



Case concerning sexual abuse of schoolgirl in Catholic-run national school in Ireland under examination

The European Court of Human Rights is examining a case concerning the sexual abuse of a primary-school girl, aged eight to nine, in a Catholic-run national school in Ireland in 1973 - [O'Keeffe v. Ireland](#) (application no. 35810/09).

Principal facts

The applicant, Louise O'Keeffe, is an Irish national who was born in 1964 and lives in Cork (Ireland).

From 1968 onwards Ms O'Keeffe went to Dunderrow National School. National schools are State-funded primary schools (of which it is estimated there were approximately 3000 in Ireland). The school was owned by the Catholic Diocese of Cork and Ross, its Patron was the Bishop of Cork and Ross and it was managed by a priest (O) on behalf of an Archdeacon.

In 1971 a parent of a child complained to O that the school principal (LH) had sexually abused her daughter. Further complaints were made in 1973. Following a parents' meeting chaired by O, LH went on sick leave and then resigned in September 1973. On 14 January 1974 O informed the then Department of Education and Science of LH's resignation. However, the Supreme Court later noted that it did not appear that the Department had been informed of the complaints against LH. It also appears that no complaint was made to the police at that point. LH then went to another national school, where he taught until his retirement in 1995.

Between January and mid-1973 Ms O'Keeffe was subjected to a number of sexual assaults by LH during music lessons by him in his classroom during breaks or directly after school. She suppressed the sexual abuse and, while she had significant psychological difficulties (notably, physical intimacy issues), she did not associate those with the abuse. In 1996 she was contacted by the police, who were investigating a criminal complaint against LH made in 1995 by another former pupil. Ms O'Keeffe made a statement to the police in January 1997 and was referred for counselling. During the investigation a number of other pupils made statements about abuse by LH. He was charged with 386 criminal offences of sexual abuse involving some 21 former pupils of the school. In 1998 he pleaded guilty to 21 sample charges and was sentenced to imprisonment.

In or around June 1998, having heard evidence from other victims during LH's criminal trial and following subsequent medical treatment, Ms O'Keeffe realised the extent of her psychological problems and the connection between those problems and the abuse by LH.

In October 1998 she applied to the Criminal Injuries Compensation Tribunal for compensation and was awarded approximately 53,000 Irish pounds.

On 29 September 1998 she brought a civil action against LH, the Minister for Education and Science, Ireland and the Attorney General, claiming damages for personal injuries suffered as a result of assault and battery including sexual abuse. She claimed that: the State had failed to put in place appropriate measures and procedures to prevent and

stop LH's systematic abuse going back to 1962; the State was vicariously liable as the employer of O and LH; and, that the State was responsible as the educational provider under Article 42 of the Constitution.

On 24 October 2006 the High Court ordered LH to pay Ms O'Keeffe 305,104 euros in damages. Following enforcement proceedings, in which LH claimed he had insufficient means, he was ordered to pay Ms O'Keeffe EUR 400 a month. She received the first payment in November 2007.

On 9 March 2004 the High Court dismissed the allegation of direct negligence against the State. On 20 January 2006 the High Court further held that the State was not vicariously liable for the sexual assaults, finding that the school manager O was responsible for the selection and appointment of teachers and the principal and the Department of Education (and hence the Minister) was responsible for paying teachers's salaries, ensuring they had the necessary qualifications and overseeing teachers' activities. The High Court also dismissed Ms O'Keeffe's constitutional claim. She was ordered to pay the costs of the proceedings against the State.

In 2006 Ms O'Keeffe appealed to the Supreme Court.

On 9 May 2009 the Supreme Court annulled the High Court order for costs against Ms O'Keeffe and ruled that each party had to pay its own costs for the civil action concerning the State. Ms O'Keeffe was legally represented throughout the civil proceedings, but did not have legal aid.

Complaints and procedure

Relying on Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, Ms O'Keeffe complains that the Irish State failed to put in place a structure to protect children in national schools which would have prevented her abuse. The provision of primary education was the State's responsibility, whether or not that function had been delegated, so the State should have taken into account the need to protect children, which it failed to do. Alternatively, the school manager was a State agent, who failed to take adequate steps when the abuse was first reported in 1971 and which would have avoided her being abused by LH. She also complains that there was a failure to investigate and provide an appropriate judicial response to a stateable case of ill-treatment.

Under Article 8 (right to respect for private life), she maintains that the interference with her right to physical integrity could have been avoided had the State put in place mechanisms to protect children and that the school manager, as an agent of the state, failed to take the necessary action to protect her in 1971.

She relies on Article 2 of Protocol No. 1 (right to education), arguing that the State is liable in relation to the conduct of a teacher in a private school and, under Articles 3 and 8, and Article 2 of Protocol No. 1, that the State is obliged to organise its educational system in a way that meets its obligation to protect pupils.

She claims she has suffered discrimination under Article 14 (prohibition of discrimination), arguing that the State has tried to avoid responsibility regarding the vast majority of children in national schools while accepting responsibility to compensate children for the same abuse in residential institutions under the Residential Institutions and Redress Act 2002, although the difference between the two groups (residence) is irrelevant to the abuse.

Under Article 6 (right to a fair hearing), she complains about the length of the civil proceedings and under Article 13 (right to an effective remedy) she complains both about the delay in her proceedings and, in conjunction with Article 3, that the Supreme Court effectively created immunity for the State both regarding its own failure to take preventative measures and the acts of State agents.

The application was lodged with the European Court of Human Rights on 16 June 2009.

The case was communicated to the Irish Government on 5 April 2011.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.