

# EUROPEAN COURT OF HUMAN RIGHTS

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**Press release issued by the Registrar**

## **HEARING IN THE CASES OF CHAPMAN v. THE UNITED KINGDOM COSTER v. THE UNITED KINGDOM BEARD v. THE UNITED KINGDOM SMITH v. THE UNITED KINGDOM and LEE v. THE UNITED KINGDOM**

**Wednesday, 24 May 2000, at 9 a.m.**

### **The applicants**

The cases concerns applications brought by applicants from five British gypsy families:

- Sally Chapman, born in 1954 and resident in Hertfordshire;
- Thomas and Jessica Coster, born in 1962 and 1964 and resident in Kent;
- John and Catherine Beard, born in 1935 and 1937 and currently with no fixed address for their caravans;
- Jane Smith, born in 1955 and resident in Surrey;
- Thomas Lee, born in 1943 and resident in Kent.

### **Summary of the facts**

1. Sally Chapman bought land in 1985 in the Three Rivers District in Hertfordshire on which to station her caravan, without obtaining prior planning permission. She was refused planning permission for her caravan, and also permission for a bungalow. Her land was in a Green Belt area. It was acknowledged in the planning proceedings that there was no official site for gypsies in the area and the time for compliance with the enforcement order was for that reason extended. She was fined for failure to comply and left her land for eight months, returning due to an alleged lack of other alternatives and having spent the time being moved on from one illegal encampment to another. She still lives on her land with her husband and father, who is over 90 years' old and suffering from senile dementia.

2. Thomas and Jessica Coster, husband and wife, allege that they were forced, through lack of alternatives, to live in conventional housing from 1983 to 1987. In 1988, having bought some land near Maidstone in Kent, they moved on to it in caravans. Their applications for planning permission were dismissed twice on grounds that the development was a significant intrusion into an attractive rural area. They were prosecuted and fined in 1989, 1990 and 1992. Following injunction proceedings in 1992, they left their land but returned after a short while. They were fined again in 1994 and faced injunction proceedings in 1996 which were substituted by enforcement proceedings for removal under s. 178 of the Town and Country Planning Act 1990, following which they allege that they had no alternative but to accept council housing accommodation in 1997.

3. John and Catherine Beard, husband and wife, stationed caravans on land bought by them in Lancashire. They were twice refused planning permission on grounds of impact on visual amenity and highway safety considerations. They were prosecuted four times between 1991 and 1995 and faced injunction proceedings in 1996, which led to John Beard receiving a suspended committal to prison for three months for failure to remove the caravans. They left their land as a result and have since been without fixed address for their caravans.

4. Jane Smith and her family bought land for their caravans in a Green Belt area in Surrey and were refused planning permission on the grounds that their occupation harmed a sensitive area of the countryside. Her application for a bungalow was refused to prevent diminishing the rural character of the countryside. Injunction proceedings were taken against the applicant in 1994, following which the family applied to be housed as “homeless”. She complains that the accommodation offered so far has either been in flats or in urban areas or has concerned land unsuitable for habitation due to pollution. She remains on her land under threat of removal and committal to prison for contempt.

5. Thomas Lee and his family stationed caravans on land bought by them in a Special Landscape Area in Kent. Planning permission was refused as the planning inspector found his site was highly visible and detrimental to the landscape. While there are official sites in the area, he complains that these are not fit for human habitation as they are located on rubbish sites or on old sewage beds. Permission was however given for use of a caravan for agricultural purposes on land near to his and permission has been given for a large residential development 600 yards from his land.

## **Complaints**

The applicants complain that measures taken against them in enforcement of planning measures in respect of occupation of their own land in their caravans violate Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination) of the European Convention on Human Rights. All the applicants save the Beard family argue that these measures also interfere with the peaceful enjoyment of their land contrary to Article 1 of Protocol No. 1. Sally Chapman and Jane Smith complain under Article 6 (right to a fair trial) that there is no effective access to court to appeal against the planning and enforcement decisions of the authorities. The Coster family, Jane Smith and Thomas Lee also invoke Article 2 of Protocol No. 1 (right to education), alleging that the measures of enforcement deprived their children or grandchildren of an education.

