



Cases referred to the Grand Chamber

At its last meeting (Monday 14 April 2014), the Grand Chamber panel of five judges decided to refer four cases and to reject requests to refer 14 other cases¹.

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

Dvorski v. Croatia (application no. 25703/11): which concerns a murder suspect's allegation that he was denied access to a lawyer hired by his parents to represent him during his questioning by the police and that this created a coercive environment in which he had incriminated himself.

Kudrevičius and Others v. Lithuania (no. 37553/05): concerning the conviction of five farmers for rioting, following a protest in which they had blockaded major roads during a dispute with the Government over the price of milk.

Murray v. the Netherlands (no. 10511/10): concerning a convicted murderer's complaint about his life sentence without a realistic possibility of review as well as the conditions of his detention on the island of Aruba, part of the Kingdom of the Netherlands in the southern Caribbean.

Al-Dulimi and Montana Management Inc. v. Switzerland (no. 5809/08): concerning the freezing of assets in Switzerland following the general embargo on Iraq after it invaded Kuwait in 1990.

Referral accepted

[Dvorski v. Croatia \(application no. 25703/11\)](#)

The applicant, Ivan Dvorski, is a Croatian national who was born in 1986 and lives in Rijeka (Croatia).

The case concerns Mr Dvorski's complaint about the unfairness of criminal proceedings brought against him in which he was convicted, in a final judgment of December 2009, of aggravated murder, armed robbery and arson and sentenced to 40 years' imprisonment.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) of the European Convention on Human Rights, Mr Dvorski essentially complains that, following his arrest on 13 December 2007, the police denied him access to the lawyer hired by his parents to represent him, that he therefore had to accept the services of a lawyer called in by the police and that, questioned in a coercive environment, he had been forced to incriminate himself without the benefit of a lawyer of his own choice. Further relying on Article 3 (prohibition of inhuman or degrading treatment), he also complains about the conditions in which he was kept – in a

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.

windowless cell without food or water – from 13 to 14 March 2007 during his questioning by the police.

In its Chamber [judgment](#) of 28 November 2013, the Court held, by five votes to two, that there had been no violation of Article 6 §§ 1 and 3 (c). It held in particular that, although Mr Dvorski had not been represented by a lawyer of his own choice during the pre-trial stage of the proceedings against him, this had not made the ensuing proceedings as a whole unfair. He had had the benefit of effective legal advice, had been able to put forward all his arguments on the charges and evidence against him and his confession had not been the sole or decisive evidence in the case and, as such, did not call into question his conviction and sentence. Nor had there been grounds to believe that any pressure had been exerted on him to confess, the Court dismissing as unsubstantiated his claims that he had been ill-treated or held in inadequate conditions of detention during his questioning.

On 14 April 2014 the case was referred to the Grand Chamber at the request of the applicant.

[Kudrevičius and Others v. Lithuania \(no. 37553/05\)](#)

The applicants, Arūnas Kudrevičius, Bronius Markauskas, Artūras Pilota, Kęstutis Miliauskas, and Virginijus Mykolaitis are Lithuanian nationals who were born in 1970, 1960, 1973, 1959 and 1961 respectively and live in the Utenos, Klaipėda, Marijampolė, and Vilkaviškis regions in Lithuania.

The case concerns the trial and conviction of the applicants for public order offences committed between 21 and 23 May 2003. The applicants are farmers, who protested against the fall in prices of agricultural products – notably milk – by organising or carrying out the blocking of major Lithuanian roads with farming equipment. After a successful settlement with the Government, the protest ended on 23 May 2003. However, criminal charges of rioting were brought against the applicants, and they were all convicted in September 2004. They were given a custodial sentence of 60 days each, which was suspended for a year – during which time they could not leave their place of residence for more than 7 days without the authorities' prior consent. They appealed against the convictions, but they were unsuccessful, and the Supreme Court dismissed their final appeal in October 2005. At this time the Lithuanian courts also discharged them from their suspended sentences.

Relying in particular on Article 11 (freedom of assembly and association), the applicants complain that their criminal convictions for participating in peaceful protests were excessive. They also rely on Article 7 (no punishment without law) to complain that the laws under which they were prosecuted had not been clearly formulated or applied by the Lithuanian courts.

In its Chamber [judgment](#) of 26 November 2013 the Court held, by four votes to three, that there had been a violation of Article 11. It held in particular that the bringing of criminal charges against the farmers and their ensuing convictions had not been a proportionate response to a protest that, though disruptive, had been non-violent. Given that finding, the Court considered that it had already considered the main legal issue and that it was therefore not necessary to examine the applicants' complaint under Article 7 separately.

On 14 April 2014 the case was referred to the Grand Chamber at the request of the Lithuanian Government.

[Murray v. the Netherlands \(no. 10511/10\)](#)

The applicant, James Clifton Murray, is a Dutch national who was born in 1953. He is officially detained in a Correctional Institution on the island of Aruba, part of the Kingdom of the Netherlands in the southern Caribbean. As far as the Court is aware, however, he is currently in a nursing home on the island of Curaçao due to health issues.

