



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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 31151/08
by Nzimirro Adam OBIORA
against Norway

The European Court of Human Rights (Fourth Section), sitting on 21 June 2011 as a Chamber composed of:

Nicolas Bratza, *President*,
Lech Garlicki,
Ljiljana Mijović,
Sverre Erik Jebens,
Päivi Hirvelä,
Ledi Bianku,
Zdravka Kalaydjieva, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having regard to the above application lodged on 18 June 2008,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Nzimirro Adam Obiora, is a Norwegian national who was born in 1994. He lives in Oslo with his mother, Mrs E. S. Obiora, who has acted on behalf of her under-age son in the national proceedings and in lodging an application under the Convention. The applicant was represented before the Court by Ms A.H. Aarø, a lawyer practising in Oslo.

The Norwegian Government (“the Government”) were represented by Mrs F. Platou Amble, Attorney, Attorney-General’s Office (Civil Matters), as Agent.

The circumstances of the case

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

1. The incident that gave rise to the applicant’s complaint under the Convention

On 7 September 2006 the applicant’s father, Mr Eugene Ejike Obiora (born in 1958), died in connection with his being arrested by police officers at the Østbyen Social Services Office (*servicekontor*) in Trondheim.

Mr Obiora had been visiting the Social Services Office to complain about the refusal of a social security allowance. The police were called as employees of the Office had found his behaviour disturbing and threatening. Upon arrival at around 1.30 p.m. the officers had observed Mr Obiora inside the public area of the premises. He had approached them and asked whether he had been responsible for their presence. After the employees in the presence of the police had given Mr Obiora an explanation for the refusal of the allowance and had informed him of the possibility to lodge an appeal, the police officers had ordered him to leave the premises and warned him that should he fail to do so he would be arrested. The decision of 4 May 2007, referred to below, described the events which followed.

Since Mr Obiora had refused to comply with the police officers repeated orders to leave the premises, the police decided to arrest him. Police officers V. and M. had taken hold of Mr Obiora’s arms in order to escort him from the building. Mr Obiora had immediately and vigorously resisted. Officer V. explained that when he tried to grab Mr Obiora’s left hand, the latter had struck V. very hard in the chest with his elbow. After having tried in vain to grab Mr Obiora’s left hand in order to avoid further blows, Officer V. jumped on Mr Obiora’s back, gripped Mr Obiora by the throat using his right hand and remained in that position.

The police officers felt that the situation was out of control and that they needed to pacify Mr Obiora, or else they or other persons in the Services Office might possibly get hurt.

After Mr Obiora had circled a few times with Officer V. on his back and with Officer M. gripping his right arm, all three had fallen to the ground in the public area of the office premises. When falling, Officer V. had kept his grip around Mr Obiora’s throat, and continued to do so until he and M. handcuffed Mr Obiora.

Finding it undesirable and wrong to let Mr Obiora remain on the floor of where they were hindering access and movement of the many people around

them, Officers V. and M. decided to take Mr Obiora outside. They had pulled him by his arms to the landing outside the front door.

On the landing Officers V. and M. had used considerable force to keep Mr Obiora down as he was struggling hard to free himself. V. had used his own body weight while bending Mr Obiora's wrist in order to keep him down. Officer M., standing to the right of Mr Obiora, had pushed him to the ground.

When Officer B. had arrived at the scene, he had noted that Mr Obiora had tried to free himself from V. and M. and was kicking out. Since Mr Obiora risked kicking passers-by, Officer B. had tried to immobilise his feet by applying a so-called leglock (*benlås*). He had been prevented by Mr Obiora from doing so since the latter was trying to get up and was kicking Officer B.

While on the landing, Mr Obiora had screamed loudly and repeatedly. After struggling for a while he had calmed down completely. He had fainted and had been placed in a lateral position. The officers had ensured that he could breathe.

At 2.12 p.m. Officer B reported that Mr Obiora's resistance had been so vigorous that he had fainted and that he had had to call an ambulance. At 2.16 p.m. the officers reported that they would bring Mr Obiora by police van to St. Olavs Hospital. In view of the location of the nearest ambulance, it was felt that the police vehicle (of which Officer H. was the driver) could transport Mr Obiora to the hospital as fast, or even faster, than an ambulance. Mr Obiora was placed on the floor of the police cell at the rear end of the vehicle. Because of its restricted space, 1.35 metres in length, his knees were bent upwards. The journey took approximately seven minutes. Upon arrival at the hospital, a nurse and a doctor detected a weak pulse in Mr Obiora's throat. Medical appliances were connected to Mr Obiora's body and it was established that his heart had stopped.

