



Case referred to the Grand Chamber

At its last meeting (9 December 2013), the Grand Chamber panel of five judges decided to refer one case and to reject requests to refer 20 other cases¹.

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

Morice v. France (application no. 29369/10): concerning the conviction of a lawyer for public defamation of the judges responsible for investigating the death of Judge Bernard Borrel in Djibouti, following the publication of an article in the daily newspaper *Le Monde*.

Referral accepted

[Morice v. France \(application no. 29369/10\)](#)

The applicant, Olivier Morice, is a French national who was born in 1960 and lives in Paris (France). He is the lawyer of Elisabeth Borrel, the widow of the French judge Bernard Borrel, whose dead body was found, partly burnt, on 19 October 1995, 90 kilometres from the city of Djibouti. The investigation conducted by the gendarmerie concluded that Mr Borrel had committed suicide by self-immolation. In November 1995 a judicial investigation was opened in Toulouse into the causes of the judge's death. In February 1997 Ms Borrel disputed the above finding and filed a complaint as a civil party for premeditated murder. A judicial investigation was opened and assigned to judge M. and judge L.L. On 21 June 2000, the case was withdrawn from the two investigating judges by the Paris Court of Appeal.

On 7 September 2000, *Le Monde* published an article entitled "Borrel Case: Judge M.'s impartiality called into question". The article stated that Ms Borrel's lawyers had "vigorously" challenged judge M. before the Minister of Justice, accusing her of "conduct that was completely contrary to the principles of impartiality and loyalty".

Following a complaint of the two contested judges, the court found Mr Morice to be an accessory of public defamation of judges M. and L.L.

Relying on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, Mr Morice alleged that his case had not been determined fairly and impartially by the Court of Cassation. He stated that judge J.M., who was part of the bench which ruled on his appeal on points of law, had previously and publicly expressed support for judge M. at the general assembly of judges sitting at the Paris *tribunal de grande instance* on 4 July 2000. Under Article 10 (freedom of expression) of the Convention, he alleged that there had been a breach of his right to freedom of expression.

In its Chamber [judgment](#) of 11 July 2013 the Court held, unanimously, that there had been a violation of Article 6 § 1. It found that a member of the Court of Cassation which

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.

ruled on Mr Morice's appeal on points of law had previously expressed his support for a judge who was a party to the proceedings against him. The Court concluded that serious doubts could be raised as to the Court of Cassation's impartiality and that Mr Morice's fears could be held to be objectively justified. However, the Court held by a majority that there had been no violation of Article 10 of the Convention. It considered that the national courts could have been satisfied that the comments made by Mr Morice in *Le Monde* were serious and insulting to the judge in question, that they were capable of unnecessarily undermining public confidence in the judicial system and, lastly, that there were sufficient grounds to convict Mr Morice of public defamation.

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

Requests for referral rejected

Judgments in the following 20 cases are now final².

Requests for referral submitted by the applicants

Vona v. Hungary (no. 35943/10), [judgment](#) of 9 July 2013

Di Giovanni v. Italy (n° 51160/06), [judgment](#) of 9 July 2013

Schädler-Eberle v. Liechtenstein (no. 56422/09), [judgment](#) of 18 July 2013

Balakin v. Russia (no. 21788/06), [judgment](#) of 4 July 2013

A.G.A.M. v. Sweden (no. 71680/10), [judgment](#) of 27 June 2013

M.K.N. v. Sweden (no. 72413/10), [judgment](#) of 27 June 2013

M.Y.H. v. Sweden (v 50859/10), [judgment](#) of 27 June 2013

Mater v. Turkey (no. 54997/08), [judgment](#) of 16 July 2013

Requests for referral submitted by the Government

Kaçiu et Kotorri v. Albania (nos. 33192/07 et 33194/07), [judgment](#) of 25 June 2013

Klauz v. Croatia (no. 28963/10), [judgment](#) of 18 July 2013

Varnas v. Lithuania (no. 42615/06), [judgment](#) of 9 July 2013

Aden Ahmed v. Malta (no. 55352/12), [judgment](#) of 23 July 2013

Suso Musa v. Malta (no. 42337/12), [judgment](#) of 23 July 2013

Ramos Ferreira and Others v. Portugal (nos. 23321/11, 71007/11 et 71014/11), [judgment](#) of 16 July 2013

Anchugov and Gladkov v. Russia (nos. 11157/04 et 15162/05), [arrêt](#) of 4 July 2013

Kaykharova and Others v. Russia (nos. 11554/07, 7862/08, 56745/08 et 61274/09), [judgment](#) of 1 August 2013

Nasakin v. Russia (no. 22735/05), [judgment](#) of 18 July 2013

Saidova v. Russia (n° 51432/09), [judgment](#) of 1 August 2013

Ürfi Çetinkaya v. Turkey (no. 19866/04), [judgment](#) of 23 July 2013

Request for referral submitted by the applicant and by the Government

Agrokompleks v. Ukraine (no. 23465/03), [judgment](#) (just satisfaction) of 25 July 2013

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.

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. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_Press](https://twitter.com/ECHR_Press).

Press contacts

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

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.