



Forthcoming Grand Chamber judgment in a case concerning complaints by Armenian refugee, displaced during the Nagorno-Karabakh conflict

The European Court of Human Rights will be delivering a Grand Chamber judgment in the case of **Sargsyan v. Azerbaijan** (application no. 40167/06) at a public hearing on **16 June 2015 at 4:00 p.m.** in the Human Rights Building, Strasbourg.

The case concerns an Armenian refugee's complaint that, after having been forced to flee from his village in the Shahumyan region of Azerbaijan in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh, he has since been denied the right to have access to his property, home and his relatives' graves there.

Principal facts and complaints

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 in 2006. Two of his children have pursued the application on his behalf.

Mr Sargsyan stated that he and his family, ethnic Armenians, used to live in the village of Gulistan, in the Shahumyan region of the Azerbaijan SSR, where he had a house and a plot of land. According to his submissions, his family was forced to flee from their home in 1992 during the Armenian-Azerbaijani conflict over Nagorno-Karabakh.

At the time of the dissolution of the Soviet Union in December 1991, the Nagorno-Karabakh Autonomous Oblast ("the NKAO") was an autonomous province landlocked within the Azerbaijan Soviet Socialist Republic ("the Azerbaijan SSR"). In 1989 the NKAO had a population of approximately 77% ethnic Armenians and 22% ethnic Azeris. The Shahumyan region, where Mr Sargsyan's family lived, did not form part of NKAO, but was later claimed by the "NKR" as part of its territory. Shahumyan shared a border with the NKAO and was situated north of it. According to Mr Sargsyan, prior to the conflict, 82% of the population of Shahumyan were ethnic Armenians.

Armed hostilities in Nagorno-Karabakh started in 1988. In September 1991 – shortly after Azerbaijan had declared its independence from the Soviet Union – 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. Following a referendum in December 1991 – boycotted by the Azeri population – in which 99.9% of those participating voted in favour of the secession of the NKR from 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 so far been reached. The self-proclaimed independence of the "NKR" has not been recognised by any state or international organisation.

Mr Sargsyan complained that the denial by the Azerbaijani Government of his right to return to the village of Gulistan and to have access to, control, use and enjoy his property or to be compensated for its loss amounted to a continuing violation of Article 1 of Protocol No. 1 (protection of property)

to the European Convention on Human Rights. He further complained that the denial of his right to return to Gulistan and have access to his home and to the graves of his relatives constituted a continuing violation of Article 8 (right to respect for private and family life) of the Convention. Relying on Article 13 (right to an effective remedy) of the Convention, in conjunction with the other complaints, he further complained that no effective remedy was available to him. Lastly, he submitted under Article 14 (prohibition of discrimination), in conjunction with the other complaints, that he had been discriminated against on the basis of his ethnic origin and religious affiliation.

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 had been 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. 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 him.

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 property, his home and his relatives' graves 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. A second Grand Chamber hearing on the merits of the case was held on 5 February 2014.

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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.

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".