The case concerns the legality and conditions of Mr Murray's imprisonment, which began following his conviction for murder in March 1980. Finding that he had killed a 6 year-old niece of a former girlfriend as revenge for her ending of their relationship, the court of the Netherlands Antilles imposed a life sentence on Mr Murray. He launched an appeal, filed a request for revision, and has submitted repeated requests for pardons; however, all of these have been unsuccessful.

Mr Murray served his sentence in a state prison on Curaçao until around 2000, when he was transferred to the Aruba Correctional Institution. In September 2012 the Aruba courts submitted Mr Murray's sentence to periodic review. Taking into account a number of psychological reports, which found that he suffers from mental health problems, the court decided that Mr Murray's imprisonment should continue as it still served a purpose after 33 years.

Mr Murray complains that the imposition of a life sentence without possibility of regular review by a court and without hope of release violates Article 3 (prohibition of inhuman or degrading treatment) and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court). He also relies on Article 3 to complain of the conditions of his detention; in particular, that the prison authorities did not protect inmates from inter-prisoner violence (which he had to witness), that he himself had been ill-treated by other prisoners, that he had not been placed in a special regime on account of his life sentence or mental condition, and that in late 2010 and early 2011 rainwater had flooded the prisoners' cells. Lastly, Mr Murray relies on Article 5 § 1 (right to liberty and security) to complain that he is no longer a danger to society, that he has fulfilled the punitive part of his sentence, and that there is therefore no reason for his detention to continue.

In its Chamber [judgment](#) of 10 December 2013 the Court held, unanimously, that there had been no violation of Article 3 either in respect of the life sentence, as a legal mechanism for reviewing life sentences had been introduced in Curaçao in November 2011, or in respect of Mr Murray's conditions of detention, as he had not developed his complaints in sufficient detail or provided sufficient information to prove that the conditions in which he was held had been inhuman and degrading.

On 14 April 2014 the case was referred to the Grand Chamber at the request of the applicant.

[Al-Dulimi and Montana Management Inc. v. Switzerland \(no. 5809/08\)](#)

The applicant Khalaf M. Al-Dulimi is an Iraqi national who was born in 1941 and lives in Amman (Jordan). According to the Security Council of the United Nations, he was finance manager for the Iraqi secret services under Saddam Hussein. The other applicant, Montana Management Inc., is a Panama-based company, of which the first applicant was managing director. After Iraq invaded Kuwait in August 1990, the United Nations Security Council adopted two Resolutions inviting UN member and non-member States to impose a general embargo on Iraq. On 7 August 1990 the Swiss Federal Council issued "the Iraq order", implementing economic measures against Iraq.

Relying on Article 6 § 1 (right to a fair trial), the applicants complain that the confiscation of their assets was ordered in the absence of any procedure compatible with Article 6 § 1 of the Convention.

In its Chamber [judgment](#) of 26 November 2013 the Court held, by four votes to three, that there had been a violation of Article 6 § 1. Without having to rule on the merits of the measures (the freezing of the applicants' assets in 1990), the Court considered that the applicants had been entitled to have the legitimacy of those measures examined by a national court. Notably, as long as there was no effective and independent judicial review at United Nations level of the legitimacy of including persons and entities on the UN's list, it was essential that those persons and entities could ask national courts to examine any measure taken in application of the UN sanctions regime.

On 14 April 2014 the case was referred to the Grand Chamber at the request of the Swiss Government.

Requests for referral rejected

Judgments in the following 14 cases are now final².

Requests for referral submitted by the applicants

Sharifi v. Austria (application no. 60104/08), [judgment](#) of 5 December 2013

Omerović (no. 2) v. Croatia (no. 22980/09), [judgment](#) of 5 December 2013

Donohoe v. Ireland (no. 19165/08), [judgment](#) of 12 December 2013

Quattrone v. Italy (no. 13431/07), [judgment](#) of 26 November 2013

Naumoski v. "The former Yugoslav Republic of Macedonia" (no. 25248/05), [judgment](#) of 27 November 2012 and [judgment](#) (revision) of 5 December 2013

Requests for referral submitted by the Government

Rosin v. Estonia (no. 26540/08), [judgment](#) of 19 December 2013

Negrepontis-Giannisis v. Greece (no. 56759/08), [judgment](#) (just satisfaction) of 5 December 2013

El Kashif v. Poland (no. 69398/11), [judgment](#) of 19 November 2013

Dobriyeva and Others v. Russia (no. 18407/10), [judgment](#) of 19 December 2013

Khmel v. Russia (no. 20383/04), [judgment](#) of 12 December 2013

Kutepov c. Russia (no. 13182/04), [judgment](#) of 5 December 2013

Černák v. Slovakia (no. 36997/08), [judgment](#) of 17 December 2013

Silahyürekli v. Turkey (no. 16150/06), [judgment](#) of 26 November 2013

Request for referral submitted by the Government

Siyrak v. Russia (no. 38094/05), [judgment](#) of 19 December 2013

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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.

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.