



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

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FOURTH SECTION

CASES OF HUNT and MILLER v. THE UNITED KINGDOM

(Applications nos. 10578/05 and 10605/05)

JUDGMENT
(Friendly settlement)

STRASBOURG

23 June 2009

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

In the cases of Hunt and Miller v. the United Kingdom,

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

Lech Garlicki, *President*,

Nicolas Bratza,

Giovanni Bonello,

Ljiljana Mijović,

Ján Šikuta,

Mihai Poalelungi,

Nebojša Vučinić, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 2 June 2009,

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

PROCEDURE

1. The case originated in two (joined) applications (nos. 10578/05 and 10605/05) 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 two British nationals, Mr Carl Andrew David Hunt and Mr Allan Miller (“the applicants”), on 12 November 2001.

2. The applicants were represented by Tyndallwoods, a firm of lawyers based in Birmingham. The United Kingdom Government (“the Government”) were represented by their Agent, Ms E. Willmott, Foreign and Commonwealth Office.

3. The applicants complained under Article 8 of the Convention that the investigations into their sexual orientation and their constructive dismissal breached their right to respect for private life. They further complained under Article 13 that they had no domestic remedy to address the violations of their Article 8 rights.

4. On 21 October 2008, after obtaining the parties' observations, the Court declared the applications admissible in so far as these complaints are concerned. A further complaint of the applicants was declared inadmissible on the same date.

5. On 24 March 2009 and on 25 March 2009 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the cases.

THE FACTS

6. The applicants were born in 1966 and 1960 respectively. The first applicant lives in Poole and the second applicant lives in Glasgow.

7. The facts of the case, as submitted by the parties, may be summarised as follows.

1. Background facts

8. The applicants were, at the material time, serving members of the United Kingdom armed forces. The first applicant was a trained medical assistant and the second applicant was an electrician by trade. They claim that they were subject to investigations into their sexual orientation and that during the investigations they were asked intimate and explicit questions. The first applicant claims to have been subject to “numerous” investigations during the last two and a half years of his service. During the first such investigation, in 1991, he was interviewed for a period of around nine hours over three-four days. His locker was searched and items were confiscated. Military personnel attended his private home address and sought to question his partner and search his flat. The second applicant alleges that he was questioned in 1989 on five occasions, for about two-three hours per interview, that his cabin was searched and that a number of personal items were confiscated.

9. Neither applicant was dismissed following the investigations. The first applicant was moved to another ship following the launch of a first investigation, which concluded some 18 months later when he was finally cleared. During a second investigation, he was moved to a royal navy hospital to await the results. For over two years he had been placed in administrative duties and was not permitted to work as a medical assistant as a result of the investigations. The second applicant was removed from his ship following his investigation, and given a job in the barracks for a period. In 1990 he was returned to his ship. Both applicants subsequently resigned from the armed forces. They claim that they were forced to leave because life in the armed forces had become unbearable. Colleagues were aware of the investigations and as a result they were harassed and bullied. The first applicant also complains that he was unable to do the job for which he had been trained.

2. Domestic proceedings

10. The applicants submitted a claim to the Employment Tribunal arguing constructive dismissal in breach of the Sex Discrimination Act 1975. As a result of the House of Lords' judgment in *MacDonald (AP) (Appellant) v. Advocate General for Scotland (Respondent) (Scotland)*

19 June 2003, [2003] UKHL 34, the applicants withdrew their domestic proceedings on 13 November 2003.

THE LAW

11. On 25 March 2009 the Court received the following declaration from the Government in respect of Mr Hunt:

“I, Emily Willmott, Agent for the Government of the United Kingdom, declare that the Government of the United Kingdom offer to pay GBP 29,000 (twenty-nine thousand pounds sterling) to Mr Carl Andrew David Hunt with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover pecuniary and non-pecuniary damage as well as costs and expenses, will be fully inclusive of any taxes that may be applicable. The sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay the sum within the said three-month period, the Government undertake to pay simple interest on it, from 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.”

12. On the same date, the Court received the following declaration from the Government in respect of Mr Miller:

“I, Emily Willmott, Agent for the Government of United Kingdom, declare that the Government of the United Kingdom offer to pay GBP 29,000 (twenty-nine thousand pounds sterling) to Mr Alan Miller with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover pecuniary and non-pecuniary damage as well as costs and expenses, will be fully inclusive of any taxes that may be applicable. The sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay the sum within the said three-month period, the Government undertake to pay simple interest on it, from 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.”

13. On 24 March 2009 the Court received the following declaration signed by the first applicant, Mr Hunt:

“I, Carl Andrew David Hunt, note that the Government of the United Kingdom are prepared to pay me the sum of GBP 29,000 (twenty-nine thousand pounds sterling) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover pecuniary and non-pecuniary damage as well as costs and expenses, will be fully inclusive of any taxes that may be applicable. The sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay the sum within the said three-month period, the Government undertake to pay simple interest on it, from 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 giving rise to this application. I declare that this constitutes a final resolution of the case.”

14. On the same date, the Court received the following declaration signed by the second applicant, Mr Miller:

“I, Alan Miller, note that the Government of the United Kingdom are prepared to pay me the sum of GBP 29,000 (twenty-nine thousand pounds sterling) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover pecuniary and non-pecuniary damage as well as costs and expenses, will be fully inclusive of any taxes that may be applicable. The sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay the sum within the said three-month period, the Government undertake to pay simple interest on it, from 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 giving rise to this application. I declare that this constitutes a final resolution of the case.”

15. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlements are 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).

16. Accordingly, the cases should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the applications out of its list of cases.

Done in English, and notified in writing on 23 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Lech Garlicki
President