

European Court of Human Rights
Council of Europe
67075 Strasbourg Cedex
France

By fax: + 33 (0)3 88 41 27 30

18 March 2016

RE: Third Party Intervention *Khlaifia and Others v Italy* App No 16483/12

Dear Sir,

We are writing in accordance with Article 36(2) of the Convention and Rule 44(3) of the Rules of Court to request that the President of the Chamber grants the AIRE Centre and the European Council on Refugees and Exiles (ECRE) permission to submit a joint third-party intervention in the above case. We note that the case was referred to the Grand Chamber on 1st February 2016 at the request of the Italian government.

The AIRE Centre is a non-governmental organisation based in the United Kingdom which promotes awareness of European human rights law and assists vulnerable and marginalised individuals in asserting their rights in European law. The organisation has been involved in over 120 cases before the European Court of Human Rights in the past 20 years and has developed a particular practice in immigration and asylum cases. The AIRE Centre has represented applicants in numerous expulsion cases before the court (e.g. *D v the United Kingdom*, *N.A. v the United Kingdom*, *T.I. v the United Kingdom*) and has been granted permission to intervene in several cases involving the treatment of those seeking international protection from expulsion (e.g. *Chahal v the United Kingdom*, *Saadi v the United Kingdom*, *Ramzy v the Netherlands*, *Mamatkulov v Turkey*, *Hirsi Jamaa and others v Italy*, *Sharifi v Greece and Italy*, *MSS v Belgium and Greece*, *Tarakhel v Switzerland*, and most recently *ND and NT v Spain*)

European Council on Refugees and Exiles (ECRE) is a pan-European alliance of 90 non-governmental organisations protecting and advancing 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 right law. In addition, ECRE monitors and denounces human rights violations while proposing and promoting fair and effective durable solutions. ECRE engages in legal research and training on the application and interpretation of EU asylum law, the EU Charter of Fundamental Rights (CFR) and relevant international human rights instruments, including the 1951

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Refugee Convention and the European Convention on Human Rights. Noteworthy in this regard has been ECRE's recent publication, along with the Dutch Council of Refugees, on the application of the Charter to EU Asylum law. ECRE was a third party intervener in a number of cases before this Court, including *Tarakhel v Switzerland*, *FG v Sweden*, *A.E. v Finland*, *Bilalova v Poland*, *ND and NT v Spain*.

The proposed interveners wish to assist the Court by putting before it the following:

- The importance of an individualised assessment of the situation of all members of a group of migrants seeking access to, or authorisation to remain on, the territory of a Contracting Party to the ECHR in light of the requirements of Article 4 of Protocol 4 of the Convention;
- **in the context of Article 53 ECHR**, the relevance of the component provisions and procedural safeguards enshrined in the Common European Asylum System and of the procedural safeguards foreseen in the EU Returns Directive 2008/115 and of the requirements of the EU Schengen Borders Code;
- the analysis of EU Member States' obligations in relation to the deprivation of liberty under the ECHR, the EU Charter of Fundamental Rights and other EU law provisions;
- the relevant provisions of international law related to smuggling and trafficking in human beings.

The proposed interveners would, as usual, limit their comments to ten pages and not comment on the specific facts of the case. Please do not hesitate to let us know if the Court requires anything further information.

Yours Faithfully,



Nuala Mole
Senior Lawyer
The AIRE Centre

Contact details of persons responsible for the intervention

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