2. Criminal investigation by the Special Unit for Investigation of Police Matters

The Special Unit for Investigation of Police Matters (*Spesialenheten for politisaker* – hereinafter referred to as the Special Unit) carried out an investigation of the four police officers of Sør-Trøndelag Police District who had taken part in Mr Obiora's arrest. The investigation was based on suspicion of offences having been committed under Article 228 (1) and (2), second alternative, (bodily infringement resulting in death) of the Penal Code, Article 229, third alternative (bodily injury resulting in death), Article 239 (manslaughter committed by negligence) and Article 325 (1) (aggravated neglect in the performance of official duties). None of the officers was indicted. On 4 May 2007 the Special Unit decided to discontinue (*henlegge*) the proceedings. As regards the three officers who had been in contact with Mr Obiora, the decision was based on the state of

the evidence; regarding the fourth officer, the decision to discontinue had been taken on the ground that no criminal offence had been proved.

3. Further investigative measures, conclusions and recommendations

The deceased's next-of-kin, including the applicant, complained about the above decision to the Director of Public Prosecutions (*Riksadvokaten*). They disputed that it had been necessary for the police to restrain Mr Obiora and to do so in the manner they did, notably by means of a strangulation grip around his throat, placing him on his stomach while exerting considerable pressure on his back, holding his head and legs and handcuffing him. They further complained of the officers' omission to carry out life-saving measures when they realised that he was unconscious. The plaintiffs moreover complained about the procedure, namely that the first three police officers had been represented by the same lawyer and had been interrogated at intervals, enabling them to coordinate their versions of events. They also requested that further evidence be obtained on officer V.'s previous use of strangulation grips. They asserted that on two previous occasions officer V. had used a strangulation grip when arresting a coloured person, once in the so-called "*Baidoo* case", and on another occasion when arresting an Iraqi, which had led to police misconduct complaints being filed against him. On at least three occasions he had used strangulation grips "in a dramatic way".

The Director of Public Prosecutions requested the Special Unit to take further investigative measures with a view to clarifying certain matters that could be of importance for the assessment of whether a criminal offence had been committed by the police "in a situation that had ended tragically in Mr Obiora's death".

On 24 September 2007 the Special Unit, after having taken the measures requested, reported back to the Director of Public Prosecutions. In this connection the Unit provided particulars of the two police misconduct complaints referred to above and stated that it could not be concluded that V. had previously used strangulation grips "in a dramatic manner". In the *Baidoo* case the Director of Public Prosecutions had not found proof of unlawful or excessive use of force. In the other case, the arrestee had allegedly experienced breathing problems due to pressure being applied to his chest after being placed on the ground. V. had conceded that he had gripped him around his neck. The Director of Public Prosecutions had in that case upheld the decision to drop the complaint against V., finding that no more force had been used than had been required by the situation. The Special Unit also provided details of a third complaint where the case had been dropped as no criminal offence had been proved.

The Special Unit concluded that no weight could be attached to earlier complaints against V., including those instances where he might have gripped an arrestee around the throat or neck, in the assessment of whether

V. could be held criminally liable in the present case. The information did not appear to have any significance for the assessment of the facts in the present case and in the Special Unit's view no clear behavioural pattern on V.s part emerged from this information regarding the use of force against persons from a minority background. The use of force appeared on the whole to have been situational. The number of complaints had to be seen against the background of the fact that over a long period he had been assigned to operational service. It should also be emphasised that the complaints against V. seemed to have been dealt with sufficiently thoroughly and had been dropped.

The Special Unit also considered previous complaints against officer M. but found none of these to be relevant. It informed the Director of Public Prosecutions that no previous police misconduct complaints had been made against officers B. and H.

In his final comments of 25 October 2007 on the supplementary investigative measures taken by the Special Unit, the applicant did not specifically address the latter's findings regarding previous police misconduct cases.

