



Grand Chamber hearing on cases concerning refusal of compensation following unsafe convictions

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 5 July 2023 at 09:15 a.m.** in the cases of **Nealon v. the United Kingdom and Hallam v. the United Kingdom** (application nos. 32483/19 and 35049/19).

The cases concern the refusal to compensate the applicants for a miscarriage of justice. The two applicants, Victor Nealon and Sam Hallam, had their convictions quashed after those convictions were found to be unsafe. Their subsequent applications for compensation for a miscarriage of justice were refused on the basis that a new or newly discovered fact did not show beyond reasonable doubt that they had not committed the offences (this being the statutory test for a “miscarriage of justice” applicable at the relevant time).

A recording of the hearing will be available this afternoon on the Court's Internet site (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.

Principal facts

The applicants are Victor Nealon, an Irish national who was born in 1960, and Sam Hallam, a British national who was born in 1987. Their applications before the Court concern the statutory scheme for compensation for miscarriages of justice in the Criminal Justice Act 1988, as amended by the Anti-Social Behaviour, Crime and Policing Act 2014.

Mr Nealon was convicted in 1997 of attempted rape and given a sentence of life imprisonment with a minimum term of seven years. In 2013 his conviction was quashed after further analysis of the clothes the victim was wearing on the night of the attack revealed DNA of an unknown male.

Mr Hallam was convicted of murder, conspiracy to commit grievous bodily harm and violent disorder in 2004. His convictions were quashed after new evidence came to light casting doubt on some of the evidence that had formed part of the case against him.

Both applicants subsequently applied for compensation for a miscarriage of justice.

In 2013 the Grand Chamber had considered a complaint by an applicant who, following the quashing of her conviction, had been refused compensation for a miscarriage of justice under section 133(1) of the Criminal Justice Act 1988 (*Allen v. the United Kingdom* (no. 25424/09)). At that time, section 133(1) of the Criminal Justice Act 1988 provided for compensation where a new or newly discovered fact showed beyond reasonable doubt that there had been a miscarriage of justice. There was no statutory definition of miscarriage of justice. The applicant had argued that the reasons given by the domestic courts for refusing to award her compensation violated her rights under Article 6 § 2 of the European Convention on Human Rights (the presumption of innocence). The Grand Chamber considered that Article 6 § 2 was applicable to the facts of the case, but found that there had been no violation of that Article since the judgments of the High Court and the Court of Appeal had not demonstrated a lack of respect for the presumption of innocence.

¹ 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.”

Following the Grand Chamber judgment in *Allen*, the Criminal Justice Act 1988 was amended, with the new section 133(1ZA) providing for compensation for a miscarriage of justice only where a new or newly discovered fact showed beyond reasonable doubt that the applicant had not committed the offence.

Mr Nealon and Mr Hallam's applications for compensation fell to be considered under the new section 133(1ZA). Both applications were rejected by the Ministry of Justice because their cases failed to meet the statutory test for compensation in that section – that is to say a new or newly discovered fact did not show beyond reasonable doubt that they had not committed the offences. The decision letters sent to both applicants stated that nothing in them was “intended to undermine, qualify or cast doubt upon [their] conviction”.

Both applicants sought judicial review of the Ministry of Justice's decisions. They argued that the statutory test for compensation was incompatible with Article 6 § 2 (the presumption of innocence) because it required them to “prove” their “innocence” in order to be eligible for compensation. They therefore sought a declaration of incompatibility pursuant to section 4 of the Human Rights Act 1998.

Mr Nealon's and Mr Hallam's applications for judicial review were rejected and their appeals were dismissed as the domestic courts held that – notwithstanding what the Grand Chamber had said in *Allen* – Article 6 § 2 (presumption of innocence) had no bearing on a decision for compensation under section 133(1ZA) of the Criminal Justice Act 1988. A subsequent appeal by the applicants to the Supreme Court was dismissed in January 2019. That court also held, by a majority, that Article 6 § 2 (presumption of innocence) was not applicable to a decision for compensation under section 133(1ZA) of the Criminal Justice Act 1988 and/or that the new section 133(1ZA) was not incompatible with it.

Procedure

The applications were lodged with the European Court of Human Rights on 14 and 25 June 2019.

Relying on Article 6 § 2 (presumption of innocence) of the European Convention of Human Rights, the applicants complain that the rejection of their claims for compensation for wrongful conviction on the basis of the test in section 133(1ZA) of the Criminal Justice Act breached their right to be presumed innocent.

On 14 May 2020 the British Government was given [notice](#)² of the applications, with questions from the Court.

The Chamber to which the cases had been allocated relinquished jurisdiction in favour of the Grand Chamber on 28 February 2023.

The following persons and /or organisations were granted leave to intervene in the written proceedings as third parties: JUSTICE, and the Northern Ireland Human Rights Commission.

2. In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

Composition of the Court

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

Síofra O’Leary (Ireland), *President*,
Georges Ravarani (Luxembourg),
Marko Bošnjak (Slovenia),
Gabriele Kucsko-Stadlmayer (Austria),
Pere Pastor Vilanova (Andorra),
Arnfinn Bårdsen (Norway),
Carlo Ranzoni (Liechtenstein)
Mārtiņš Mits (Latvia),
Tim Eicke (the United Kingdom),
Péter Paczolay (Hungary),
Lado Chanturia (Georgia),
Ivana Jelić (Montenegro),
Gilberto Felici (San Marino),
Erik Wennerström (Sweden),
Raffaele Sabato (Italy),
Saadet Yüksel (Türkiye),
Mykola Gnatovskyy (Ukraine), *judges*,
Kateřina Šimáčková (the Czech Republic),
Jovan Ilievski (North Macedonia),
Lorraine Schembri Orland (Malta), *substitute judges*,

and also Søren Prebensen, Deputy Grand Chamber Registrar.

Representatives of the parties

Government

Susan Dickson, *Agent*,
James Strachan and Matthew Gullick, *Counsel*,
Michael Rimer, Alison Samedi and Sioban Heywood, *Advisers*;

Applicants

Nealon v. the United Kingdom:

Matthew Stanbury and David Pojur, *Counsel*,
Mark Newby, *Adviser*;

Hallam v. the United Kingdom:

Adam Straw, *Counsel*,
Marcia Willis Stewart, Matt Foot, and Joanna Kamath, *Advisers*.

One of the applicants, Mr Sam Hallam, will also attend the hearing.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court’s press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

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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.