

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

FIFTH SECTION

DECISION

Application no. 53743/09
Teresa MAGEE
against Ireland

The European Court of Human Rights (Fifth Section), sitting on 20 November 2012 as a Chamber composed of:

Mark Villiger, *President,*
Angelika Nußberger,
Boštjan M. Zupančič,
Ann Power-Forde,
André Potocki,
Helena Jäderblom,
Aleš Pejchal, *judges,*

and Claudia Westerdiek, *Section Registrar,*

Having regard to the above application lodged on 2 October 2009,

Having regard to the declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

## FACTS AND PROCEDURE

1. The applicant, Mrs Teresa Magee, is an Irish national who was born in 1939 and lives in Dublin. She is represented before the Court by Mr J. MacGuill, a solicitor practising in Co. Louth, Ireland. The Irish Government ("the Government") were represented by their Agent, Mr James Kingston, of the Department of Foreign Affairs.

2. The applicant is the mother of Paul Magee who died in police custody on 26 December 2002. In July 2009 the Supreme Court found that she was

not entitled to legal aid to be represented at the Inquest. In January 2010 the Inquest jury returned a verdict of death by misadventure. The applicant's civil proceedings are pending.

3. The applicant complained about the investigation which took place following the death of her son and she invoked Articles 2, 6, 8 and 13 of the Convention. Under Article 2, she mainly took issue with the lack of legal aid for her participation in the Inquest, although she reserved her position on other Inquest matters since the Inquest hearing had not yet taken place when she introduced her application. She invoked Articles 6 and 8 about essentially the same matters. Finally, she complained under Article 13 that civil proceedings did not constitute an effective remedy as regards the matters invoked under Article 2 of the Convention.

4. On 9 November 2011 the Court decided to communicate to the Government complaints under Article 2 about investigative obligations and under Article 13 about effective remedies. Further to the Government's indication that it wished to pursue a settlement of the case, the time-limit for the submission of their observations was vacated pending settlement negotiations.

5. Further to those negotiations, by letter dated 18 October 2012 the Government indicated the following settlement terms:

> "1. It is the expressed intention of the Government to secure the enactment into law of the Coroner's Bill 2007 and in particular section 86 of the Bill providing for legal aid and advice to parties to certain proceedings before a coroner subject to the provisions and limitations of the Civil Legal Aid Act 1995.
>
> 2. The [Government] agrees to pay a sum of EUR10,000 in respect of non-pecuniary loss to Mrs Theresa Magee.
>
> 3. As regards the costs of the domestic proceedings, the [Government] agrees to pay the total sum of EUR128,034.91 ...
>
> 4. The [Government] agrees to pay the applicant EUR 2,500 for costs and expenses incurred in filing the application with the Court."

6. Noting that these terms had been agreed with the applicant at a settlement meeting on 16 October 2012, the Government requested the Court to strike the case out of its list of cases on the basis of a friendly settlement.

7. By letter dated 31 October 2012 the applicant confirmed that the above-described terms reflected the settlement reached as well as her agreement that the case be struck out of the Court's list of cases.

# THE LAW

8. The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application. In view of the above, it is appropriate to strike the case out of the list in accordance with Article 39 § 3 of the Convention.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

Claudia Westerdiek
Registrar

Mark Villiger
President