

October 2010

Armani Da Silva v. the United Kingdom (communicated case)
- 5878/08

Article 2

Article 2-1

Effective investigation

Alleged failure to conduct effective investigation into fatal shooting of person mistakenly identified as suspected terrorist: *communicated*

The applicant is a relative of Mr Jean Charles de Menezes, who was mistakenly identified as a terrorist suspect and shot dead on 22 July 2005 by two special firearms officers in London. The shooting occurred the day after a police manhunt was launched to find those responsible for four unexploded bombs that had been found on three underground trains and a bus in London. It was feared that a further bomb attack was imminent. Two weeks earlier, the security forces had been put on maximum alert after more than fifty people had died when suicide bombers detonated explosions on the London transport network. Mr de Menezes lived in a block of flats that shared a communal entrance with another block where two men suspected of involvement in the failed bombings lived. As he left for work on the morning of 22 July, he was followed by surveillance officers, who thought he might be one of the suspects. Special firearms officers were dispatched to the scene with orders to stop him boarding any underground trains. However, by the time they arrived, he had already entered Stockwell tube station. There he was followed onto a train, pinned down and shot several times in the head.

The case was referred to the Independent Police Complaints Commission (IPCC), which in a report dated 19 January 2006 made a series of operational recommendations and identified a number of possible offences that might have been committed by the police officers involved, including murder and gross negligence. Ultimately, however, it was decided not to press criminal or disciplinary charges against any individual police officers in the absence of any realistic prospect of their being upheld. Subsequently, a successful prosecution was brought against the police authority under the Health and Safety at Work Act 1974. The authority was ordered to pay a fine of 175,000 pounds sterling plus costs, but in a rider to its verdict that was endorsed by the judge, the jury absolved the officer in charge of the operation of any "personal culpability" for the events. At an inquest in 2008 the jury returned an open verdict after the coroner had excluded unlawful killing from the range of possible verdicts. The family also brought a civil action in damages which resulted in a confidential settlement in 2009.

In her application to the European Court, the applicant complains about the decision not to prosecute any individuals in relation to Mr de Menezes' death. In particular, she alleges that the evidential test used by prosecutors to determine whether criminal charges should be brought is arbitrary and subjective; that decisions regarding prosecutions should be taken by a court rather than a public

official or at least be subject to more intensive judicial scrutiny; and that the procedural duty under Article 2 of the Convention was not discharged by the prosecution of the police authority for a health and safety offence.

Communicated under Articles 2 (procedural aspect) and 13.

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This summary by the Registry does not bind the Court.

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