



Grand Chamber Panel's decisions

At its last meeting (Monday 9 September 2019), 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.

Guðmundur Andri Ástráðsson v. Iceland (application no. 26374/18): which concerns the applicant's allegation that the new Icelandic Court of Appeal (*Landsréttur*) was not established by law.

Referral accepted

[Guðmundur Andri Ástráðsson v. Iceland \(application no. 26374/18\)](#)

The applicant, Guðmundur Andri Ástráðsson, is an Icelandic national who was born in 1985 and lives in Kópavogur (Iceland).

The Court of Appeal (*Landsréttur*) was established as a new court on 1 January 2018.

According to the new Judiciary Act, an Evaluation Committee of experts was mandated to assess the candidates for the posts of the initial fifteen judges to the court. In total, 37 persons applied for the posts, including A.E. In May 2017, the Chairman of the Committee delivered to the Minister of Justice ("Minister") its assessment report with a list of fifteen named candidates who were considered the most qualified. A.E. was ranked number 18 and was therefore not included by the Committee in the top fifteen. By letter of 29 May 2017, the Minister presented her proposal of the fifteen candidates to be appointed judges of the Court of Appeal to the Speaker of Parliament. The proposal contained only eleven of the fifteen candidates whom the Committee had chosen. The Minister proposed that four other candidates, ranked numbers 17, 18, 23 and 30 on the Committee's evaluation table, including A.E., be appointed. The Minister presented arguments for the changes she had decided to make from the Committee's findings.

On 1 June 2017 Parliament approved, by a majority, the Minister's proposal to nominate the fifteen named individuals as judges of the Court of Appeal. On 8 June 2017 the President of Iceland signed the appointment letters for these candidates, including A.E.

Still in June 2017 two candidates, who were among the fifteen candidates that the Committee considered most qualified, but had been removed from the final list of nominees, brought judicial proceedings in a District Court against the Icelandic State challenging the legality of the appointment procedure. By final judgments of 19 December 2017, the Supreme Court lastly rejected both their claims for compensation for pecuniary damage. However, they were each granted 700,000 ISK (approximately 5,700 EUR) as compensation for personal injury. The Supreme Court found that the Minister had violated administrative law for failing to substantiate her proposal to Parliament with an independent investigation shedding light on elements necessary to assess the merits of the new candidates she had proposed. The procedure in Parliament had also been flawed as Parliament had approved the amended list en bloc without voting on each candidate separately, as required by law.

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.

Mr Ástráðsson was convicted in March 2017 of driving without holding a valid driver's licence and while under the influence of narcotics. He appealed the judgment to the Supreme Court. As the case was not heard before the end of 2017, the case was, in accordance with Icelandic law, transferred to the Court of Appeal. In January 2018 the Court of Appeal notified Mr Ástráðsson and the prosecution of the names of the three judges who would sit in the panel for the case, including A.E., who had not been one of the 15 judges considered best qualified judges by the Evaluation Committee.

Mr Ástráðsson requested that A.E. withdraw from the case due to irregularities in the procedure when she had been appointed as judge to the Court of Appeal, but his motion was rejected.

By a judgment of 23 March 2018 the Court of Appeal upheld the District Court's judgment on the merits. In April 2018 Mr Ástráðsson appealed the judgment to the Supreme Court. He mainly claimed that A.E.'s appointment had not been in accordance with the law and that he had not enjoyed a fair trial before an independent and impartial tribunal. By a judgment of 24 May 2018, the Supreme Court rejected his claims. It found that A.E.'s appointment to the Court of Appeal was valid and that there had not been a sufficient reason to doubt that Mr Ástráðsson enjoyed a fair trial before independent and impartial judges, in spite of the flaws in the procedure.

The application was lodged with the European Court of Human Rights on 31 May 2018.

Relying on Article 6 § 1 (right to an independent and impartial tribunal established by law) of the European Convention on Human Rights, the applicant complains that the appointment of A.E. was not in accordance with domestic law. Therefore, his criminal charge was not determined by a tribunal established by law.

He also complains that the Supreme Court's judgment of 24 May 2018 violated his right to be heard by an independent and impartial tribunal as provided for in Article 6 § 1 of the Convention.

In its Chamber [judgment](#) of 12 March 2019, the European Court of Human Rights, held, by five votes to two, that there had been a violation of Article 6 § 1 (right to a tribunal established by law) of the Convention. The Chamber found in particular that the process by which a judge was appointed to the Court of Appeal had amounted to a flagrant breach of the applicable rules at the relevant time. It had been to the detriment of the confidence that the judiciary in a democratic society must inspire in the public and had contravened the very essence of the principle that a tribunal must be established by law. The Chamber further held, unanimously, that there was no need to examine the remaining complaints under Article 6 § 1 (right to an independent and impartial tribunal).

On 9 September 2019 the Grand Chamber Panel accepted the Government's request that the case be referred to the Grand Chamber.

Requests for referral rejected

Judgments in the following 20 cases are now final².

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

Harisch v. Germany (application no. 50053/16), [judgment](#) of 11 April 2019

Kangers v. Latvia (no. 35726/10), [judgment](#) of 14 March 2019

Drélingas v. Lithuania (no. 28859/16), [judgment](#) of 12 March 2019

Elisei-Uzun and Andonie v. Romania (no. 42447/10), [judgment](#) of 23 April 2019

Aksis and Others v. Turkey (no. 4529/06), [judgment](#) of 30 April 2019

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.

Mart and Others v. Turkey (no. 57031/10), [judgment](#) of 19 March 2019

Ocak v. Turkey (no. 33675/04), [judgment](#) (just satisfaction) of 19 March 2019

Zülfikari and Pekcan v. Turkey (nos. 6372/05 and 52543/07), [judgment](#) of 19 March 2019

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

Bogonosov v. Russia (no. 38201/16), [judgment](#) of 5 March 2019

Elvira Dmitriyeva v. Russia (nos. 60921/17 and 7202/18), [judgment](#) of 30 April 2019

Kablis v. Russia (nos. 48310/16 and 59663/17), [judgment](#) of 30 April 2019

Navalnyy v. Russia (no. 43734/14), [judgment](#) of 9 April 2019

V.D. and Others v. Russia (no. 72931/10), [judgment](#) of 9 April 2019

Ali Gürbüz v. Turkey (nos. 52497/08, 6741/12, 7110/12, 15056/12, 15057/12, 15058/12, and 15059/12), [judgment](#) of 12 March 2019

Alparslan Altan v. Turkey (no. 12778/17), [judgment](#) of 16 April 2019

Altınkaynak and Others v. Turkey (no. 12541/06), [judgment](#) of 15 January 2019

Çataltepe v. Turkey (no. 51292/07), [judgment](#) of 19 February 2019

Kamoy Radyo Televizyon Yayıncılık ve Organizasyon A.Ş. v. Turkey (no. 19965/06), [judgment](#) of 16 April 2019

Petukhov v. Ukraine (No. 2) (no. 41216/13), [judgment](#) of 12 March 2019

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

Ana Ionescu and Others v. Romania (no. 19788/03 and 18 other applications), [judgment](#) of 26 February 2019

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

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.