



Grand Chamber Panel's decisions

At its last meeting (Monday 17 November 2014), the Grand Chamber panel of five judges decided to refer two cases and to reject requests to refer 16 other cases¹.

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

M.E. v. Sweden (application no. 71398/12): which concerns the applicant's threatened expulsion from Sweden to Libya, where he alleges he would be at risk of persecution and ill-treatment because he is a homosexual;

A.B. v. Switzerland (no. 56925/08): which concerns a journalist who was fined 4,000 Swiss francs (about 2,667 euros) for publishing documents in breach of the confidentiality of the judicial investigation in criminal proceedings.

Referrals accepted

[M.E. v. Sweden \(application no. 71398/12\)](#)

The applicant, M.E., is a Libyan national who is currently living in Sweden.

M.E. first arrived in Sweden in July 2010 and applied for asylum. In the ensuing domestic proceedings, he claimed that he was at risk if deported to Libya on account of his prior involvement in the country in illegal weapons transport and because of his homosexuality. Indeed, he had been living with a man in Sweden since December 2010 and they had married in September 2011. His case was examined by the Migration Board, the Migration Court and the Migration Court of Appeal, which found that his claims, which had altered and escalated throughout the proceedings, lacked credibility. Ultimately, the Migration Board rejected his request for reconsideration in December 2012, which concluded that he could temporarily return to Libya and from there could apply for family reunion with his partner.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, M.E. alleges that, if he were forced to return to Libya to apply for family reunion from there, he would be at real risk of persecution and ill-treatment, primarily because of his homosexuality but also due to previous problems with the Libyan military authorities following his arrest for smuggling illegal weapons. He also complains under Article 8 (right to respect for private and family life) of the Convention that his deportation would separate him from his partner.

In its Chamber [judgment](#) of 26 June 2014, the European Court of Human Rights, unanimously, declared inadmissible M.E.'s complaint under Article 8 of the Convention. The Court further held, by six votes to one, that the implementation of the expulsion order against Mr. M.E. would not give rise to a violation of Article 3 of the Convention, finding that there were no substantial grounds for believing the applicant would be subjected to ill-treatment on account of his sexual orientation if he

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.

was returned to Libya in order to apply for family reunion from there. The Court lastly decided to continue to indicate to the Swedish Government, under Rule 39 (interim measures) of its Rules of Court, not to deport the applicant to Libya until the Chamber judgment became final or until further order.

On 17 November 2014 the case was referred to the Grand Chamber at the request of the applicant.

[A.B. v. Switzerland \(no. 56925/08\)](#)

The applicant, A.B., is a Swiss national who was born in 1965 and lives in Porrentruy (Switzerland). He is a journalist.

On 15 October 2003 A.B. published an article in a weekly magazine about criminal proceedings that had been instituted against M.B., who had been remanded in custody after an incident in which he had rammed his car into pedestrians, killing three of them and injuring eight others, before throwing himself off the Lausanne Bridge. The incident had been met with much emotion and controversy in Switzerland. The article described the defendant's background and gave a summary of the questions put to him by the police and the investigating judge together with his own statements, and was illustrated by a number of photographs of letters from M.B. to the judge. The article also contained a brief summary of the statements by M.B.'s wife and doctor, under the heading "He lost his marbles ...".

M.B. did not file a criminal complaint against the journalist, but criminal proceedings were brought against the latter on the initiative of the public prosecutor for publication of confidential documents. On 23 June 2004 the Lausanne investigating judge sentenced him to a suspended term of one month's imprisonment, which the Lausanne Police Court subsequently replaced by a fine of 4,000 Swiss francs (about 2,667 euros).

A.B. unsuccessfully appealed on points of law and his subsequent public-law appeal and appeal on grounds of nullity were dismissed by the Federal Court.

Relying on Article 10 (freedom of expression) of the Convention, A.B. complains about his conviction for a breach of the confidentiality of a judicial investigation. He submits that he has sustained an unjustified interference with his right to freedom of expression.

In its Chamber [judgment](#) of 1 July 2014 the European Court of Human Rights held, by four votes to three, that there had been a violation of Article 10 of the Convention. It found in particular that the Swiss Government had not established how the disclosure of this type of confidential information could have had a negative influence on both the accused's right to be presumed innocent and the outcome of his trial. It further noted that the accused had a remedy under Swiss law by which he could have sought redress for the damage to his reputation, but that he had not used it, and that it was primarily for him to take action to ensure respect for his private life.

On 17 November 2014 the case was referred to the Grand Chamber at the request of the Swiss Government.

Requests for referral rejected

Judgments in the following 16 cases are now final².

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

Mohammadi v. Austria (application no. 71932/12), [judgment](#) of 3 July 2014

Karaivanova and Mileva v. Bulgaria (no. 37857/05), [judgment](#) of 17 June 2014

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.

M.E. v. Denmark (no. 58363/10), [judgment](#) of 8 July 2014

Butiuc and Dumitrof v. Romania (no. 19320/07), [judgment](#) of 15 July 2014

Dragalina v. Romania (no. 17268/03), [judgment](#) of 3 June 2014

Selin Aslı Öztürk v. Turkey (no. 39523/03), [judgment](#) (just satisfaction) of 10 June 2014

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

Dimitrov and Others v. Bulgaria (no. 77938/11), [judgment](#) of 1 July 2014

Petkov and Profirov v. Bulgaria (no. 50027/08), [judgment](#) of 24 June 2014

De Luca v. Italy and Pennino v. Italy (nos. 43870/04 and 43892/04), [judgments](#) of 24 September 2013 and [judgments](#) (revision) of 8 July 2014

Egamberdiyev v. Russia (no. 34742/13), [judgment](#) of 26 June 2014

Krupko and Others v. Russia (no. 26587/07), [judgment](#) of 26 June 2014

Shcherbina v. Russia (no. 41970/11), [judgment](#) of 26 June 2014

Shekhov v. Russia (no. 12440/04), [judgment](#) of 19 June 2014

Mala v. Ukraine (no. 4436/07), [judgment](#) of 3 July 2014

[Requests for referral submitted by the applicant and the Government](#)

Uniya OOO and Belcourt Trading Company v. Russia (nos. 4437/03 and 13290/03), [judgment](#) of 19 June 2014

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 [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

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

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

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.