

THEMIS Competition

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Grand Final

Bucharest, Romania

Debate topic Italy 1 – France 3

The first applicant, a taxi driver, was arrested in the context of a police investigation into the supply of unlawful drugs. Six kilograms of heroin were found in the boot of his car. The first applicant claimed that he did not know anything about the drugs found in his car. He said that he had taken a passenger to the airport and the drugs must have been left in his car by a customer.

The second applicant was charged with conspiracy to supply heroin. The case against him was that he was involved in making arrangements for the payment of the drugs to be transported by the first applicant.

The applicants were subsequently tried together on charges of conspiracy to supply heroin. The trial commenced and the jury was sworn. On the following day the court heard evidence from the police officers who had followed prior to the arrest of the first applicant on his way from Sheffield to Luton and back, one of whom was M.B. One of the jurors, A.T., sent a note to the judge indicating that he was a serving police officer and that he knew M.B., although he had not worked with him for two years. The judge then questioned A.T. in the absence of the other jurors but in the presence of the applicants. A.T. confirmed that he he had known M.B. for approximately ten years and that on three occasions they had worked on the same incident, although not in the same team. They had never worked at the same station and did not know each other socially. He stressed that there is nothing that would affect his ability to judge M.B.'s evidence impartially or his ability to judge the case in accordance with the oath he had sworn.

The defence made an application to the judge to discharge A.T. on the grounds it would be unfair for the jury to include a police officer and that justice would not be seen to be done if the police officer continued to serve on the jury. They also argued that there was a risk that A.T. knew of the second applicant's previous conviction for dealing in heroin.

The application to discharge A.T. was rejected. A.T. subsequently became the jury foreman.

In the trial proceedings before the court, the prosecution relied on the fact that the other co-accused in the conspiracy had pleaded guilty in order to establish the existence of a conspiracy. They also relied on evidence of the second applicant's bad character and previous conviction for dealing in heroin.

Finally, the applicants were convicted of conspiracy to supply heroin. The first applicant was sentenced to eight years' imprisonment and the second applicant was sentenced to 17 years' imprisonment.

The applicants applied for leave to appeal against their convictions on the ground that the presence of the police officer on the jury led to an appearance of bias in the trial proceedings. Leave to appeal was granted and the appeal was heard.

The court referred to the recent change in the law which removed the automatic disqualification of persons previously ineligible for jury duty, including police officers, to sit on juries. Disqualification was still possible on a case-by-case basis where the particular circumstances of the case were such as to suggest apparent bias.

The court accordingly concluded that the first applicant's conviction was not rendered unsafe by the fact that the foreman of the jury was a police officer who was acquainted with M.B. and dismissed the first applicant's appeal against conviction. The Court of Appeal concluded that the allegation of jury bias made on behalf of the second applicant was not made out and dismissed his appeal against conviction.

The applicants were refused leave to appeal to the House of Lords.

What issues arise, if any, in the abovementioned scenario concerning Article 6 of the Convention?

Italy 1: Indicate as many arguments on behalf of the applicant which shows violation of Article 6 and provide a well-grounded reasoning;

France 3: Set up arguments from the Government's point of view opposing all the possible assessments of the applicant concerning any violation of Article 6.