



Grand Chamber Panel's decisions

At its last meeting (Monday 14 December 2015), the Grand Chamber panel of five judges decided to refer two cases and to reject requests to refer 12 other cases¹.

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

V.M. and Others v. Belgium (application no. 60125/11): which concerns the reception conditions of a family of Serbian nationals seeking asylum in Belgium. Following an order to leave the country and despite their appeals against the measure, the applicants were left without basic means of subsistence and were obliged to return to their country of origin, where their severely disabled child died.

Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland (no. 931/13): which concerns the ban on two publishing companies' processing of taxation data.

Referral accepted

[V.M. and Others v. Belgium \(application no. 60125/11\)](#)

The applicants are seven Serbian nationals, a father and mother and their five children. They were born in 1981, 1977, 2001, 2004, 2007 and 2011 respectively and live in Serbia. Their eldest daughter, who was born in 2001 and was mentally and physically disabled from birth, died in December 2011. The applicants are of Roma origin and were born in Serbia, where they have lived for most of their lives.

In March 2010 the applicants travelled to France, where they submitted an asylum application which was rejected. In March 2011 they travelled to Belgium and lodged an asylum application there. On 12 April 2011 the Belgian authorities submitted a request to the French authorities to take back the family. On 6 May 2011 France accepted the request under the Dublin II Regulation². On 17 May 2011 the Aliens Office in Belgium issued the applicants with an order to leave Belgian territory for France, on the ground that Belgium was not responsible for considering the asylum application under the Dublin II Regulation. On 25 May 2011 the time-limit for enforcement of the order to leave the territory was extended until 25 September 2011 owing to the mother's pregnancy and imminent confinement.

On 16 June 2011 the applicants submitted to the Aliens Appeals Board a request for the suspension and setting-aside of the decision refusing them leave to remain and ordering them to leave the country. On 22 September 2011 the applicants applied for leave to remain on medical grounds on behalf of their disabled eldest daughter. The Aliens Office rejected their application. On 26 September 2011, on expiry of the time-limit for enforcement of the order to leave the country, the

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.

² Under the terms of this Regulation the European Union Member States must determine, based on a hierarchy of objective criteria, which Member State bears responsibility for examining an asylum application lodged on their territory. See §§ 100 et seq. of the *V.M. and Others* judgment.

applicants were expelled from the Sint-Truiden reception centre where they had been staying, as they were no longer eligible for the material support provided to refugees. They travelled to Brussels, where voluntary associations directed them to a public square in the Schaerbeek municipality in the centre of the Brussels-Capital district, together with other homeless Roma families. They remained there until 5 October 2011. On 7 October 2011 they were assigned to a new reception facility as a mandatory place of registration in the Province of Luxembourg, 160 km from Brussels. The applicants eventually took up residence in Brussels North railway station, where they remained for three weeks until their return to Serbia was arranged on 25 October 2011 by a charity under the return programme run by Fedasil, the federal agency for the reception of asylum seekers.

In a judgment of 29 November 2011 the Aliens Appeals Board set aside the impugned decisions (the refusal of leave to remain and the order to leave the country) on the grounds that the Aliens Office had not established on what legal basis it considered France to be the State responsible for the applicants' asylum application. The Belgian State lodged an appeal on points of law with the *Conseil d'État* against the judgment of the Aliens Appeals Board. In a judgment of 28 February 2013 the *Conseil d'État* declared the appeal inadmissible for lack of current interest, given that the applicants had returned to Serbia and that the Belgian State had been released from its obligations under the procedure for determining the Member State responsible for their asylum application.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the applicants complain that their exclusion from the reception facilities in Belgium from 26 September 2011 onwards exposed them to inhuman and degrading treatment. Under Article 2 (right to life), they allege that the reception conditions in Belgium caused the death of their eldest daughter. Lastly, under Article 13 (right to an effective remedy), they complain that they were unable to assert before the courts their claim that their removal to Serbia and the refusal to regularise their residence status had exposed them to a risk to their eldest daughter's life (Article 2) and to a risk of suffering inhuman and degrading treatment (Article 3).

