



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

CASE OF BROADHURST v. THE UNITED KINGDOM

(Application no. 69187/01)

JUDGMENT
(Friendly Settlement)

STRASBOURG

22 June 2004

This judgment is final but it may be subject to editorial revision.

In the case of Broadhurst v. the United Kingdom,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr M. PELLONPÄÄ, *President*,

Sir Nicolas BRATZA,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 1 June 2004,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 69187/01) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a United Kingdom national, Mr Alan Broadhurst (“the applicant”), on 13 February 2001.

2. The applicant was represented by Mr R. Price, a lawyer practising in Sheffield. The United Kingdom Government (“the Government”) were represented by their Agent, Ms E. Willmott of the Foreign and Commonwealth Office, London.

3. The applicant complained about his lack of legal representation in the proceedings for non-payment of poll-tax and the detention ordered by the Magistrates, invoking Article 5 §§ 1 and 5 and Article 6 §§ 1 and 3 (c) of the Convention.

4. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was re-allocated to the newly composed Fourth Section (Rule 52 § 1). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. By a decision of 21 October 2003 the Chamber declared the application partly admissible.

7. On 5 and 7 April 2004 the applicant and the Government, respectively, submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. The applicant was born in 1946 and lives in Sheffield.

9. The applicant failed to pay sums due in respect of community charge and council tax. The magistrates' court determined that he was liable to pay and issued a "liability order".

10. The applicant was summoned to appear before the magistrates on 4 March 1997. The magistrates found that his failure to pay was as a result of culpable neglect. They made an order committing the applicant to prison for 45 days, but suspended the term upon payment of 8 pounds sterling (GBP) a week of the arrears. The applicant failed to comply with the terms imposed. He appeared again before the magistrates on 20 March 2000. On that occasion he was ordered to be committed to prison for non-payment of community charge and council tax. He spent four days in prison.

Legal aid was not available for the enforcement proceedings prior to 1 June 1997 and the applicant was not legally represented at the hearings in front of the magistrates.

11. This applicant's application for judicial review was determined by the judgment of Mr Justice Gage in *R. v. Sheffield Justices ex parte Broadhurst* [2001] RVR 245. Mr Justice Gage quashed both the magistrates' orders.

THE LAW

12. On 7 April 2004 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of the United Kingdom offer to pay *ex gratia* GBP 2,700 (two thousand seven hundred pounds sterling) to Mr Alan Broadhurst, without prejudice to the issue of violation of the Convention, to cover any pecuniary and non-pecuniary damage, together with GBP 2,000 (two thousand pounds sterling) plus VAT for legal costs and these sums will be payable within three months from the date of delivery of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

13. On 5 April 2004 the Court received the following declaration signed by the applicant’s representatives:

“I note that the Government of the United Kingdom are prepared to pay *ex gratia* the sum of GBP 2,700 (two thousand seven hundred pounds sterling) covering pecuniary and non-pecuniary damage to Mr Alan Broadhurst, without prejudice to the issue of violation of the Convention, together with GBP 2,000 (two thousand pounds sterling) plus VAT for legal costs, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against the United Kingdom in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court’s judgment.”

14. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties’ undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 22 June 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Matti PELLONPÄÄ
President