



Grand Chamber to examine case concerning the possibility for additional judges to participate in the Dutch Supreme Court deliberations in the interest of case-law consistency

The Chamber of the European Court of Human Rights to which the case **Kuijt v. the Netherlands** (application no. 19365/19) had been allocated has **relinquished jurisdiction in favour of the Grand Chamber of the Court**¹.

The application concerns the practice in the Supreme Court of the Netherlands (*Hoge Raad der Nederlanden*) by which judges of the Criminal Law Division who do not form part of the formation to which the case has been assigned may participate in the deliberations. This is allowed in the interest of legal unity (*rechtseenheid*). These judges of the Supreme Court are called “reserve justices” (*reservisten*).

A legal summary of this case will be available in the Court’s database HUDOC ([link](#))

Kuijt v. Netherlands (application no. 19365/19)

Principal facts

The applicant, Johanna Kuijt, is a Dutch national who was born in 1964 and lives in the Netherlands.

The applicant was convicted in 2016 for disrupting a municipal council meeting and given a two weeks’ suspended prison sentence by the Court of Appeal. The applicant lodged an appeal on points of law.

The applicant’s lawyer asked the Supreme Court for the names of the judges who would be hearing her case. The names of the three judges forming the composition were supplied. Subsequently, the applicant’s lawyer asked whether “reserve justices” would participate in the deliberations on her case. The registry referred to the “Protocol on participation in examinations and deliberations at the Supreme Court of the Netherlands”, published on the website of the court, which indicates that “reserve justices” may participate in the deliberations of cases.

The applicant challenged the three judges assigned to her case and the eight other judges of the Supreme Court’s Criminal Law Division. She argued that she would be denied a hearing by an independent and impartial tribunal established by law, in violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, given that one or more “reserve justices” could participate in the deliberations.

By decision of 21 December 2018, the Challenge Chamber of the Supreme Court dismissed the applicant’s challenge. Regarding the role of “reserve justices”, it referred to Section 75 of the Judiciary (Organisation) Act, which stipulates that multi-judge chambers examine and decide cases in a formation of three or five judges, and ruled that the other judges of the Division are not responsible for examining and determining the case. It also referred to section 1.2 of the Protocol, which stipulates that “reserve judges” may participate in the deliberations of cases for the purpose of safeguarding legal unity in the Division. It pointed to the importance of consistency of the case-law at the Supreme Court level for the confidence in the judicial system and for legal certainty, both of which are

¹ Under Article 30 of the European Convention of 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. ”

fundamental aspects of the rule of law. It maintained that only the formation of three or five judges appointed to a case examines and decides the case.

By judgment of 8 January 2019 the Supreme Court dismissed the applicant's appeal on points of law.

Complaint and procedure

Relying on Article 6 (right to a fair trial) of the European Convention of Human Rights, the applicant complains that given that judges from outside the judicial panel may have taken part in the deliberations on her case, her appeal on points of law was not heard by an independent and impartial tribunal established by law.

The application was lodged with the European Court of Human Rights on 4 April 2019.

On 15 April 2020 the Government of the Kingdom of the Netherlands was given [notice](#)² of the application, with questions from the Court.

On 1 July 2025 the parties were informed that the Chamber intended to relinquish the case and were invited to submit any comments they wished to make.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 26 August 2025.

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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.

² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges or the President of the Section may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.