

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Meeting: 1193 meeting (4-6 March 2014) (DH)

Item reference: Action report (11/12/2013)

Communication from the United Kingdom concerning the case of Beggs against United Kingdom (Application No. 25133/06)

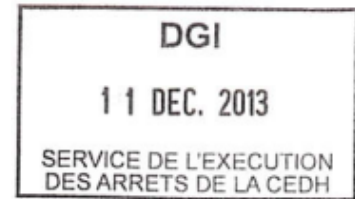
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Réunion : 1193 réunion (4-6 mars 2014) (DH)

Référence du point : Bilan d'action

Communication du Royaume-Uni concernant l'affaire Beggs contre Royaume-Uni (requête n° 25133/06) (*anglais uniquement*).



Execution of Judgements of the European Court of Human Rights
Action Report

BEGGS v UK (Application no 25133/06; judgement final on 29 April 2013)

Information submitted by the United Kingdom Government on 11 December 2013

Case Summary

1. Mr Beggs was convicted of murder on 12 October 2001 and sentenced to life imprisonment with a minimum term of 20 years. He appealed against his conviction and sentence, and raised a number of challenges about the fairness of the proceedings as well as the length of the minimum term imposed. On 9 March 2010, the Appeal Court upheld Mr Beggs' conviction and on 16 December 2010 his application for leave to appeal to the Supreme Court was refused. On 12 May 2011 the Appeal Court found the challenge to his sentence to be incompetent and on 21 March 2012 the Supreme Court refused leave to appeal.
- Mr Beggs lodged two applications with the European Court of Human Rights on 20 June 2006 (no. 25133/06) and 16 March 2010 (no. 15499/10) which contained a number of complaints under Article 6 of the Convention including: that the appeal proceedings had violated his right to a hearing within a reasonable time, that media reports published at the time of his arrest had prejudiced the fairness of his trial, that the charge against him was not sufficiently clear, that evidence had been unfairly admitted by the trial judge, and that the lack of reasons given by the jury had breached his right to a reasoned decision. He also lodged complaints under Articles 8, 13 and 14 of the Convention.
- On 17 October 2012 the Court adopted a judgment and a decision on the applications. It found that although the case was particularly complex, this did not in itself justify appeal proceedings which lasted over ten years. The Court accepted that a substantial proportion of the delay had been caused by Mr Beggs' own conduct, and that further delays had incurred through no fault of either party. The Court also noted that it was clear from the judgments of the domestic courts, particularly in the later stages of the proceedings, that they were alive to the issue of delay and had been prepared to expedite the proceedings. Nevertheless, the Court noted that there had been some periods of inactivity where the courts had failed to take steps to progress matters of their own motion. Accordingly, the Court found that there had been a violation of the right to trial within a reasonable time.
- As regards the numerous challenges to the fairness of the trial proceedings, the Court found that his trial was fair and declared all of his complaints inadmissible. It also declared inadmissible his complaints under Articles 8, 13 and 14.

Individual Measures

2. Just Satisfaction:

- The just satisfaction award has been paid; and evidence previously submitted.

3. Other individual measures:

- The appeal proceedings ended on 21 March 2012. The Government considers no further individual measures are required because payment of just satisfaction damages is sufficient and there are no on-going consequences of the violation persisting.

General Measures

4. Publication and dissemination:

The judgement has amongst other sources been published in:

- (i) the 'European Human Rights Reports' series published by Sweet & Maxwell.

Ref: **Beggs v United Kingdom (25133/06) (2013) 56 E.H.R.R. 26**

- (ii) All England Law Reports Digest published by LexisNexis.

Ref: **Beggs v United Kingdom (App. No. 25133/06) - [2012] All ER (D) 135 (Nov)**

In this way, criminal appeal judges have been informed of the judgment. Furthermore, a letter was sent to the Judicial Institute which is the independent body responsible for judicial training in Scotland to draw attention to the judgement and to invite it to consider using it in training.¹ In this way, the Government has ensured that the judiciary, were specifically informed about the judgement and the need for dissemination. The Judicial Institute has confirmed that issues of delay and general case management are core themes of the training courses run by the Institute and this judgement, along with others informs their training objectives.

5. Other general measures:

In Spring 2008, the office of the High Court of Justiciary identified an increase in the number of outstanding appeals against conviction. When planning the Appeal Court programme for 2009 it was recognized that there was a backlog of appeals against conviction. Throughout 2009 and 2010 two Criminal Appeal Courts sat continuously with a view to dealing with that backlog. The number of days that the Criminal Appeal Court sat each year to hear appeals against conviction increased from 189 days in 2007 to 377 days in 2009. In addition, the Lord Justice General appointed four administrative judges to support the efficient management of court business, one of whom (Lord Carloway) was appointed to deal with appeals against conviction. The Government therefore believes that the delays in this case arose against a different historical background, which has been addressed by active and effective case management and increased awareness.

Further, the Government draws attention to the recent material changes in the law and practice relating to criminal appeals and to disclosure e.g. reforms to the appeal procedure in the High Court of Justiciary since the determination of the applicant's appeal. In particular:-

- a. Rule 15.15A of the Act of Adjournal (Criminal Procedure Rules) 1996, which came into force on 1 November 2010, required that, ordinarily, an appellant must within 42 days of the granting of leave to appeal, lodge a case and argument *inter alia*, setting out, for each ground of appeal, a succinct and articulate statement of the facts founded upon and the propositions of law being advanced, as well as an estimate of the duration of the appeal. The case and argument must be signed by counsel or the

¹ See attached letter from Sheriff T Welsh QC dated 27 November 2013

solicitor advocate instructed to represent the appellant or by the appellant where he intends to conduct the appeal himself.

- b. Practice Note No. 2 of 2011 states that where a written case and argument is lodged, the Court will ordinarily fix a procedural hearing and that the Court will ordinarily fix the date and time for the substantive hearing of the appeal at the procedural hearing.
- c. The law on disclosure in the context of criminal appeals in Scotland was clarified in October 2008, when the Judicial Committee of the Privy Council issued its decision in *McDonald v. H.M. Advocate* 2010 SC (PC) 1. Since the determination of the applicant's appeal, the law on disclosure generally (including on appeals) has been put on a statutory footing: Criminal Justice and Licensing (Scotland) Act 2010, Part 6. Section 121 states the general duty of the prosecutor to disclose information. Section 133 provides specifically for disclosure in the context of appellate proceedings and requires the prosecutor to review all information of which the prosecutor is aware that relates to the grounds of appeal in the appellate proceedings and, insofar as required by that section, to make further disclosure: see also sections 134-138. There is provision for the Court to rule on disclosure requests: sections 139-140. There are a variety of ancillary provisions regarding disclosure.

State of execution

- 6. In light of the information above the Government considers that all necessary measures have therefore been taken and the case should be closed.**