



THE AIRE CENTRE
Advice on Individual Rights in Europe



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17 January 2025

Request for leave to intervene as a third-party in the case of M.A.E. v Poland (App. No. 7463/23)

Dear President Ivana Jelić,

The undersigned organisations, the AIRE Centre, the European Council on Refugees and Exiles (ECRE), and the Dutch Council for Refugees request leave to intervene in the case of *M.A.E. v Poland* (App. No. 7463/23), communicated to the respondent party on 8 October 2024 and published on 28 October 2024. This request is submitted within twelve weeks following the publication date of an application given to the respondent Contracting party (Rule 44(3) of the Rules of Court).

The AIRE Centre is a London-based NGO which promotes awareness of European law rights and assists individuals in relation to asserting those rights by providing legal advice, direct legal representation to individuals, other advisers and lawyers and submitting third-party interventions in national and European Courts. The Centre has been involved in the litigation of over 150 cases either as applicants' representatives or as third-party interveners before the ECtHR including many cases related to the subject matter of this case, namely *Güzelyurtlu v. Cyprus and Turkey*, *ND and NT v. Spain*, *Hirsi v. Italy*, *Sharifi v. Italy and Greece*, *MSS. v. Greece and Belgium*, *GRJ v. Greece*, *AE v. Greece*, *SS v. Greece* and *FM and others v. Greece*, and the cases of *RA v. Poland* and *COCG v. Lithuania* currently pending before the Grand Chamber. It assisted in the case of *McCann, Savage and Farrell v. UK*. It has also intervened some 15 cases before the CJEU including the asylum related cases of *NS v. SSHD*, *ME v. ORAC*, *MA and BT v. SSHD*. The Centre's lawyers wrote five editions of the Council of Europe handbook on Asylum and the ECHR, and the FRA/European Court of Human Rights handbook on 'European law relating to Asylum, Borders and Immigration' and contributed to the ECRE/Dutch Council for Refugees publication on the EU Charter for Fundamental Rights and Asylum.

The Dutch Council for Refugees (DCR) is an NGO that has been representing the interests of refugees and asylum seekers in the Netherlands since 1979. With more than 13,500 volunteers and 600 employees, the DCR is the primary independent organisation supporting refugees in the country from reception to integration through 310 branch offices. Domestically, DCR offers guidance during the asylum process, coordinates a vast network of asylum lawyers and manages the leading database on asylum law (Vluchtweb) with current developments in law, policy, case law and country of origin information. At a regional level, DCR works to contribute to the protection of asylum seekers and refugees across Europe. To this end, it has provided legal and technical support to a number of partner organisations, including in North Macedonia, Hungary, Croatia and Greece. The DCR has intervened in cases including *Ilias and Ahmed v. Hungary*, *ND and NT v. Spain*, *MK and others v. Poland*, *Darboe and Camara v. Italy*, *SS and others v. Italy*, *SB v. Croatia*, *HT v. Germany and Greece* as well as *RA v. Poland* and *COCG v. Lithuania*, currently pending before the Grand Chamber.

The European Council on Refugees and Exiles (ECRE) is an international alliance of 117 NGOs across Europe working together to protect and advance the rights of refugees, asylum seekers and displaced persons. Their mission is to promote the establishment of fair and humane European asylum policies and practices in accordance with international human rights law. ECRE engages in legal research, litigation advice and training concerning the application and interpretation of EU law, and relevant international human rights instruments, including the 1951 Refugee Convention and the European Convention on Human Rights. ECRE was a third-party intervener in numerous cases before this Court, including *SB and others v. Croatia*, *TK and SR v. Russia*, *Bahoumou Totopa v. Spain*, *Al H. and others v. Greece*, *MH v. Serbia*, *MN v. Belgium (GC)*, *Trawalli and Others v. Italy*, *ND and NT v. Spain (GC)*, and *Ilias and Ahmed v. Hungary*.

The proposed intervenors wish to assist the Court by putting before it submissions relating to:

- The Contracting Parties' obligations under Article 5(1) and 5(2) of the Convention with particular reference to State's procedural and substantive obligations when depriving individuals of their liberty pursuant to immigration control;
- The Contracting Parties' obligations under Article 5(4) of the Convention to provide persons in detention with an effective procedure for a review of the lawfulness of detention, in particular the procedural safeguards such as a right to adversarial hearings;
- The Contracting Parties' obligation under Article 3 in the context of detention in particular to refrain from subjecting persons to inhumane or degrading treatment or conditions, and with a view to vulnerabilities of applicants;
- The relevant international and EU legal standards applicable to the questions raised by the Court in relation to Article 3, Article 5(1)f and Article 5(4) of the Convention.

If granted permission we would, of course, not comment on the specific facts or merits of the application in question. The intervention will be of a general nature and will be limited to the usual ten pages allocated to the third-party interveners.

Should the Court decide to grant this application, **we would be most grateful if the contact person for this intervention, Sadhia Rafi (DCR), could be notified by email as soon as the decision is made (srafi@vluchtelingenwerk.nl)** in order to ensure that the proposed interveners dispose of the maximum time to draft their submission.

Yours faithfully,



Sadhia Rafi

Head of Strategic Litigation

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