

Annex D.13

Edwards v United Kingdom (39647/98)

European Court of Human Rights (Grand Chamber) | October 27, 2004 | 2004 WL 2420372

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 European Court of Human Rights (Grand Chamber)
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Case Analysis

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[2004] 10 WLUK 733; (2005) 40 E.H.R.R. 24; Times, November 3, 2004

Case Digest

Subject: Human rights

Keywords: Criminal evidence; Disclosure; Entrapment; Public interest immunity; Right to fair trial

Summary: Procedures adopted by the United Kingdom to determine issues of entrapment and the disclosure of evidence in criminal proceedings breached the European Convention on Human Rights 1950 Art.6(1).

Abstract: The complainant (E) complained that he had been convicted of possessing a Class A drug with intent to supply following an entrapment operation by the police and that evidence had been withheld on public interest immunity grounds contrary to his right to a fair trial under the European Convention on Human Rights 1950 Art.6. E had been arrested in the company of people he now believed to be either undercover police officers or police informers, but their identities had been withheld on the instructions of the trial judge and an application to exclude evidence on entrapment grounds was refused. On appeal, the Court of Appeal found that the withheld evidence would not have assisted E's defence and refused to order disclosure.

Held, upholding the complaint, that the right to a fair trial precluded the use of evidence obtained by entrapment. However, the right to disclosure was subject to restrictions necessary to safeguard another person's fundamental rights or an important public interest. National courts were responsible for determining such matters, subject to scrutiny of the decision making process by

the Court. In E's case he had been denied access to evidence that could have related to the entrapment issue and the failure to allow disclosure was contrary to the requirements for adversarial proceedings and equality of arms in breach of Art.6.

Judge: Judge Wildhaber (President);

Related Cases

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[1996] 7 WLUK 318; [1997] Crim. L.R. 348; CA (Crim Div)

Edwards v United Kingdom (39647/98)

[2003] 7 WLUK 593; 15 B.H.R.C. 189; Times, July 29, 2003; [2003] Crim. L.R. 891; ECHR

Edwards v United Kingdom (39647/98)

[2004] 10 WLUK 733; (2005) 40 E.H.R.R. 24; Times, November 3, 2004; ECHR (Grand Chamber)

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HL

Attorney General's Reference (No.3 of 2000)

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Teixeira de Castro v Portugal

[1998] 6 WLUK 119; (1999) 28 E.H.R.R. 101; 4 B.H.R.C. 533; [1998] Crim. L.R. 751; [1998] H.R.C.D. 8
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HL

R. v Turner (Paul David)

[1995] 1 W.L.R. 264; [1995] 3 All E.R. 432; [1994] 10 WLUK 61; [1995] 2 Cr. App. R. 94; Times, October 11, 1994
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R. v Keane (Stephen John)

[1994] 1 W.L.R. 746; [1994] 2 All E.R. 478; [1994] 3 WLUK 196; (1994) 99 Cr. App. R. 1; Times, March 15, 1994; Independent, March 16, 1994; [1995] Crim. L.R. 225; (1994) 144 N.L.J. 391; (1994) 138 S.J.L.B. 75
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[2019] EWCA Crim 1527; [2019] 9
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Northern Ireland Act 1998 (c.47)

Police and Criminal Evidence Act 1984
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Special Immigration Appeals Commission
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Crime and sentencing: entrapment - procedure concerning non disclosure of evidence

Criminal evidence; Disclosure;
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Documents: 16-89 Entrapment and agents
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Blackstone's Criminal Practice 2020

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2004 WL 2420372

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