden

29 June 2023 (judgment)

This case concerned the Swedish authorities' decision to extradite the applicant from Sweden to the United States. The applicant was wanted in California on suspicion of aggravated mayhem, torture, inducing false testimony, dissuading a witness after a prior conviction, and grand theft, all allegedly committed in 2020. The Swedish Supreme

Court had found that extraditing the applicant would not be contrary to the European Convention on Human Rights.
The Court held that if the applicant were extradited to the United States, it would **not** be **a violation of Article 3** of the Convention. It found in particular that the applicant had failed to make out his arguments that he would risk either a *de jure* or a *de facto* life sentence without parole if extradited, or that the sentence he might receive would be grossly disproportionate. The Court held that the applicant at most risked a life sentence with parole and that he had not shown that there was a real risk that he, as he alleged, would have to serve a minimum term of 61 years before being eligible for parole. It also noted the seriousness of the accusations against the applicant in dismissing the argument that the sentence would be grossly disproportionate.

Carvajal Barrios v. Spain

4 July 2023 (decision on the admissibility)
This case concerned the extradition of the applicant – a Venezuelan national who was a member of the Venezuelan intelligence agency, including head of counter-espionage under Venezuelan President Hugo Chávez – to the United States, where he was wanted for drug-smuggling offences. The applicant complained that his extradition to the United States would put him at risk of a life sentence without parole.
The Court declared the application **inadmissible** as being manifestly ill-founded, finding that the applicant had failed to demonstrate that he would be at real risk of being sentenced to life imprisonment without parole in breach of Article 3 of the Convention if extradited. As the applicant had not yet been tried, it was difficult to ascertain the outcome, but the Court was satisfied that he would be tried in a legal system respectful of the rule of law and principles of a fair trial, in which he would have full opportunity to mount a defence with the help of legal representation. The Court also noted that there were many circumstances in which the applicant would not receive the heaviest penalty possible, including acquittal, pleading guilty, or a plea bargain. Furthermore, sentencing would not be automatic and would be based on a wide range of inputs including mitigating factors. In the present case, the applicant had failed to provide any information that mitigating factors in his case would not be taken into account. He would also have the right of appeal. In all, such sentences were highly unusual in federal cases in the United States.

Compaoré v. France

7 September 2023 (judgment)
This case concerned the extradition, authorised by an order issued on 21 February 2020, of the applicant – a Burkinabè national, who was the brother of the former President of the Republic of Burkina Faso, Blaise Compaoré, and one of his close advisers until the latter was forced to resign on 31 October 2014 as a result of a popular uprising –, to Burkina Faso, where he faced criminal prosecution for "incitement to murder" an investigative journalist and the three men accompanying him. The applicant submitted that his extradition to Burkina Faso would expose him to a real risk of torture or of inhuman or degrading treatment.
The Court held that there would be a **violation of Article 3** of the Convention under its procedural limb if the extradition order were to be enforced without a prior reassessment of the validity and reliability of the diplomatic assurances given by Burkina Faso. In particular, after reviewing the diplomatic assurances given by the State of Burkina Faso, which had requested the extradition, and examining the reliability of those assurances in the light of significant political upheavals following two military coups d'état, the Court found that those assurances had not been reiterated by the second transitional government set up by the new Burkinabè head of State who came to power on 30 September 2022, and that the Government, which had received the applicant's latest observations on that point on 19 October 2022, had not commented on them. Consequently, the Court found that since, at the time of the present ruling, the domestic authorities had failed to take account of the new political and constitutional context in the State requesting extradition, and in particular to consider whether the assurances on

which the decisions to grant extradition had been based remained binding on the Burkinabè State, it was not satisfied that the risk alleged by the applicant of being subjected to treatment contrary to Article 3 of the Convention had been ruled out in the extradition proceedings at present. This was true with regard both to the risk that the applicant might not be detained in the ward of Ouagadougou Prison reserved for public figures and to the risk that he might be sentenced to life imprisonment in Burkina Faso without any possibility of release.

Matthews and Johnson v. Romania and Lazăr v. Romania

9 April 2024 (judgments)[5]

The cases concerned the applicants' detention and the Romanian courts' ordering their extradition to the United States in March 2021. All three applicants were wanted for, among other charges, racketeering, drugs and money-laundering offences. The applicants alleged, in particular, that their extradition to the US had/would put them at risk of life imprisonment without parole.

The Court declared **inadmissible**, as being manifestly ill-founded, the applicants' complaint under **Article 3** of the Convention. It found, in the present cases, that the applicants had failed to show that they were at risk of life imprisonment without parole if extradited to the US, noting the sentencing practice in similar cases before trial courts in the US. The Court also held that there had been **no violation of Article 5 § 1 (f)** (right to liberty and security) of the Convention in the present cases.

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[5]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.