On 21 December 2007, the Director of Public Prosecutions rejected the appeal against the Special Unit's decision of 4 May 2007.

By way of a preliminary observation he endorsed the Special Unit's findings that the information obtained about previous police misconduct complaints was not capable of shedding light on the sequence of events and the question of guilt in the present case. He found *inter alia* as follows.

A combination of factors had caused Mr Obiora's death. To all appearances his death had occurred as a result of asphyxia and his reactions to this. The asphyxia had been caused by Mr Obiora's own efforts when resisting arrest, combined with breathing problems when pressure had been exerted on his throat and, not least, with his having been placed by the police on his stomach for a certain period of time and being subjected to the use of force by the police while in this position.

Forensic experts had documented the fact that restraining agitated persons by placing them on their stomach entailed a risk of positional asphyxia (*leiebettinget kvelning*). This position could hinder movements in the chest and could over time lead to a dramatic reduction in lung capacity, heart palpitation frequency, blood pressure and blood volume, and could lead to death if the person's craving for oxygen or oxygen deficit was not compensated in time. There had been reason to believe that the factors described had played a significant role in Mr Obiora's death.

The circumstances surrounding the arrest were obviously not such as would have justified the use of methods that could have put Mr Obiora's life in danger. A central question was whether the officers could or ought to have been aware of the possibility that placing him on his stomach together with the other means of restraint used could lead to Mr Obiora's death.

The Director of Public Prosecutions found it beyond doubt that neither the police officers involved nor the Sør-Trøndelag Police District had known of the dangers of restraining persons by placing them on their stomach on the ground. Nor had employees of the Norwegian Police Academy or of the Police Directorate possessed such knowledge prior to the present case. Awareness of the risk had not been particularly widespread among health personnel either.

The Norwegian Police Academy had reported that the type of restraint at issue had been standard procedure for the arrest of obstructive persons. Academy students had been taught that every person arrested, if placed on the ground, should end up flat on the stomach and that the person was to be immobilised by inter alia bending his arms and shoulders from this position. Accordingly, the officers who had put Mr Obiora on his stomach in this position had applied the method which they had been taught to use in such situations.

Even though the Norwegian Police Academy's and the Directorate of Police's practices had been deficient with regard to the collection of information about the risks involved in using the impugned restraining method, the Director of Public Prosecutions found no ground for qualifying the omissions as gross neglect. Having regard to the circumstances of the case as a whole, there was an insufficient factual basis for holding the Norwegian Police Academy and the Directorate of Police liable pursuant to Article 325 of the Penal Code. In making this assessment, regard had been had to the submission by medical experts that knowledge about the dangers of asphyxiation connected with the relevant restraint measures had not been particularly widespread among health personnel.

The Director of Public Prosecutions emphasised that he presumed that the Special Unit would quickly place all relevant material at the disposal of the Norwegian Police Academy and the Directorate of Police so as to promote education, training and the dissemination of information as well as the introduction of central directives and control measures for preventing asphyxiation caused by the position of the arrestee during arrest. The Directorate would presumably review Circular 2007/011 of 26 June 2007 in light of the experience gained from the present case and consider whether it sufficiently fulfilled the need to have directives on situations in which restraining a person by placing him on the stomach could be justified, the length of time a person could be kept in such a position and, not least, checking the situation of the arrestee during and after his being kept in such a position. Of central importance was the further elaboration of guidelines on the manner in which continuous checking of the arrestee's situation was to be carried out and on how to move rapidly to other less dangerous methods while maintaining the necessary control.

4. Civil compensation proceedings and opinion by the Parliamentary Ombudsperson

In the course of the autumn of 2008 and winter of 2009 several attempts were made on behalf of the deceased's children to obtain compensation from the State but to no avail.

On 7 September 2009 the applicant and another son of the deceased, Mr Prince Wallace Obiora, born in 1988 and resident in Lagos, Nigeria, instituted civil compensation proceedings against the State before the Oslo City Court. They claimed compensation for loss of their father's financial support and for non-pecuniary damage under, respectively, sections 3-4(1) and 3-5(2) of the Damage Compensation Act 1969.

