

Cases referred to the Grand Chamber

At its last meeting (18 March 2013), the Grand Chamber panel of five judges decided to refer two cases and to reject requests to refer 18 other cases¹.

The following cases have been referred to the Grand Chamber of the European Court of Human Rights:

Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the "Former Yugoslav Republic of Macedonia" (application no. 60642/08), concerning the applicants' inability to recover "old" foreign-currency savings - deposited with two banks in what is now Bosnia and Herzegovina - following the dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY).

Marguš v. Croatia (no. 4455/10), concerning the conviction, in 2007, of a former commander of the Croatian army of war crimes against the civilian population committed in 1991. He complains in particular that the criminal offences of which he was convicted were the same as those which had been the subject of proceedings against him terminated in 1997 in application of the General Amnesty Act.

Referrals accepted

[Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the "Former Yugoslav Republic of Macedonia" \(application no. 60642/08\)](#)

The applicants are three nationals of Bosnia and Herzegovina who live in Germany. One of them is also a German national.

They complain that they are unable to withdraw foreign-currency savings they deposited before the dissolution of the Socialist Federal Republic of Yugoslavia with two banks in what is now Bosnia and Herzegovina: the Ljubljanska Banka Sarajevo (a Slovenian-based bank) and the Tuzla branch of the Investbanka (a Serbian-based bank). Negotiations are still pending between the successor States to settle matters such as their respective liability to pay investors the sums deposited and the related modalities/conditions.

The applicants complain in particular about the delay in reaching a settlement and that they do not have at their disposal an effective remedy for their complaints in respect of any of the States concerned. They rely on Article 1 of Protocol No. 1 (protection of property), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights.

In its [Chamber judgment](#) of 6 November 2012, the Court held:

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

- unanimously, that there had been a violation of Article 1 of Protocol No. 1 and a violation of Article 13 by Serbia with regard to one of the applicants, but no violation of Article 1 of Protocol No. 1 and no violation of Article 13 by the other States; and,

-by a majority (six votes to one), that there had been a violation of Article 1 of Protocol No. 1 and a violation of Article 13 by Slovenia with regard to two of the applicants.

The Court considered it appropriate to apply the pilot-judgment procedure, as there were more than 1,650 similar applications pending before it, involving more than 8,000 applicants. The Court concluded that Slovenia and Serbia should undertake all necessary measures within six months from the date on which this judgment became final in order to allow the applicants and all others in their position to be paid back their "old" foreign currency savings under the same conditions as those who had such savings in domestic branches of Slovenian and Serbian banks. The Court also adjourned the examination of all similar cases during this period.

The case was referred to the Grand Chamber at the request of the Governments of Serbia and Slovenia.

[Marguš v. Croatia \(no. 4455/10\)](#)

The applicant, Fred Marguš, is a Croatian national who was born in 1961 and is currently serving a prison term in Lepoglava State Prison (Croatia).

A first set of criminal proceedings against him on charges of a number of offences including murder had been terminated in 1997 under the General Amnesty Act, which amnestied criminal offences committed during the war in Croatia between 1990 and 1996. After the Supreme Court had found that decision to be in violation of the Amnesty Act, he was tried in a second set of criminal proceedings, in which he was convicted of war crimes against the civilian population and sentenced to 15 years' imprisonment by a judgment which became final in September 2007.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial) of the Convention, Mr Marguš complains that the same judge participated in the proceedings terminated in 1997 and those in which he was later found guilty, and that he was deprived of the right to give closing arguments. Relying on Article 4 of Protocol No. 7 to the Convention (right not to be tried or punished twice), he complains that the criminal offences which were the subject of the proceedings terminated in 1997 and those of which he was later convicted were the same.

In its [Chamber judgment](#) of 13 November 2012, the Court unanimously held that there had been no violation of Article 6 §§ 1 and 3 (c) and no violation of Article 4 of Protocol No. 7.

The case was referred to the Grand Chamber at the applicant's request.

Requests for referral rejected

Judgments in the following 18 cases are now final²

[Requests for referral submitted by the applicants](#)

Ceka v. Albania (application no. 26872/05), [judgment](#) of 23 October 2012;

² Under Article 44 § 2 (c) of the European Convention on Human Rights, the judgment of a Chamber becomes final when the panel of the Grand Chamber rejects the request to refer under Article 43.

Hadzhiev v. Bulgaria (no. 22373/04), [judgment](#) of 23 October 2012;
Yavashev and Others v. Bulgaria (no. 41661/05), [judgment](#) of 6 November 2012;
Grubić v. Croatia (no. 5384/11), [judgment](#) of 30 October 2012;
Trifković v. Croatia (no. 36653/09), [judgment](#) of 6 November 2012;
Peta Deutschland v. Germany (no. 43481/09), [judgment](#) of 8 November 2012;
Mikryukov and Others v. Russia (nos. 34841/06, 59954/09, 746/10, 1096/10, 1162/10 and 1898/10), [judgment](#) of 31 July 2012;
Çoşelav v. Turkey (no. 1413/07), [judgment](#) of 9 October 2012.

Requests for referral submitted by the Government

El Haski v. Belgium (no. 649/08), [judgment](#) of 25 September 2012;
Godelli v. Italy (no. 33783/09), [judgment](#) of 25 septembre 2012;
Grossi and Others v. Italy (no. 18791/03), [judgment](#) of 30 October 2012;
Ablyazov v. Russia (no. 22867/05), [judgment](#) of 30 October 2012;
Pichugin v. Russia (no. 38623/03), [judgment](#) of 23 October 2012;
Adamović v. Serbia (no. 41703/06), [judgment](#) of 2 October 2012;
Bjelič v. Slovenia (no. 50719/06), [judgment](#) of 18 October 2012;
Danijel Pečnik v. Slovenia (no. 44135/06), [judgment](#) of 18 October 2012;
Stojc v. Slovenia (no. 20159/06), [judgment](#) of 18 October 2012;
Zabovnik v. Slovenia (nos. 17596/06 et 17608/06), [judgment](#) of 18 October 2012.

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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.