## **Procedure**

The applications were lodged with the European Commission of Human Rights on 31 May, 19 May, 14 May, 4 May and 22 June 1994 respectively. Having declared the applications admissible, the Commission adopted its reports on 25 October 1999 in which it expressed the following opinions:

1. In the **Chapman** case, by 18 votes to 9 that there had been no violation of Article 8, by 19 votes to 8 that there has been no violation of Article 1 of Protocol No. 1, by 25 to 2 that there had been no violation of Article 6 and by 18 votes to 9 that there had been no violation of Article 14;

2. In the **Coster** case, by 18 votes to 8 that there had been no violation of Article 8, by 19 votes to 7 that there has been no violation of Article 1 of Protocol No. 1, by 21 votes to 5 that there had been no violation of Article 2 of Protocol No. 1 and by 18 votes to 8 that there had been no violation of Article 14;

3. In the **Beard** case, by 18 votes to 8 that there had been no violation of Article 8 and by 18 votes to 8 that there had been no violation of Article 14;

4. In the **Smith** case, by 18 votes to 8 that there had been no violation of Article 8, by 21 votes to 5 that there has been no violation of Article 1 of Protocol No. 1, by 21 votes to 5 that there had been no violation of Article 2 of Protocol No. 1, by 24 votes to 2 that there had been no violation of Article 6 and by 18 votes to 8 that there had been no violation of Article 14;

5. In the **Lee** case, by 18 votes to 8 that there had been no violation of Article 8, by 20 votes to 6 that there has been no violation of Article 1 of Protocol No. 1, by 20 votes to 6 that there had been no violation of Article 2 of Protocol No. 1, unanimously that there had been no violation of Article 10 (freedom of expression) and by 18 votes to 8 that there had been no violation of Article 14.

The Commission referred the cases to the Court on 30 October 1999.

### **Composition of the Court**

The cases will be heard by the Grand Chamber composed as follows:

Luzius **Wildhaber** (Swiss), *President*,  
Jean-Paul **Costa** (French),  
Antonio **Pastor Ridruejo** (Spanish),  
Jerzy **Makarczyk** (Polish),  
Pranas **Kūris** (Lithuanian),  
Riza **Türmen** (Turkish),  
Françoise **Tulkens** (Belgian),  
Viera **Strážnická** (Slovakian),  
Peer **Lorenzen** (Danish),  
Marc **Fischbach** (Luxemburger),  
Volodymyr **Butkevych** (Ukrainian),  
Josep **Casadevall** (Andorran),  
Hanne Sophie **Greve** (Norwegian),  
András **Baka** (Hungarian),  
Snejana **Botoucharova** (Bulgarian),  
Mindia **Ugrekhelidze** (Georgian), *judges*,  
Lord Justice **Schiemann** (British), *ad hoc Judge*,  
Giovanni **Bonello**,  
Rait **Maruste**, *substitute judges*

and also Michele **de Salvia**, *Registrar*.

**Representatives of the parties**

**Government:** Huw **Llewellyn**, *Agent*, David **Pannick QC**, David **Elvin QC**,  
Mark **Shaw**, *Counsel*, David **Russell**, Stephen **Marshall-Camm**, *Advisers*;

**Applicants:**

Cases of *Chapman, Smith and Lee*: Richard **Drabble QC**, *Counsel*, Timothy **Jones**,  
Murray **Hunt**, Alan **Masters**, Diana **Allen**,  
Sonia **Sharma**, Sylvia **Dunn**, *Advisers*.

Cases of *Beard and Coster*: Marc **Willers**, *Counsel*, Peter **Kingshill**,  
Sophie **Ringrose**, Jane **Kingshill**, David **Willshaw**,  
*Advisers*.

Mrs Chapman, Mrs Smith and Mrs Beard will also attend the hearing.

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After the hearing the Court will begin its deliberations, which are held in private. Judgment will be delivered at a later date.

**Registry of the European Court of Human Rights**

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*The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.*