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

FOURTH SECTION

CASE OF CROKE v. IRELAND

(*Application no. 33267/96*)

JUDGMENT
(Striking out)

STRASBOURG

21 December 2000

In the case of Croke v. Ireland,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Mr G. RESS, *President*,
Mr A. PASTOR RIDRUEJO,
Mr L. CAFLISCH,
Mr I. CABRAL BARRETO,
Mr V. BUTKEVYCH,
Mrs N. VAJIĆ,
Mr M. PELLONPÄÄ, *judges*,
and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 11 July and 12 December 2000,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 33267/96) against Ireland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Irish national, Mr Sean Croke ("the applicant"), on 11 September 1996.

2. The applicant was represented by Mr D. Robinson, a lawyer practising in Dublin. The Irish Government ("the Government") were represented successively by their Agents, Ms E. Kilcullen, Mr R. Siev and Dr A. Connolly, all of the Department of Foreign Affairs.

3. The applicant complained under Article 5 of the Convention, *inter alia*, about the absence of an independent and automatic review prior to or immediately after his initial detention in a psychiatric institution and about the absence of a periodic, independent and automatic review of his detention thereafter.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 15 June 1999, having obtained the parties' observations, the Court declared the application admissible

5. On 23 June 1999 the Registrar indicated to the parties that he was at their disposal for the purpose of securing a friendly settlement in accordance with Article 38 § 1 (b) of the Convention. On 6 October 2000 the applicant's representative and the Agent of the Government, respectively submitted formal declarations of a friendly settlement of the case.

THE FACTS

6. In the early 1980s the applicant was diagnosed as suffering from mental illness. By July 1993 he had had three temporary admissions to a psychiatric hospital, when he was again admitted on his parents' request.

7. On 14 July 1994 he was released on court order because the period of his detention had not been formally extended as required by the Mental Treatment Act 1945 ("the 1945 Act").

8. On the same day he was re-detained on an involuntary basis under section 172 of the 1945 Act, two doctors certifying the applicant's need for detention for treatment.

9. On 13 March 1995 the applicant commenced *habeas corpus* proceedings. He challenged the constitutionality of various sections of the 1945 Act which regulated the process by, and the basis upon, which he had been detained. The applicant pointed to the absence of judicial intervention in the process by which an individual was initially detained involuntarily for psychiatric reasons and to the lack of an automatic and independent review of that person's continued detention thereafter. Although the High Court stated a case for the Supreme Court on the constitutionality of section 172 of the 1945 Act, on 31 July 1996 the Supreme Court found that it had not been demonstrated that that section was unconstitutional.

10. The applicant was released from detention in early July 2000.

THE LAW

11. On 6 October 2000 each of the parties confirmed to the Court their agreement on the following terms of settlement, requesting that the application be struck out:

> "1. The State being conscious of its obligations under the Convention in respect of the rights of persons detained under its Mental Health laws has agreed by way of a friendly settlement with the Applicant to acknowledge, by an agreed compensatory sum, the Applicant's legitimate concerns in relation to the absence of an independent formal review of his detention under the Mental Health Acts.
>
> 2. The Applicant, in reaching this accord with the State, has had regard to the expressed intention of the Government of Ireland to secure the enactment into law of the Mental Health Bill, 1999.
>
> 3. The State, in reaching this accord with the Applicant, has had particular regard to the very special circumstances of the Applicant as the first Irish person to bring this important issue before the Court and the fact that the Applicant's claim was initiated prior to the publication of the Mental Health Bill, 1999."

12. The parties further pointed out in their letters of 6 October 2000 that it was their wish that the amount of compensation to be paid to the applicant by the Government should not be published. On 9 October 2000 the President agreed that the parties' communications with the Court, which outlined the financial settlement reached, would not form part of the public documents on the applicant's file in this Court.

13. By letter dated 20 November 2000 the applicant confirmed that the financial aspects of the friendly settlement had been satisfactorily discharged by the Government.

14. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 21 December 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Georg RESS
President