



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

FIFTH SECTION

CASE OF WOLTER AND SARFERT v. GERMANY

(Applications nos. 59752/13 and 66277/13)

JUDGMENT

(Just satisfaction and striking out)

STRASBOURG

14 December 2017

FINAL

14/03/2018

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Wolter and Sarfert v. Germany,

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

Erik Møse, *President*,

Angelika Nußberger,

Nona Tsotsoria,

Yonko Grozev,

Síofra O’Leary,

Mārtiņš Mits,

Lətif Hüseyinov, *judges*,

and Milan Blaško, Deputy Section Registrar,

Having deliberated in private on 21 November 2017,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in two applications (nos. 59752/13 and 66277/13) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two German nationals, Mr Rolf Wolter (“the first applicant”) and Mr Jürgen Sarfert (“the second applicant”), on 18 September 2013 and 11 October 2013 respectively.

2. In a judgment delivered on 23 March 2017 (“the principal judgment”), the Court held that the continuing difference in treatment with regard to inheritance rights between the applicants, children born outside marriage before 1 July 1949, and children born outside marriage after that date had violated Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 to the Convention. The Court found that maintaining the difference in treatment between children born in and outside wedlock in cases in which the fathers had died before 28 May 2009 (the date of delivery of the judgment in the case of *Brauer v. Germany*, no. 3545/04) had not been proportionate to the aims pursued by the legislation as amended following the judgment in *Brauer* (see *Wolter and Sarfert v. Germany*, nos. 59752/13 and 66277/13, §§ 41-81, 23 March 2017).

3. Under Article 41 of the Convention the applicants sought just satisfaction. The Court awarded the first applicant 5,000 euros (EUR), plus any tax that may be chargeable to him, in respect of costs and expenses and dismissed the remainder of his claims for just satisfaction. The second applicant claimed EUR 50,000 in respect of pecuniary damage, corresponding to the estimated value of his share of the estate had he been a

statutory heir, EUR 15,000 in compensation for non-pecuniary damage and EUR 42,409.51 in respect of costs and expenses.

4. Since the question of the application of Article 41 of the Convention was not ready for decision with regard to the second applicant, the Court reserved it and invited the Government and the second applicant to submit, within three months from the date on which the judgment on the merits would become final according to Article 44 § 2 of the Convention, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, § 98, and point 7 of the operative provisions).

5. On 30 October 2017 the Court received a declaration duly signed by both parties, whereby the second applicant agreed to have the remainder of application no. 66277/13 struck out of the Court's list of cases against an undertaking by the Government to pay him EUR 83,721.20 (eighty-three thousand seven hundred and twenty-one euros and twenty cents) to cover any pecuniary and non-pecuniary damage as well as costs and expenses. This amount would be payable within three months from the date of the Court's decision to strike the application out of its list on the basis of the friendly settlement. The payment would constitute the final resolution of the case. The applicant agreed to waive any further claims against the Federal Republic of Germany in respect of the facts giving rise to the application lodged by him with the Court.

THE LAW

6. Following its principal judgment the Court has been informed that a friendly settlement has been reached between the Government and the second applicant with respect to the latter's claims under Article 41 of the Convention. Having regard to the material before it, the Court finds the agreement to be equitable within the meaning of Rule 75 § 4 of the Rules of Court.

7. The Court therefore considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the applications under Article 37 § 1 *in fine*.

8. Accordingly, the remainder of the applications should be struck out of the list (see Article 37 § 1 and Rule 43 § 3).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

Decides to strike the remainder of the applications out of its list of cases.

Done in English, and notified in writing on 14 December 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Deputy Registrar

Erik Møse
President