



Grand Chamber Panel's decisions

At its last meeting (Monday 20 April 2015), the Grand Chamber panel of five judges decided to refer two cases and to reject requests to refer 13 other cases¹.

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

Paposhvili v. Belgium (application no. 41738/10) which concerns the decision to return a Georgian national from Belgium to Georgia and ban him from re-entering Belgian territory;

Buzadji v. the Republic of Moldova (no. 23755/07) which concerns the complaint by a businessman about his arrest and detention pending trial on charges of defrauding a State company.

Referral accepted

[Paposhvili v. Belgium \(application no. 41738/10\)](#)

The applicant, Georgie Paposhvili, is a Georgian national who was born in 1958 and lives in Brussels.

Mr Paposhvili arrived in Belgium on 25 November 1998, accompanied by his wife and the latter's six-year-old child. The couple subsequently had a child in August 1999 and another one in July 2006. Between 1998 and 2007 Mr Paposhvili was convicted of a number of offences, including robbery and participation in a criminal organisation. While serving his various prison sentences, Mr Paposhvili was diagnosed with a number of serious medical conditions, including chronic lymphocytic leukaemia and tuberculosis, for which he was treated in hospital. In addition, he submitted several unsuccessful applications for regularisation of his administrative status on exceptional or medical grounds. In August 2007 the Minister for the Interior issued an order for Mr Paposhvili's expulsion from Belgian territory and barred him from re-entering the country for ten years on account of the danger he posed to public order. The order became enforceable once Mr Paposhvili completed his sentence but was not in fact enforced, as he was still undergoing medical treatment. On 7 July 2010 the Aliens Office issued an order for him to leave the country, together with an order for his detention. He was transferred to a secure facility for illegal immigrants with a view to his return to Georgia and a *laissez-passer* was issued for that purpose. On 23 July 2010 Mr Paposhvili applied to the European Court of Human Rights for an interim measure under Rule 39 of its Rules of Court suspending his removal; the request was granted. He was subsequently released. The order for him to leave Belgian territory was postponed several times. In November 2009 his wife and her three children were granted indefinite leave to remain.

Relying on Articles 2 (right to life) and 3 (prohibition of torture and inhuman and degrading treatment) of the European Convention on Human Rights, Mr Paposhvili alleges that, if deported to Georgia, he would face a risk of premature death as well as a real risk of being subjected to inhuman or degrading treatment or punishment on the ground that the medical treatment he needs does not exist or is unavailable in the country. Lastly, under Article 8 (right to respect for private and family

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.

life), he complains that his return to Georgia and exclusion from Belgium for 10 years would result in separation from the rest of his family, who have been granted leave to remain in Belgium.

In its Chamber [judgment](#) of 17 April 2014, the Court found that there would be no violation of Articles 2 or 3 in the event of Mr Paposhvili's deportation to Georgia. The Court further found that there had been no violation of Article 8. Having regard, in particular, to the nature and seriousness of the offences committed by Mr Paposhvili, and the fact that the link with his country of origin had not been broken, the Court was of the opinion that the Belgian authorities, by refusing him leave to remain, had not attached disproportionate weight to the public interest in relation to the applicant's rights.

The Court decided to maintain the interim measure (Rule 39 of the Rules of Court) indicated on 23 July 2010 to the effect that Mr Paposhvili should not be deported until the judgment became final or a new decision was given.

On 20 April 2015 the case was referred to the Grand Chamber at the request of the applicant.

[Buzadji v. the Republic of Moldova \(no. 23755/07\)](#)

The applicant, Petru Buzadji, is a Moldovan national who was born in 1947 and lives in Comrat (the Republic of Moldova).

Mr Buzadji, a businessman, was arrested in May 2007 and formally charged with defrauding a State company of which he was the director. He was placed in detention pending trial given the gravity of the charges against him, the complexity of the case and a risk of collusion. This detention was then extended on a number of occasions, for essentially the same reasons, until July 2007 when the national courts accepted Mr Buzadji's request to be placed under house arrest. He remained under house arrest until March 2008 when he was released on bail, the courts finding that he had been in detention and under house arrest for over ten months in total without breaching any of the restrictions imposed on him.

Relying in particular on Article 5 §§ 1 and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the Convention, Mr Buzadji alleges that his arrest was unlawful and that the courts did not give relevant and sufficient reasons for his ensuing detention pending trial for ten months. He notably complains that the courts, when dismissing his requests for release, did not take into consideration the fact that he was a well-known businessman with a family and had never obstructed the relevant investigation in any way, always appearing before the authorities whenever summoned.

In its Chamber [judgment](#) of 16 December 2014, the Court held, by four votes to three, that there had been a violation of Article 5 § 3 of the Convention owing to the insufficient reasons given by the domestic courts in extending the applicant's detention pending trial and subsequently his house arrest.

On 20 April 2015 the case was referred to the Grand Chamber at the request of the Moldovan Government.

Requests for referral rejected

Judgments in the following 13 cases are now final².

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

Anthony Aquilina v. Malta (no. 3851/12), [judgment](#) of 11 December 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.

N.A. v. Norway (no. 27473/11), [judgment](#) of 18 December 2014

Perrillat-Bottonet v. Switzerland (no. 66773/13), [judgment](#) of 20 November 2014

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

Vasilescu v. Belgium (no. 64682/12), [judgment](#) of 25 November 2014

Urechean and Pavlicenco v. the Republic of Moldova (nos. 27756/05 and 41219/07), [judgment](#) of 2 December 2014

Aleksandr Valeryevich Kazakov v. Russia (no. 16412/06), [judgment](#) of 4 December 2014

Amirov v. Russia (no. 51857/13), [judgment](#) of 27 November 2014

Fozil Nazarov v. Russia (no. 74759/13), [judgment](#) of 11 December 2014

Karsakova v. Russia (no. 1157/10), [judgment](#) of 27 November 2014

Kharayeva and Others v. Russia (no. 2721/11), [judgment](#) of 27 November 2014

Krikunov v. Russia (no. 13991/05), [judgment](#) of 4 December 2014

Navalnyy et Yashin v. Russia (no. 76204/11), [judgment](#) of 4 December 2014

Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfi v. Turkey (no. 32093/10), [judgment](#) of 2 December 2014

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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.