



## Grand Chamber to examine case about measures taken under United Nations Security Council Resolutions against Al-Qaeda

The Chamber of the European Court of Human Rights to which the case **Nada v. Switzerland** (application no. 10593/08) had been allocated has relinquished jurisdiction in favour of the Grand Chamber, none of the parties having objected (Article 30 of the European Convention on Human Rights and Rule 72 of the Rules of Court).

### Principal facts

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 Tessin.

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 the 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.

## Complaints and procedure

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.

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).

It is not possible to give any indications about when the application will be examined.

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