



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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 26269/07
by John BOYLE
against the United Kingdom

The European Court of Human Rights (Fourth Section), sitting on 3 May 2011 as a Chamber composed of:

Lech Garlicki, *President*,

Nicolas Bratza,

Ljiljana Mijović,

Sverre Erik Jebens,

Päivi Hirvelä,

Ledi Bianku,

Vincent A. de Gaetano, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having regard to the above application lodged on 13 June 2007,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr John Boyle, is an Irish national who was born in 1957 and lives in Co. Antrim, Northern Ireland. He was represented before the Court by Mr F. Shiels of the Madden & Finucane firm in Belfast.

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

In 1977 the applicant was tried on the charges of possession of firearms and ammunition with intent to endanger life, and of membership of a

proscribed organisation. The only evidence against him at trial was an admission recorded in the police notes of his interrogation. The applicant denied in court that he had made such admissions, and challenged the veracity of the police records. He further argued that he had been physically ill-treated and subjected to intimidation during his arrest. Two police officers took the stand to vouch for the truthfulness of what they asserted was a contemporaneous record of the interrogation. The applicant was convicted of the charges and received concurrent sentences of ten and two years. His appeal against conviction and sentence was dismissed the following year. The applicant spent seven years in prison.

In 1999 the applicant sought review of his conviction by the Criminal Complaints Review Commission (CCRC). It arranged for expert analysis of the interview notes, which established that these had been modified at some later stage. This was sufficient for the CCRC to refer the case to the Court of Appeal, which ruled on 29 April 2003 that the conviction could not be regarded as safe and quashed it accordingly.

The CCRC also referred the conduct of the two police officers to the Director of Public Prosecutions (DPP), who in turn asked the Police Ombudsman Service to investigate. The latter did so and recommended prosecution of the officers for perjury. The DPP did not follow the recommendation. When asked by the applicant's solicitor to give reasons for this, he explained that an experienced lawyer within his office as well as an independent senior counsel had come to the view that there was no reasonable prospect of obtaining a conviction.

The applicant sought judicial review of the DPP's refusal to give specific, detailed reasons. The matter was finally disposed of by the Court of Appeal in a judgment of 28 April 2006, which reiterated its previous case law that the DPP is not bound by the rules of procedural fairness and thus not required to provide reasons for not prosecuting in a particular case. The court considered itself bound to follow its previous case law that the general policy of not giving reasons was neither irrational nor aberrant. Nor could it be concluded that in this particular case that the DPP's failure to depart from his general policy was unreasonable.

The applicant also advanced an argument based on Article 3 of the Convention. He contended that compelling him to serve a lengthy prison sentence on the strength of evidence that he knew to be false was inhuman and degrading. The Court of Appeal did not examine this argument, since it related to facts occurring long before the Human Rights Act came into force.

On 22 May 2007 the Appeal Committee of the House of Lords refused leave to appeal.

The applicant pursued a claim for compensation following the quashing of his conviction. The claim was rejected by the Secretary of State for Northern Ireland. The applicant has informed the Court that subsequently, in

December 2010, the Minister of Justice decided to make an *ex gratia* payment to him.

COMPLAINTS

The applicant complained that there had been both a substantive and procedural violation of Article 3 of the Convention. He also complained under Article 13 of the Convention.

THE LAW

A. Article 3

(i) Substantive aspect

The applicant alleged that he was the victim of a substantive violation of Article 3, his treatment at the hands of the State having exceeded the minimum threshold of severity implicit in this provision. He referred to the cumulative effects of his detention and interrogation on two occasions, alleging physical abuse and intense psychological pressure to admit the charges. This had taken place in Castlereagh Holding Centre, which the Committee for the Prevention of Torture had strongly criticised in its 1993 report, whose comments had already been noted by the Court in its judgment in *Magee v. the United Kingdom*, no. 28135/95, ECHR 2000-VI. He had been tried in public before a non-jury court for serious terrorist offences and convicted solely on the basis of evidence he knew to be false. He served a lengthy prison sentence, and bore the stigma of conviction for 26 years before it was finally removed by the Court of Appeal. He had been informed by police that his name was included in a loyalist “hit list”, as a result of which he had had to take measures to protect his personal security. Cumulatively, these different elements had caused him great anguish, distress, humiliation and anxiety.

The Court considers that insofar as the applicant complains of events that took place 30 years before he applied to the Court, as well as of the period preceding the quashing of his conviction in 2003, these aspects of his application must be rejected as out of time, in accordance with Article 35 § 1 of the Convention.

For the remainder, the Court considers that, having regard to all of the facts of this case, the anxiety and uncertainty described by the applicant do not attain the minimum level of severity implicit in Article 3 (*Kafkaris v. Cyprus* [GC], no. 21906/04, §§ 106-107, ECHR 2008..., also

A. and Others v. United Kingdom, no. 3455/05, §§ 129-134, ECHR 2009-...). It therefore finds the applicant's complaint in this respect is manifestly ill-founded and should be rejected under Article 35 §§ 3 and 4 of the Convention.

(ii) Procedural aspect

The applicant complained that the non-prosecution of the two police officers who testified at his trial, and the refusal of the DPP to give detailed reasons for his decision, rendered the ban on inhuman and degrading treatment ineffective, gave rise to impunity for the police, and undermined public confidence in the rule of law.

In view of the conclusion reached above, the Court must dismiss this complaint too, there being no arguable complaint of ill-treatment contrary to Article 3 giving rise to any procedural obligation under that Article. The complaint is thus manifestly ill-founded, and should therefore be rejected under Article 35 §§ 3 and 4 of the Convention.

B. Article 13

In view of the Court's conclusion regarding the applicant's complaints under Article 3, his associated complaint under Article 13 must also be rejected as manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention (*Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52).

For these reasons, the Court unanimously

Declares the application inadmissible.

Fatoş Aracı
Deputy Registrar

Lech Garlicki
President