In its Chamber [judgment](#) of 7 July 2015, the European Court of Human Rights held, by a majority, that there had been a violation of Article 3 of the European Convention and of Article 13 taken in conjunction with Article 3. The Chamber found in particular that the Belgian authorities had not given due consideration to the vulnerability of the applicants, who had remained for four weeks in conditions of extreme poverty, and that they had failed in their obligation not to expose the applicants to degrading treatment, notwithstanding the fact that the reception network for asylum seekers in Belgium had been severely overstretched at the time (the "reception crisis" of 2008 to 2013). The Chamber considered that the requirement of special protection of asylum seekers had been even more important in view of the presence of small children, including an infant, and of a disabled child. Furthermore, the fact that the appeal against the order for the applicants' deportation did not have suspensive effect had resulted in all material support for the applicants being withdrawn and had forced them to return to their country of origin without their fears of a possible violation of Article 3 in that country having been examined. The Chamber further held, unanimously, that there had been no violation of Article 2, finding that the applicants had not shown that their eldest daughter's death had been caused by their living conditions in Belgium, or that the Belgian authorities had failed in their obligation to protect her life. Lastly, the Chamber held, by a majority, that it was unnecessary to examine the applicants' complaint under Article 13 taken in conjunction with Article 2 of the Convention.

On 14 December 2015 the case was referred to the Grand Chamber at the request of the Belgian Government.

Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland (no. 931/13)

The applicant companies, Satakunnan Markkinapörssi Oy and Satamedia Oy, are Finnish limited liability companies based in Kokemäki (Finland). Both companies published the magazine *Veropörssi*, which reported on taxation information, in particular on persons' taxable income and assets.

In 2003 the second applicant company, together with a telephone operator, started an SMS-service permitting people to obtain taxation information from a database. The database had been created using information already published in 2002 in the magazine *Veropörssi* on 1.2 million persons' income and assets, namely a third of all taxable persons in Finland.

In February 2004 the Data Protection Ombudsman brought administrative proceedings concerning the manner and extent of the applicant companies' processing of taxation data and in November 2009 the Data Protection Board forbade the applicant companies from processing taxation information to the extent that they had in 2002 and from passing such data to the SMS-service. Ultimately in June 2012, the Supreme Administrative Court, essentially taking issue with the extent to which the information had been published, found that the publication of the whole database could not be considered as journalistic activity but as processing of personal data, which the applicant companies had no right to do. That court, also taking into account the ECtHR case-law, balanced the applicant companies' right to freedom of expression against the tax-payers' right to privacy.

As a result of the ban, *Veropörssi* magazine published significantly reduced taxation data in the autumn of 2009 and since then has not appeared. The SMS-service had already been shut down before then.

Relying on Article 10 (freedom of expression) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights, the applicant companies complain about the ban on them processing taxation data, alleging that it amounted to censorship as well as discrimination vis-à-vis other newspapers which were able to continue publishing such information. Also relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the companies complain about the excessive length – six years and six months – of the related administrative proceedings.

In its Chamber [judgment](#) of 21 July 2015, the European Court of Human Rights held, by six votes to one, that there had been no violation of Article 10 of the European Convention. The Chamber found in particular that the Finnish courts' and authorities' decisions had been reasonable and had struck a fair balance between the competing interests at stake, namely the applicant companies' freedom to impart information about matters of public interest and the right to respect for private life of those tax-payers whose taxation information had been published. Nor did the Chamber find the sanction excessive; it had been administrative not criminal and had only banned the companies from publishing the information to a certain extent. The Chamber further held, unanimously, that there had been a violation of Article 6 § 1 as regards the length of the proceedings. Lastly, the Chamber rejected the applicant companies' complaints under Article 14 as being manifestly ill-founded.

On 14 December 2015 the case was referred to the Grand Chamber at the request of the applicant companies.

Requests for referral rejected

Judgments in the following 12 cases are now final³.

³ 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.

Requests for referral submitted by the applicants

Peruzzi v. Italy (no. 39294/09), [judgment](#) of 30 June 2015

Ciprian Vlăduț and Ioan Florin Pop v. Romania (nos. 43490/07 and 44304/07), [judgment](#) of 16 July 2015

Stan v. Romania (nos. 24362/11 and 52339/12), [judgment](#) of 30 June 2015

Akarsubaşı v. Turkey (no. 70396/11), [judgment](#) of 21 July 2015

Zafer Öztürk v. Turkey (no. 25774/09), [judgment](#) of 21 July 2015

Abdulla Ali v. the United Kingdom (no. 30971/12), [judgment](#) of 30 June 2015

Requests for referral submitted by the Government

Aleksandr Shevchenko v. Russia (no. 48243/11), [judgment](#) of 23 July 2015

Bataliny v. Russia (no. 10060/07), [judgment](#) of 23 July 2015

Patranin v. Russia (no. 12983/14), [judgment](#) of 23 July 2015

Saydulkhanova v. Russia (no. 25521/10), [judgment](#) of 25 June 2015

Cıngıllı Holding A.Ş. and Cıngıllıoğlu v. Turkey (nos. 31833/06 and 37538/06), [judgment](#) of 21 July 2015

Reisner v. Turkey (no. 46815/09), [judgment](#) of 21 July 2015

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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.