



## Grand Chamber hearing on the State's responsibility for the sexual abuse of a schoolgirl in an Irish national school

The European Court of Human Rights is holding a Grand Chamber<sup>1</sup> hearing today **Wednesday 6 March 2013 at 9.15 a.m.** in the case of **O'Keeffe v. Ireland** (application no. 35810/09).

The case concerns the responsibility of the State for the sexual abuse of a schoolgirl, aged eight to nine, by a lay teacher in an Irish national school in 1973.

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

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, as did the majority of Irish children. National schools are State-funded primary schools which are privately managed under religious (mainly Catholic) patronage. The applicant's 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 Dunderrow school principal (LH), a lay teacher, 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. In January 1974 O informed the then Department of Education and Science of LH's resignation. It appears that the Department was not informed about the complaints against LH and 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.

From January to mid-1973 Ms O'Keeffe was subjected to a number of sexual assaults by LH. While she later had some psychological difficulties, 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 a former pupil of Dunderrow National School. Ms O'Keeffe made a statement to the police in January 1997 and she was referred for counselling. During the investigation a number of other pupils of the school made statements about abuse by LH. He was charged with 386 criminal offences of sexual abuse involving some 21 former pupils of Dunderrow National 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 medical treatment, Ms O'Keeffe realised the connection between her psychological problems and the abuse by LH.

<sup>1</sup> Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects. "

In October 1998 she applied to the Criminal Injuries Compensation Tribunal for compensation and was awarded 53,962.24 euros.

In September 1998 she also brought a civil action against LH, the Minister for Education and Science, as well as against 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; that the State was vicariously liable as the employer of LH; and that the State was responsible as the educational provider under Article 42 of the Constitution.

LH did not defend the civil action so in October 2006 the High Court ordered him 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 400 euros a month. She has, to date, recovered in the region of 25,000 euros.

In March 2004 the High Court summarily dismissed the claims of direct negligence against the State. In January 2006 the High Court further held that the State was not vicariously liable for the sexual assaults by LH, dismissed her constitutional claim and ordered her to pay the costs of the proceedings against the State.

In December 2008 Ms O'Keeffe's appeal to the Supreme Court, on the vicarious liability point, was dismissed by a majority judgment. The Supreme Court reviewed the structure of the Irish primary school system, which arrangements had to be understood in the specific context of early 19th century Irish history. It found, in particular, that the State could not be held responsible. While the State funded the system, the management role of the church was such that the State could not be held vicariously liable for the acts of the teacher in question. In 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.

Ms O'Keeffe complains that the Irish State failed to structure the primary education system so as to protect her from abuse and that she did not have a remedy against the State in that regard. She also claims she has suffered discrimination given the refusal to compensate victims of abuse in National Schools while accepting to do so as regards abuse victims from "residential institutions". She relies on Article 3 (prohibition of inhuman and degrading treatment), Article 8 (right to respect for private life), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination) and Article 2 of Protocol No. 1 (right to education) to the European Convention on Human Rights.

## Procedure

The application was lodged with the European Court of Human Rights on 16 June 2009 and declared [partially admissible](#) on 26 June 2012. On 20 September 2012 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,  
Josep **Casadevall** (Andorra),  
Guido **Raimondi** (Italy),  
Ineta **Ziemele** (Latvia),  
Mark **Villiger** (Liechtenstein),

Isabelle **Berro-Lefèvre** (Monaco),  
Boštjan M. **Zupančič** (Slovenia),  
Alvina **Gyulumyan** (Armenia),  
Nona **Tsotsoria** (Georgia),  
Zdravka **Kalaydjieva** (Bulgaria),  
Nebojša **Vučinić** (Montenegro),  
Vincent A. **de Gaetano** (Malta),  
Angelika **Nußberger** (Germany),  
André **Potocki** (France),  
Krzysztof **Wojtyczek** (Poland),  
Valeriu **Grițco** (the Republic of Moldova), *judges*,  
Peter **Charleton** (Ireland), *ad hoc judge*,  
Linos-Alexandre **Sicilianos** (Greece),  
Luis **López Guerra** (Spain),  
Faris **Vehabović** (Bosnia and Herzegovina), *substitute judges*,

and also Michael **O'Boyle**, *Deputy Registrar*.

## Representatives of the parties

### Government

Peter **White**, *Agent*,  
Feichín **Mc Donagh**,  
Conor **Power**, *Counsels*,  
Sarah **Farrell**,  
Mary **McGarry**, *Advisers*;

### Applicant

David **Holland**,  
Alan **Keating**, *Counsels*.  
Ernest **Cantillon**,  
Mary **Scriven**, *Solicitors*.

The applicant, Louise O'Keeffe, will also attend the hearing.

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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.