



Grand Chamber hearing concerning complaints by Armenian refugee, displaced during the Nagorno-Karabakh conflict

The European Court of Human Rights is holding a **Grand Chamber** hearing today **Wednesday 5 February 2014 at 9.15 a.m.** in the case of **Sargsyan v. Azerbaijan** (Application no. 40167/06)

The case concerns an Armenian refugee's complaint that he was forced to flee from his home in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh. A first Grand Chamber hearing on the admissibility and merits of the case was held on 15 September 2010. In a decision of 14 December 2011, the Court declared the application partly admissible. At today's hearing, the Court will carry out a further examination of the merits as well as some preliminary objections that were joined to the merits in the admissibility decision.

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). 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.

The applicant, Minas Sargsyan, an Armenian national, was born in 1929 and died in 2009 in Yerevan after having lodged his complaint with the European Court of Human Rights. Two of his children are pursuing the application on his behalf.

The case concerns Mr Sargsyan's complaint that he was forced to flee from his home in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh (the Nagorno-Karabakh Autonomous Oblast - "the NKAO"), which, at the moment of the dissolution of the Soviet Union in December 1991, was an autonomous province landlocked within the Azerbaijan Soviet Socialist Republic ("the Azerbaijan SSR"). In 1989 the NKAO was approximately 75% ethnic Armenian and 25% ethnic Azeri.

Armed hostilities in Nagorno-Karabakh started in 1988, coinciding with Armenian demand for the incorporation of the NKAO into Armenia. In September 1991 the Regional Council of the NKAO announced the establishment of the "Nagorno-Karabakh Republic" ("NKR"), consisting of the territory of the NKAO and the Shahumyan district of Azerbaijan. The "NKR" reaffirmed its independence from Azerbaijan in January 1992. After that, the conflict gradually escalated into full-scale war. By the end of 1993, ethnic Armenian forces had gained control over almost the entire territory of the former NKAO as well as seven adjacent Azerbaijani regions. The conflict resulted in hundreds of thousands of internally-displaced people and refugees on both sides. In May 1994 the parties to the conflict signed a cease-fire agreement, which holds to this day. Negotiations for a peaceful solution have been carried out under the auspices of the Organization for Security and Co-operation in Europe (OSCE). However, no final political settlement of the conflict has been reached. The self-proclaimed independence of the "NKR" has not been recognised by any state or international organisation.

Mr Sargsyan stated that he and his family, ethnic Armenians, lived in a two-floor house with auxiliary premises in the village of Gulistan of the Shahumyan region (the Azerbaijan SSR). Shahumyan shared part of NKAO's northern border. The region did not form part of NKAO, but was later claimed by the "NKR" as part of its territory. According to Mr Sargsyan, prior to the conflict, 82% of the population of Shahumyan were ethnic Armenians. Due to the Nagorno-Karabakh conflict, he was forced to flee in June 1992.

Mr Sargsyan complained about his forced displacement from Gulistan and continuing refusal by the Azerbaijani Government to allow him access to his property and home. He relied on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights and Article 8 (right to respect for private and family life) of the Convention. He also complained under Article 13 (right to an effective remedy) of the Convention, in conjunction with the other complaints, that there were no effective remedies available to ethnic Armenians who were forced to leave their homes in Azerbaijan due to the unresolved status of the Nagorno-Karabakh conflict.

Further relying in particular on Article 8, Mr Sargsyan complained about the reports of alleged demolition or vandalism of Armenian cemeteries in Azerbaijan. He submitted that his not being able to visit the graves of his close relatives and not knowing what had happened to them – but being aware that they were at risk of destruction – caused him severe suffering and distress, visiting and maintenance of cemeteries being one of his religious customs.

Lastly, he submitted under Article 14 (prohibition of discrimination), in conjunction with the other complaints, that only ethnic Armenians living in Azerbaijan were the target of violence and that the Azerbaijani Government failed to investigate such attacks against Armenians or to provide redress for illegal occupation of their properties as well as destruction of Armenian cemeteries.

Procedure

The application was lodged with the European Court of Human Rights on 11 August 2006. On 11 March 2010 the Chamber to which the case was assigned relinquished jurisdiction in favour of the Grand Chamber.¹ The Armenian Government intervened as a third party. A first Grand Chamber hearing was held on 15 September 2010.

In a decision of 14 December 2011, the Court declared the application partly admissible ([see press release of 9 January 2012](#)). Noting that it was in dispute between the parties whether the Government of Azerbaijan had effective control over Gulistan, the Court joined the Government's objection that it lacked jurisdiction and had no responsibility under Article 1 of the Convention to its examination of the merits of the case. Furthermore, the Court joined to the examination of the merits of the case the following questions: whether Mr Sargsyan had been in a position to claim victim status in respect of the alleged continued lack of access to the graves of his relatives in Gulistan; whether effective remedies existed at national level, which should have been used by the applicant.

At the same time, the Court rejected the Government's objection based on the declaration, which they had made at the time of ratifying the Convention, and their objection that the application fell outside the Court's temporal jurisdiction, finding that Mr Sargsyan's lack of access to his properties had to be considered a continuing situation which the Court could examine as from 15 April 2002, the date on which Azerbaijan had ratified the Convention. The Court also dismissed the objection by the Government of Azerbaijan that the application had been submitted out of time.

Composition of the Court

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

Dean Spielmann (Luxembourg), *President*,
Josep Casadevall (Andorra),
Guido Raimondi (Italy),

¹ Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects".

Ineta **Ziemele** (Latvia),
 Mark **Villiger** (Liechtenstein),
 Isabelle **Berro-Lefèvre** (Monaco),
 Peer **Lorenzen** (Denmark)
 Boštjan M. **Zupančič** (Slovenia),
 Alvina **Gyulumyan** (Armenia),
 Khanlar **Hajiyev** (Azerbaijan),
 George **Nicolaou** (Cyprus),
 Luis **López Guerra** (Spain),
 Paulo **Pinto de Albuquerque** (Portugal),
 Ksenija **Turković** (Croatia),
 Egidijus **Kūris** (Lithuania),
 Robert **Spano** (Iceland),
 Iulia Antoanella **Motoc** (Romania), *judges*,
 Julia **Laffranque** (Estonia),
 Ganna **Yudkivska** (Ukraine),
 Paul **Lemmens** (Belgium), *substitute judges*,

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

Representatives of the parties

Azerbaijani Government

Chingiz **Asgarov**, *Agent*,
 Malcolm N. **Shaw QC** and Gabriel **Lansky**, *Counsel*,
 Otari **Gvaladze**, Hannes **Tretter** and Tatiana Urdaneta **Wittek**, *Advisers*;

Applicant

Philip **Leach**, Narine **Gasparyan**, Knarik **Ohanyan**, Arman **Aloyan** and Vahe **Grigoryan**, *Counsel*.

Third parties

Armenian Government

Gevorg **Kostanyan**, *Agent*,
 Emil **Babayan**, *Counsel*.

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Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Nina Salomon (tel: + 33 3 90 21 49 79)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Jean Conte (tel: + 33 3 90 21 58 77)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.