On 16 February 2010 the Parliamentary Ombudsperson (Civil Matters) gave of his own motion an opinion (case 2007/2439) on Mr Obiora's death and on the issue of responsibility for police practices in respect of techniques of use of force on arrest, in particular restraining a person by placing him on the stomach. The Ombudsperson endorsed the Director of Public Prosecutions and the Special Unit's findings mentioned above. After carrying out a detailed review of the Court's case-law in relation to Article 2 of the Convention, he observed that the question whether at the time of Mr Obiora's death the Norwegian authorities ought to have been aware of the risk of death as a result of placing an arrestee on the stomach, depended on a concrete assessment of the circumstances. Among other factors, regard ought to be had to whether the police officer had done all that could reasonably be expected to reduce the risk, bearing in mind the seriousness of the risk, its probability and immediacy, whether it was for the State to assess the risk and the vulnerability of the victim.

Considering the matter as a whole, the Ombudsperson found that Norway had not sufficiently complied with its obligations under the Convention in respect of the use of restraint by placing the arrestee on the stomach upon arrest. The State ought to have been aware of the health hazards involved in the use of this technique. Such knowledge would have provided the requisite basis for regulating its use and ensuring adequate training of the police with a view to avoiding loss of life or serious injury. Against the background of the information available regarding the dangers of restraining a person by placing him on the stomach, it would not have entailed an excessive burden for the Norwegian authorities to acquire by the time of Mr Obiora's death the necessary knowledge about the health hazards of the technique. The necessary knowledge could have been acquired without considerable expense.

The Norwegian authorities' lack of knowledge appeared to have been caused by deficient practices for updating medical and police knowledge about techniques of arrest. The risks accompanying restraint of an arrestee by placing him on the stomach could clearly have been reduced if the State

had been aware of such risks, and death resulting from using this technique could have been avoided.

The responsibility for violation of the obligations to protect human rights lay with the State. This followed directly from public international law and was stated expressly in Article 1 of the Convention. In this connection it was unnecessary to consider further where to place the responsibility for the violation of Article 2 of the Convention. In light of the information provided by the Ministry it seemed that the principal responsibility for the lack of regulation of the use of the impugned restraint method lay primarily with the Directorate of Police. However, this case also showed that the Police Academy had failed in its role by not developing and updating techniques of arrest for the purposes of training.

On the same date – 16 February 2010 - that the Ombudsperson issued his opinion, the State concluded a friendly-settlement agreement with the applicant and his brother. By virtue of this agreement, the applicant was to be paid NOK 400,000¹ (and his brother NOK 100,000) in respect of their above-mentioned compensation claims and payment of these amounts was to constitute “full and final settlement of any claim against the State in connection with Mr Eugene Obiora’s death”. The proceedings before the City Court were discontinued.

5. Applicant’s decision to maintain his application and the further procedure before the Court

On 19 April 2010 the Registry invited the applicant to clarify whether in light of the above friendly-settlement agreement he wished to maintain his application to the Court. On 24 April 2010 his lawyer replied in the affirmative, pointing out that the agreement had settled the financial aspects of the case but did not imply that the State accepted criticism or acknowledged responsibility for Mr Obiora’s death or a human rights violation in this respect.

On 26 May 2010, the President of the Section to which the case had been allocated decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the application should be given to the Government of Norway and that the Government should be invited to submit written observations on the admissibility and merits of the case.

On 6 October 2010 the Government’s observations of 21 September 2010 were transmitted to the applicant’s representative, who was requested to submit any observations together with any claims for just satisfaction in reply by 17 November 2010. The applicant did not respond.

By a letter dated 13 January 2011, sent by registered post, the applicant’s representative was notified that the period allowed for submission of the applicant’s observations had expired on 17 November 2010 and that no

¹ Corresponding to approximately EUR 51,000.

extension of time had been requested. The applicant's representative's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application.

On 30 January 2011 the applicant's representative replied enclosing a letter to the Court dated 14 September 2010 (which had not been received). It stated that the applicant had "no further comments to the application", that he agreed with the respondent State that the parties had settled the financial dispute, that there was no financial loss in the case and that "due to the amicable settlement of the case the State did not admit [to] any responsibility for the death of Mr Obiora." The settlement agreement had not covered his legal costs incurred in the Convention proceedings. He would therefore maintain his application.

