



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

FOURTH SECTION

**CASE OF TOWNSEND v. THE UNITED KINGDOM**

*(Application no. 42039/98)*

JUDGMENT  
(Friendly Settlement)

STRASBOURG

18 January 2005

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



**In the case of Townsend v. the United Kingdom,**

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

Mr J. CASADEVALL, *President*,  
Sir Nicolas BRATZA,  
Mr G. BONELLO,  
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 14 December 2004,

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

## PROCEDURE

1. The case originated in an application (no. 42039/98) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a United Kingdom national, Anthony Townsend (“the applicant”), on 17 July 1997.

2. The applicant was represented by Ms D. Still, a solicitor practising in Newcastle-upon-Tyne. 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. Following introduction of the application, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 21 October 2003, having obtained the parties' observations, the Court declared the application admissible.

5. On 3 November 2003, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1(b) of the Convention. After an exchange of correspondence, on 20 and 27 October 2004 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

6. The applicant was born in 1967 and lives in Lancashire, England.

7. On 31 March 1990, the applicant became subject to community charge (or poll tax). On 16 March 1995, the Preston Magistrates found that he had culpably neglected to pay his community charge and made two orders of imprisonment against the applicant for a total of 48 days, suspended on terms of payment of 3 pounds sterling (GBP) per week.

On 18 April 1996, in the applicant's absence, the magistrates made the decision to commit the applicant to prison for an immediate term of 45 days' imprisonment for failure to pay community charge. They had sent the notice of the hearing to the incorrect address.

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

On or about 3 June 1996, the magistrates issued a warrant for his arrest. On 4 June 1996, the applicant surrendered to the warrant and was conveyed immediately to prison.

On 11 June 1996, the applicant's application for permission to apply for judicial review and for bail was granted by the High Court. He was released on 11 June 1996.

On 12 December 1996, the magistrates and the local authority consented to an order by the High Court *inter alia* quashing the decisions of 16 March 1995 and 18 April 1996.

On 17 January 1997, the High Court ordered that the orders be quashed, *inter alia*, as the magistrates had failed to conduct a proper or any enquiry into his means or an enquiry into his circumstances leading to each liability order and as they could not have been satisfied that he had received a notice of the hearing on 18 April 1996.

## THE LAW

8. On 22 October 2004 the Court received the following declaration from the Government:

“I, Emily Willmott, declare that the Government of the United Kingdom offer to pay *ex gratia* GBP 10,000 (ten thousand pounds sterling), including GBP 4,000 (four thousand pounds sterling) in respect of the applicant's costs and expenses (including VAT) to Antony Townsend, without prejudice to the issue of a violation of the Convention and with a view to securing a friendly settlement of the above-mentioned cases pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage and legal costs and expenses and it will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on

Human Rights. In the event of failure to pay these sums within the said three-month period, the Government undertake to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

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

9. On 27 October 2004 the Court received the following declaration signed by the applicant's representative:

“I, Deborah Still, Solicitor, Newcastle Law Centre note that the Government of the United Kingdom are prepared to pay *ex gratia* the sum of GBP 10,000 (ten thousand pounds sterling), including GBP 4,000 (four thousand pounds sterling) in respect of the applicant's costs and expenses (including VAT) to Antony Townsend, without prejudice to the issue of a violation of the Convention and with a view to securing a friendly settlement of the above-mentioned cases pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage and legal costs and expenses and it will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. In the event of failure to pay these sums within the said three-month period, the Government undertake to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

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 resolution 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.”

10. 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).

11. 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 18 January 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE  
Registrar

Josep CASADEVALL  
President