



One case referred to the Grand Chamber

At its meeting on Monday 17 January 2022, the Grand Chamber panel of five judges decided:

- to refer the case **Sanchez v. France** (application no. 45581/15);
- to adjourn the request received in relation to the case **Saksoburggotki and Chrobok v. Bulgaria** (nos. 38948/10 and 8954/17); and
- to reject requests to refer five other cases (see detailed list below)¹.

Referral accepted

[Sanchez v. France \(no. 45581/15\)](#)

The applicant, Julien Sanchez, is a French national who was born in 1983 and lives in Beaucaire (France).

The case concerns the criminal conviction of the applicant, at the time a local councillor who was standing for election to Parliament, for incitement to hatred or violence against a group of people or an individual on the grounds of their membership of a specific religion, following his failure to take prompt action in deleting comments posted by others on the wall of his Facebook account.

At the time of the events, Mr Sanchez – currently mayor of the town of Beaucaire and chair of the Rassemblement National (National Rally) group in the Occitanie Regional Council – was standing for election to Parliament for the Front National (FN) in the Nîmes constituency. F.P., at that time a member of the European Parliament (MEP) and first deputy to the mayor of Nîmes, was one of his political opponents. On 24 October 2011 Mr Sanchez published a post about F.P. on the wall of his publicly accessible Facebook account, which was managed by him personally: “While the FN has launched its new national website on schedule, spare a thought for the Nîmes UMP [Union for a Popular Movement] MEP [F.P.], whose site, which was supposed to be launched today, is displaying an ominous triple zero on its home page ...”. Another user, S.B., wrote the following comment: “This great man has transformed Nîmes into Algiers, there is not a street without a kebab shop and mosque; drug dealers and prostitutes reign supreme, no surprise he chose Brussels, capital of the new world order of sharia Thanks UMPS [amalgam of UMP and Socialist Party], at least that saves us on the flights and hotel ... I love this free version of Club Med ... Thanks [F.] and kisses to Leila ([L.]) ... Finally, a blog that changes our life ...” A further user, L.R., added three other comments directed at Muslims.

On 25 October 2011 L.T., the partner of F.P., became aware of the comments. Feeling directly and personally insulted by what she viewed as “racist” statements, she went straight away to the hairdressing salon managed by S.B., whom she knew personally. S.B. deleted his comment immediately.

On 26 October 2011 L.T. wrote to the Nîmes public prosecutor to lodge a criminal complaint against Mr Sanchez, S.B. and L.R. on account of the offending comments published on Mr Sanchez’s

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.

Facebook page. On 27 October 2011 Mr Sanchez posted a message on the wall of his Facebook account inviting users to “monitor the content of [their] comments”, but did not intervene in relation to the comments already posted.

Mr Sanchez, S.B. and L.R. were summoned to appear before the Nîmes Criminal Court in connection with the publication of the comments in question on the wall of the applicant’s Facebook account, to answer charges of incitement to hatred or violence against a group of people, in particular L.T., on the grounds of their origin or their membership or non-membership of a specific ethnic group, nation, race or religion. On 28 February 2013 the Criminal Court found Mr Sanchez, S.B. and L.R. guilty as charged and ordered each of them to pay a fine of 4,000 euros (EUR). S.B. and Mr Sanchez were also ordered, jointly and severally, to pay the sum of EUR 1,000 to L.T., the civil-party claimant, in compensation for non-pecuniary damage. The court concluded that, having set up a public communication service by electronic means on his own initiative for the purpose of exchanging opinions, and having left the offending comments still visible as of 6 December 2011, Mr Sanchez had failed to act promptly in stopping their dissemination and was therefore guilty as the “producer” of an online public communication site, and hence as the principal offender.

Mr Sanchez and S.B. appealed. S.B. subsequently withdrew his appeal.

The Nîmes Court of Appeal upheld the guilty verdict against Mr Sanchez, reducing the fine to EUR 3,000. It also ordered him to pay L.T. EUR 1,000 in costs. The Court of Appeal held that the Criminal Court had been correct in finding that the comments clearly defined the group of people concerned, namely those of Muslim faith, and that associating the Muslim community with crime and insecurity in the city of Nîmes was likely to arouse a strong feeling of rejection or hostility towards that group. Moreover, it held that by knowingly making his Facebook wall public, Mr Sanchez had assumed responsibility for the content of the comments posted – which, according to the statements he had made to justify his position, he considered compatible with freedom of expression – and that his status as a political figure required even greater vigilance on his part.

The applicant appealed on points of law to the Court of Cassation, which in a judgment of 17 March 2015 dismissed his appeal.

The application was lodged with the European Court of Human Rights on 15 September 2015.

The applicant submitted that his conviction on account of comments posted by others on the wall of his Facebook account was in breach of Article 10 (freedom of expression) of the Convention.

In its [judgment](#) of 2 September 2021, the Court held, by six votes to one, there had been no violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

On 17 January 2022 the case was referred to the Grand Chamber at the applicant’s request.

Request adjourned

The request submitted by the Government in the case of *Sakskoburggotki and Chrobok v. Bulgaria* (nos. 38948/10 and 8954/17) was adjourned.

Requests for referral rejected

Judgments in the following 5 cases are now final²:

Abdi v. Denmark (no. 41643/19), [judgment](#) of 14 September 2021

M.P. v. Portugal (no. 27516/14), [judgment](#) of 7 September 2021

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.

Estemirova v. Russia (no. 42705/11), [judgment](#) of 31 August 2021

Savenko and Others v. Russia (application no. 13918/06), [judgment](#) of 14 September 2021

Üçdağ v. Turkey (no. 23314/19), [judgment](#) of 31 August 2021.

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