6. Various materials submitted regarding alleged police misconduct

The applicant submitted large quantities of documents relating to a number of previous complaints of police misconduct, involving allegations of excessive use of force, filed with a former police complaints authority – *SEFO (Det særskilte etterforskningsorgan)* – notably against officers M. and V. This included the so-called "*Baidoo case*" where Officer V. had been charged for swearing ("*svarte faen*" – normally meaning "bloody hell", literally "black devil") in the presence of a coloured woman, perceived by her as a racist attack, but had been acquitted by Trondheim City Court in 2001 finding that it had been a spontaneous reaction to his having been bitten by the woman. V. had been expressing his frustration and his remark had not been specifically aimed at the woman or linked to the colour of her skin. The investigation into the woman's complaints of excessive use of force was apparently dropped on the ground of the state of the evidence.

COMPLAINTS

The applicant complained firstly that by having failed to ensure that the police received proper training, the authorities of the respondent State had not complied with their obligations under Article 2 of the Convention. Secondly, invoking Article 14 of the Convention, the applicant complained of discriminatory treatment in the protection of the right to life under Article 2 of the Convention, on account of the State's failure to protect Mr Obiora against racism in the police. He alleged that one of the police officers who had used a strangulation grip on Mr Obiora had previously applied such a form of restraint on a Nigerian woman while making statements that the latter had perceived as being racist.

THE LAW

Article 2 of the Convention reads in so far as is relevant:

“1. Everyone’s right to life shall be protected by law. [...].

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; [...].”

Article 14 provides:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. The parties’ submissions

The Government invited the Court to declare the application inadmissible on the ground that the applicant no longer satisfied the victim requirement under Article 34 of the Convention. They emphasised that under the friendly-settlement agreement of 16 February 2010 the applicant had already received full financial compensation for the loss of his father. Moreover, after the tragic and unintentional death of Mr Obiora, the Norwegian authorities had taken a number of measures to ensure that a similar accident would not occur again.

These measures had included inter alia the publication by the Police Directorate of a circular letter (2007/11) to all police districts on the risks involved in restraining a person in a prone position (“*mageleie*”), the provision in 2008 of new and updated teaching materials in police training, a research project on arrest techniques involving medical expertise, as well as the issuing of guidelines to all police districts for addressing such risks in in-service training.

The applicant submitted that, while the friendly-settlement agreement had settled his compensation claims against the State, the latter had not acknowledged any responsibility for his father’s death.

B. The Court’s assessment

1. Alleged violation of Article 2 of the Convention

In so far as the applicant alleged a violation of Article 2 of the Convention, the Court notes from the outset that he did not complain about the national decision not to prosecute the police officers in respect of their

decision to arrest Mr Obiora, their use of force in effecting the arrest or of any failure to take life-saving measures including the manner of handling his transport to the hospital. Nor did the applicant call into doubt the efficiency of the investigation. His complaint was that the State - in the context of police training - had failed to collect and impart information about the dangers involved in restraining a person by placing him or her on the ground on the stomach. In his view, its failure to ensure proper training of the police so as to avoid such aggravated personal injury, as occurred in this case, gave rise to a violation of the State's obligations under Article 2.

The Court reiterates that the question whether or not an applicant can claim to be a victim of the violation alleged is relevant at all stages of the proceedings under the Convention. Account should be taken not only of the formal position at the time when the application was lodged with the Court but of all the circumstances of the case in question, including any developments prior to the date of the examination of the case by the Court (see, *Tănase v. Moldova* [GC], no. 7/08, § 105., ECHR 2010-..., with further references).

After the Director of Public Prosecutions had rejected on 21 December 2007 the applicant's appeal against the Special Unit's decision of 4 May 2007 to discontinue the criminal proceedings notably against the police officers concerned, the applicant brought civil compensation proceedings against the State before the Oslo City Court. He claimed compensation for pecuniary and non-pecuniary damage under the Damage Compensation Act 1969. In the context of these proceedings, on 16 February 2010 the applicant concluded a friendly-settlement agreement with the State by virtue of which he was paid NOK 400,000 (approximately 51,000 euros) in respect of his compensation claims. The payment of this amount was to constitute "full and final settlement of any claim against the State in connection with Mr Eugene Obiora's death."

