



## Case referred to the Grand Chamber

At its last meeting (9 September 2013), the Grand Chamber panel of five judges decided to refer one case and to reject requests to refer 18 other cases<sup>1</sup>.

The following case has been referred to the Grand Chamber of the European Court of Human Rights.

**Rohlena v. the Czech Republic** (application no. 59552/08), concerning the conviction of a man for abusing his wife between 2000 and 2006 when this classification of his offence by the courts had only been introduced into Czech law in 2004.

### Referral accepted

#### [Rohlena v. the Czech Republic \(application no. 59552/08\)](#)

The applicant, Petr Rohlena, is a Czech national who was born in 1966 and lives in Brno (Czech Republic).

He was formally accused by the Brno public prosecutor of regularly physically and mentally abusing his wife while drunk - allegedly between 2000 and February 2006. In April 2007 the Czech courts found him guilty of the continuing offence of abusing a person living under the same roof and he was given a suspended sentence of 2 years and 6 months' imprisonment and a five-year probationary period. The courts retained the classification of the offence as defined in Article 215a of the Criminal Code according to the version in force from 1 June 2004, considering that this classification extended to acts perpetrated prior to that date, insofar as these acts were also punishable (under a different classification) before that date. This judgment was upheld by the appeal court and the Supreme Court. Ultimately, in 2008 the Constitutional Court dismissed Mr Rohlena's constitutional appeal, considering that the courts' decisions in his case had not been of a retrospective effect prohibited by the Constitution.

Relying on Article 7 § 1 (no punishment without law), Mr Rohlena complained that the Criminal Code had been applied retroactively, pointing out that he had been convicted of an offence relating to conduct in which he had engaged prior to the date on which that offence had been introduced into the law.

In its [Chamber judgment of 18 April 2013](#), the Court held unanimously that there had been no violation of Article 7 § 1 of the European Convention. In particular, the Court accepted that, under Czech law, there had been no retrospective application of the criminal law in the applicant's case and that the Czech courts' interpretation of the concept of a "continuing offence" had been reasonable and based on clear and established case-law. Moreover, the applicant's acts had at all times been punishable as criminal offences. Given the relevant legal provisions and case-law, Mr Rohlena had been in a position to foresee the legal consequences of his acts and adapt his conduct accordingly. Notably, he could have presumed that by continuing his actions after 1 June

<sup>1</sup> 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.

2004, when the offence of abusing a person living under the same roof was introduced into the Criminal Code, he ran the risk of being convicted of a continuing offence and being punished as provided for by the law in force at the time of the last assault.

On 9 September 2013 the case was referred to the Grand Chamber at the request of the applicant.

## Requests for referral rejected

Judgments in the following 18 cases are now final<sup>2</sup>.

### Requests for referral submitted by the applicants

**C.B. v. Austria** (application no. 30465/06), [judgment](#) of 4 April 2013;

**Tarantino and Others v Italy** (nos. 25851/09, 29284/09 et 64090/09), [judgment](#) of 2 April 2013;

**Luković v. Serbia** (no. 43808/07), [judgment](#) of 26 March 2013;

**Gani v. Spain** (no. 61800/08), [judgment](#) of 19 February 2013;

**Shindler v. the United Kingdom** (no. 19840/09), [judgment](#) of 7 May 2013.

### Requests for referral submitted by the Government

**Acatrinei and Others v. Romania** (nos. 10425/09 and 71 other applications), [judgment](#) of 26 March 2013;

**Ageyev v. Russia** (no. 7075/10), [judgment](#) of 18 April 2013;

**Askhabova v. Russia** (no. 54765/09), [judgment](#) of 18 April 2013;

**Avkhadova and Others v. Russia** (no. 47215/07), [judgment](#) of 14 March 2013;

**Azimov v. Russia** (no. 67474/11), [judgment](#) of 18 April 2013;

**Savridin Dzhurayev v. Russia** (no. 71386/10), [judgment](#) of 25 April 2013;

**Yevgeniy Ivanov v. Russia** (no. 27100/03), [judgment](#) of 25 April 2013;

**Markaryan v. Russia** (no. 12102/05), [judgment](#) of 4 April 2013;

**Reznik v. Russia** (no. 4977/05), [judgment](#) of 4 April 2013;

**Zorica Jovanović v. Serbia** (no. 21794/08), [judgment](#) of 26 March 2013;

**Udeh v. Switzerland** (no. 12020/09), [judgment](#) of 16 April 2013;

**Aswat v. the United Kingdom** (no.17299/12), [judgment](#) of 16 April 2013;

### Request for referral submitted by the applicant and by the Government

**Oleynikov v. Russia** (no. 36703/04), [judgment](#) of 14 March 2013.

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHR\\_Press](https://twitter.com/ECHR_Press).

### Press contacts

[echrpres@echr.coe.int](mailto:echrpres@echr.coe.int) | tel: +33 3 90 21 42 08

<sup>2</sup> 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.

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)  
Nina Salomon (tel: + 33 3 90 21 49 79)  
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.