

CASE STUDY - The Statement of the Minor

Facts of the Case

In the context of a police investigation concerning a murder and robbery, which had taken place on 19 April 2020, the police contacted the applicant's father and invited him and the applicant to visit the Limassol police station. At the time the applicant was just over 17 years old. The applicant went to the police station accompanied by his father. The Limassol District Police Director (hereinafter "the Police Director") informed the applicant's father, in the presence of the applicant, about the crime that had been committed, the seriousness of the case, and the fact that there was evidence involving the applicant and that an arrest warrant had been issued against him.

According to the applicant, he immediately stated that he was innocent. Another police officer told him that his friend had already confessed having murdered the victim together with the applicant. The police officer added that the applicant's friend was "crying and hitting his head against a wall," while he (the applicant) was merely lying to them. Then, another police officer came into the Police Director's room holding an arrest warrant and informed the applicant that he was under arrest for murder. The applicant replied that he had nothing to add to his statement that he was innocent. The police officer then told the applicant to follow him into a different office. There there were 5 or 6 officers, who started asking him questions and inducing him to confess, promising that if he did so they would assist him. They questioned him for approximately 30-40 minutes but he kept saying that he could not remember anything as he had been very drunk the night before. At some stage during the interrogation, a police officer put his gun on the desk and told the applicant that he should hurry up as they had other things to do. The police officers told him that, if he wanted to go, he should confess. Subsequently a police officer suggested that they take a written statement from the applicant and that the police officers would remind him of anything he could not remember. The applicant then agreed to make a written statement. He denied having made any prior oral admission.

According to the Government, relying on the testimonies of the police officers participating in the interrogation, the applicant was shown the arrest warrant and informed of the reasons for his arrest, and had his attention drawn to the law. The applicant replied that he had nothing to say other than that he was innocent.



Breaking THE BARRIERS

TRANSNATIONAL PARTICIPATORY
JUDICIAL TRAINING ON PROCEDURAL RIGHTS

He was then taken to a different room for questioning. Before the applicant was questioned, the arresting officer explained again the reasons for his arrest, repeated that there was evidence involving the applicant in the circumstances under investigation and cautioned him that anything he said could be used against him in subsequent proceedings. There were four police officers present in the room. The applicant replied that he had not intended to kill anyone and started to give an explanation of the events. According to the arresting officer, the applicant was interrupted and his attention was drawn to the law. During the questioning the applicant confessed his guilt.

The parties agreed that, when the applicant was taken away for questioning, his father remained in the Police Director's office. He was shocked and after a couple of minutes told the Police Director that they should not use violence against his son. The Police Director replied that the police did not use such practices and added that the case was serious, that there was evidence linking the applicant with the crime and that it was important to seek the advice of a lawyer. He asked the applicant's father, whether he wanted to be present while his son was questioned. The father declined the offer. A few minutes afterwards, a police officer entered the room and informed the Police Director and the applicant's father that the applicant had confessed. The Police Director invited the applicant's father to join his son in the interview room so that he could hear what his son had admitted. The applicant's father preferred to wait outside.

Arguments to be considered

The voluntariness of the applicant's statement taken shortly after his arrest was challenged and formed the subject of a separate trial within the main trial, but was finally admitted. Although it was not the sole evidence, on which the applicant's conviction was based, it was nevertheless decisive and constituted a significant element on which his conviction was based. In addition to the applicant's confession his conviction was supported by his second statement admitting that he had kicked the victim, a testimony reporting the applicant's statement that he had been involved in a serious fight with the victim and various testimonies confirming that the applicant had been drinking with the victim on the evening the victim died and that his clothes had been covered in mud in the early hours of the following



This document was funded by the European Union's Justice Programme (2014-2020). Its content represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.



Breaking THE BARRIERS

TRANSNATIONAL PARTICIPATORY
JUDICIAL TRAINING ON PROCEDURAL RIGHTS

morning. There was also medical evidence confirming that the cause of the victim's death was multiple and violent blows.

The applicant was charged with manslaughter and robbery under the Criminal Code (Cap. 154). On 9 May 2020 the applicant noted in an additional written statement: "I did not hit him (the victim) with the stone but only kicked him a couple of times."

Questions

- Which procedural rights stemming from EU law (Directives as well as Charter rights) and/or the ECHR would be relevant in this case? Take into account the two stages of the case: pre-trial proceedings as well as final conviction.
- Are the decisions made in line with the requirements of those procedural rights?
- How could an appeal court in your country face this case?
- How would the case be decided according to your national legislation?



This document was funded by the European Union's Justice Programme (2014-2020). Its content represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