In the Court's view, in bringing civil compensation proceedings in respect of the death of his father the applicant had used the local remedies available and in settling his claims in those proceedings he had renounced further use of these remedies. In this connection, it should be reiterated that the Court has previously held that the possibility of obtaining compensation for the death of a person will generally, and in normal circumstances, constitute an adequate and sufficient remedy for a substantive complaint of an unjustified use of lethal force by a State agent in violation of Article 2 of the Convention (see *Robert and Dinah-Anne Hay v. the United Kingdom* (dec.) no. 41894/98, 17 October 2000; *CaraHER v. the United Kingdom* (dec.), no. 24520/94, ECHR 2000-I). Separate procedural obligations may also arise under Article 2 concerning the provision of effective investigations into the use of lethal force, but as already mentioned above, these are not in issue in the present case (see *CaraHER*, cited above; compare *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, §§ 55-56, 20 December

2007; *Kopylov v. Russia*, no. 3933/04, § 121, 29 July 2010; *Gäfgen v. Germany* [GC], no. 22978/05, § 119, ECHR 2010-...where also the procedural aspect of Articles 2 or 3 was in issue). Where in such a situation a relative accepts a sum of compensation in settlement of civil claims and renounces further use of local remedies therefore, he or she will generally no longer be able to claim to be a victim in respect of those matters (*Caraher*, cited above).

In the Court's view, there do not appear to be any special circumstances calling for a different approach in the present case.

It should in particular be observed that, as a result of the criticism expressed against the Police Academy and the Directorate of Police by the Director of Public Prosecutions on 21 December 2007 and by the Parliamentary Ombudsperson on 16 February 2010, specific measures were taken to improve police training so that such a tragic event as that in Mr Obiora's case would not happen again.

Also, the Court cannot but note the applicant's omission to respond to its invitation to comment on the Government's observations of 21 September 2010 and hence to participate effectively in the proceedings before it (Rule 44C of the Rules of Court).

Against this background, the Court finds that, by bringing compensation proceedings in respect of the death of his father, the applicant has used the domestic remedies available and by accepting in those proceedings the payment of the amount in question as full and final settlement of any claim against the State, the applicant has effectively renounced further use of those remedies. In the concrete circumstances he may no longer claim to be a "victim" for the purposes of Article 34 of the Convention in respect of his complaint of violation of Article 2.

It follows that this part of the application must be rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

2. Alleged violation of Article 14 taken together with Article 2 of the Convention

As regards the applicant's complaint of discrimination in breach of Article 14 taken together with Article 2 of the Convention, the Court notes that the applicant had invoked in his appeal to the Director of Public Prosecutions certain previous police misconduct complaints made against one of the officers and requested that this matter be further investigated and taken into account. However, apart from making a general reference to his earlier submissions he did not specifically comment on the Special Unit's additional findings in this respect, which the Director of Public Prosecutions thereafter endorsed. The applicant does not seem to have contended at that stage that, as he is now doing before the Court, his father's fate had resulted from racism within the police. Nor did he revert to the matter either

expressly or in substance in the compensation proceedings before the City Court.

Leaving aside whether the applicant can be considered to have exhausted domestic remedies for the purposes of Article 35 § 1 of the Convention, the Court notes that he did not elaborate in any way on his discrimination complaint to the Court. He confined himself to submitting - apart from copies of his said appeal and of the Special Unit's and the Director of Public Prosecutions' decisions referred to above - large quantities of documents relating to a number of previous police misconduct complaints about excessive use of force, including from the *Baidoo* case. The Court has taken note of the Special Unit's findings, endorsed by the Director of Public Prosecutions, that the information collected about previous police misconduct complaints was not capable of shedding light on the sequence of events and the question of guilt in the present case. Having regard to the careful and thorough review carried out by the afore-mentioned authorities, the Court does not in principle consider it to be its role to substitute its own assessment of facts for theirs (see *Klaas v. Germany*, 22 September 1993, § 29, Series A no. 269).

No argument has been adduced in the course of the Strasbourg proceedings which could call into doubt the findings of the prosecution authorities and add weight to the applicant's allegations before the Court (*ibid.*).

It therefore follows that also this complaint is manifestly ill-founded and must be declared inadmissible under Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court

Declares, by a majority, the complaint under Article 2 of the Convention inadmissible;

Declares, unanimously, the complaint under Article 14 taken together with Article 2 of the Convention inadmissible.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President