



No jurisdiction for the Court to re-examine investigative delay

In its decision in the case of **Jordan v. the United Kingdom** (application no. 48066/21) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The application concerned the investigation into the death of the applicant's son, Pearse Jordan, who was shot and killed by an officer of the Royal Ulster Constabulary in 1992, when he was 22 years old. That investigation had already been the subject of [Hugh Jordan v. the United Kingdom](#), no. 24746/94, 4 May 2001, an application brought by her husband, now deceased.

As no new aspects or issues had arisen in the facts of this case, and as the Court had already found a violation of the procedural limb of Article 2, which included a finding that the investigation had not been started promptly and had not been carried out quickly enough, it did not have jurisdiction to now re-examine the issue of investigative delay.

Principal facts

The applicant, Teresa Jordan, is an Irish national who was born in 1944 and lives in Belfast.

The application concerned the investigation into the death of her son, Pearse Jordan, who was shot and killed by an officer of the Royal Ulster Constabulary ("the RUC") in 1992, when he was 22 years old.

Following the shooting, the RUC conducted an investigation, on the basis of which the Department of Public Prosecutions ("the DPP") decided not to prosecute any officer. A coroner's inquest commenced on 4 January 1995 and was adjourned later that month. The inquest was still pending in 2001, when the European Court first considered the effectiveness of the investigation under the procedural limb of Article 2 of the Convention in *Hugh Jordan v. the United Kingdom*, no. 24746/94, 4 May 2001.

In finding a violation of the procedural limb of Article 2, the Court identified a number of shortcomings, including that the inquest proceedings had not commenced promptly and had taken too long. The Court awarded Hugh Jordan 10,000 pound sterling (GBP) in just satisfaction.

A second inquest into the death of Pearse Jordan commenced on 24 September 2012. A verdict was given on 26 October 2012. Hugh Jordan brought three judicial review applications challenging various aspects of the second inquest by reference to Article 2 of the Convention. He also sought a declaration that the delay in commencing the inquest was incompatible with Article 2. The High Court quashed the verdict of the second inquest and held that the Police Service of Northern Ireland ("the PSNI", which had replaced the RUC) had delayed its progress in breach of the Article 2 procedural requirement. It awarded Mr Jordan GBP 7,500 in compensation.

The Court of Appeal ordered that a further inquest be heard. An appeal by the Chief Constable against the award of damages was stayed pending conclusion of the third inquest. That inquest commenced on 7 February 2016 and concluded on 21 April 2016. The verdict was the subject of an unsuccessful judicial review challenge by Ms Jordan and an unsuccessful appeal.

In 2019 the Court of Appeal reduced the award of damages against the PSNI to GBP 5,000. In its view, the only culpable delay on the part of the PSNI had arisen between March 2007 and May 2008.

On 29 March 2021 the Supreme Court refused Ms Jordan leave to appeal.

Earlier that month, the Committee of Ministers had closed its examination of the *Hugh Jordan* case considering that the question of individual measures had been resolved and that the question of general measures continued to be examined within the framework of the “*McKerr*” group of cases -- a group of cases concerning the investigations into killings by the security services in Northern Ireland during “the Troubles”.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 27 September 2021.

Relying on the procedural limb of Article 2 (right to life), the applicant complained that there had been a violation of her entitlement to a prompt hearing of the inquest into her son’s death due to the delay occurring between the European Court’s 2001 judgment and the conclusion of the third inquest in 2016. She also complained that the award of GBP 5,000 had not represented just satisfaction for the delay, which meant that there had been a breach of her right to an effective remedy under Article 13.

The decision was given by a Committee of three judges, composed as follows:

Faris **Vehabović** (Bosnia and Herzegovina), *President*,
Tim **Eicke** (the United Kingdom),
Pere **Pastor Vilanova** (Andorra),

and also Ilse **Freiwirth**, *Deputy Registrar*.

Decision of the Court

As the Court does not have jurisdiction to verify whether a Contracting Party has complied with the obligations imposed on it by one of the Court’s judgments, it does not examine complaints concerning the failure by States to enforce its judgments, declaring such complaints inadmissible *ratione materiae* unless a new issue is raised which was undecided in the earlier judgment.

No new aspects or issues had arisen in the facts of this case. While it was regrettable that 11 years had elapsed between the Court’s 2001 judgment and the start of the second inquest, in view of the fact that the Court had already found a violation of the procedural limb of Article 2, which included a finding that the investigation had not been started promptly and had not been carried out quickly enough, it did not have jurisdiction to now re-examine the issue of investigative delay. The enforcement of that judgment had been subject to supervision by the Committee of Ministers, which had taken into account all the subsequent domestic proceedings before it had closed the case in 2021.

In this regard, the Court reiterated that the specific requirements of the Article 2 duty to investigate should be considered jointly and not in a piecemeal fashion. This was especially so in the specific context of Northern Irish legacy inquest cases, which at the domestic level had become something of an “adversarial battleground” in which it was neither desirable nor appropriate for the Court to act as a further appellate court, addressing each and every challenge to the inquest procedure as and when it arose (see [Gribben v. the United Kingdom](#) (dec.), no. 28864/18, § 120, 25 January 2022).

In any event, the Court noted that Ms Jordan had succeeded before the domestic courts in obtaining both an acknowledgement of, and compensation for, the violation she complained of in this application. Although she contended that the award of GBP 5,000 did not represent just satisfaction for the delay, there was no obvious dissonance between this amount, based on the finding that there had been a period of approximately 14 months’ culpable delay attributable to the PSNI, and the award of GBP 10,000 made by the Court in 2001 to cover all the investigation’s shortcomings, including, but not limited to, its lack of promptness.

Therefore, the Court found that it had no jurisdiction to examine Ms Jordan's complaint under the procedural limb of Article 2, read alone or together with Article 13 of the Convention. As such, the application was incompatible *ratione materiae* with the provisions of the Convention and had to be rejected.

The decision is available only in English.

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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.