



Case referred to the Grand Chamber

At its last meeting (11 February 2013), the Grand Chamber panel of five judges decided to refer one case and to reject requests to refer 16 other cases¹.

The following case has been referred to the Grand Chamber of the European Court of Human Rights.

Vučković and Others v. Serbia concerns the payment of war *per diems* to all reservists who served in the Yugoslav Army during the North Atlantic Treaty Organisation's intervention in Serbia between March and June 1999.

Referral accepted

[Vučković and Others v. Serbia](#) (nos. 17153/11, 17157/11, 17160/11, 17163/11, 17168/11, 17173/11, 17178/11, 17181/11, 17182/11, 17186/11, 17343/11, 17344/11, 17362/11, 17364/11, 17367/11, 17370/11, 17372/11, 17377/11, 17380/11, 17382/11, 17386/11, 17421/11, 17424/11, 17428/11, 17431/11, 17435/11, 17438/11, 17439/11, 17440/11 and 17443/11)

The applicants are 30 Serbian nationals who mostly live in the Niš region (Serbia). They were all reservists drafted by the Yugoslav Army during NATO's intervention in Serbia. As such, they were entitled to a *per diem* for their service between March and June 1999.

After demobilisation the Serbian Government refused to honour their obligation to the reservists, including the applicants. The reservists organised a series of public protests and, following protracted negotiations, on 11 January 2008 the Government accepted to pay allowances to some of the reservists, notably those residing in seven municipalities considered to be "underdeveloped". The applicants, who were not residents of those municipalities, brought civil claims before the Serbian courts, seeking payment of the allowances and alleging discrimination. These claims were all rejected and the proceedings before the Constitutional Court are apparently still pending.

Relying on Article 1 of Protocol No. 1 (protection of property), Article 14 (prohibition of discrimination) and Article 1 of Protocol No. 12 (general prohibition of discrimination), the applicants complain of discrimination concerning the payment of the *per diems* in question.

In its Chamber [judgment](#) of 28 August 2012, among other things, the Court held by six votes to one that there had been a violation of Article 14 read in conjunction with Article 1 of Protocol No. 1. It concluded that there had been no "objective and reasonable justification" for the applicants being treated differently merely on the basis

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.

of their place of residence. In particular, the Court found that the allowances had clearly been *per diems*, not social benefits, and that the Serbian Government's response to the entire situation had been arbitrary since the reservists from the seven "underdeveloped" municipalities had never been under any obligation to prove their indigence.

The Court also indicated, under Article 46 (binding force and execution of judgments), that – as there were 3,000 similar applications pending before it – Serbia had to ensure, within six months from the date when the Chamber's judgment becomes final, non-discriminatory payment of the war *per diems* to all those entitled. In the meantime, the Court adjourned all similar pending applications.

The case was referred to the Grand Chamber at the Government's request.

Requests for referral rejected

Judgments in the following 17 cases are now final²

Tunyan and Others v. Armenia (no. 22812/05); judgment of 9 October 2012

Ohneberg v. Austria (no. 10781/08); judgment of 18 September 2012

Askon AD v. Bulgaria (no. 9970/05); judgment of 16 October 2012

Szima v. Hungary (no. 29723/11); judgment of 9 October 2012

Costa and Pavan v. Italy (no. 54270/10), judgment of 28 August 2012;

Knecht v. Romania (no. 10048/10); judgment of 2 October 2012

Abdulkhakov v. Russia (no. 17455/11); judgment of 18 September 2012

Khrabrova v. Russia (no. 18498/04); judgment of 2 October 2012

Makhmudzhan Ergashev v. Russia (no. 49747/11); judgment of 16 October 2012

Rakhmonov v. Russia (no. 50031/11); judgment of 16 October 2012

Sergey Solovyev v. Russia (no. 22152/05); judgment of 25 September 2012

Umirov v. Russia (no. 17455/11); judgment of 18 September 2012

Trade Union of the Police in the Slovak Republic and Others v. Slovakia (no. 11828/08); judgment of 25 September 2012

Rasiewicz v. Slovenia (no. 40445/06); judgment of 18 October 2012

Ateş Mimarlık Mühendislik A.Ş. v. Turkey (no. 33275/05); judgment of 25 September 2012

James, Wells and Lee v. the United Kingdom (nos. 25119/09, 57715/09 and 57877/09); judgment of 18 September 2012

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.

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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.