



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

THIRD SECTION

CASE OF LEARY v. THE UNITED KINGDOM

(Application no. 38890/97)

JUDGMENT

STRASBOURG

25 April 2000

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In the case of Leary v. the United Kingdom,

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

Mr J.-P. COSTA, *President*,

Sir Nicolas BRATZA,

Mr L. LOUCAIDES,

Mr P. KÜRIS,

Mr W. FUHRMANN,

Mrs H.S. GREVE,

Mr K. TRAJA, *Judges*,

and also of Mrs. S. DOLLÉ, *Section Registrar*.

Having deliberated in private on 28 March 2000,

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

PROCEDURE

1. The case originated in an application (no. 38890/97) against the United Kingdom lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a British national, Mr John Leary (“the applicant”), on 21 October 1997.

2. The Government of the United Kingdom (“the Government”) were represented by their Agent, Mrs S. Langrish, Foreign and Commonwealth Office, London.

3. The applicant complained that British Social Security legislation discriminated against him on grounds of sex, in breach of Article 14 of the Convention, taken in conjunction with both Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention. On 21 October 1998 the Commission (First Chamber) decided to give notice of the application to the Government and invited them to submit their observations on its admissibility and merits. On 21 January 1999 the Government waived the admissibility of the application.

4. On 11 May 1999 the Court declared the application admissible.

5. On 19 May 1999, after an exchange of correspondence, the Section Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 14 December 1999 and 20 January 2000 the Agent of the Government and the applicant respectively informed the Court that they had reached a friendly settlement of the case.

AS TO THE FACTS

6. The applicant and his wife were married in 1981 and had three daughters, born in 1987, 1990 and 1994. The applicant's wife died in 1997, aged 37 years. The applicant is the administrator of his wife's estate.

7. The applicant's wife was employed as a secretary for seven years and, while working, she contributed to the joint income of the marriage. She paid full social security contributions as an employed earner until she gave up work in 1987 to have children. The applicant continues in full-time work and has to meet the expense of childcare from the existing family income.

8. On 4 August 1997, the applicant applied to the Benefits Agency for the payment of social security benefits. He applied for benefits equivalent to those to which a widow, whose husband had died in similar circumstances to those of his wife, would have been entitled, namely a Widow's Payment and a Widowed Mother's Allowance, payable under the Social Security and Benefits Act 1992.

9. By a letter dated 6 August 1997, the Benefits Agency informed the applicant that they were unable to accept his application as a valid claim because the regulations governing the payment of widows' benefits were specific to women.

10. An appeal against such a decision would be bound to fail given that no social security benefits are payable to widowers under United Kingdom law.

11. The applicant receives Child Benefit at the Lone Parent rate of GBP 35.10 per week. His income precludes him from qualifying for means-tested benefits such as Income Support or Family Credit. A widow in a similar situation could claim Widow's Payment and Widowed Mother's Allowance, which are payable regardless of income and savings. If the applicant were entitled to receive these social security benefits, he calculates that he would be GBP 88.45 a week better off. He would also have received a one-off Widow's Payment of GBP 1,000.

AS TO THE LAW

12. On 14 December 1999 the Court received a declaration from the Government that the applicant had agreed to settle the case on the terms proposed by the Government by a letter dated 23 November 1999, which were as follows:

“- the Government will pay you £12,226.20 in respect of benefits which you would have received from 27 May 1997 to 12 July 1999 had you been a bereaved widow;

- until such time as the Welfare Reform and Pensions Bill enter into force, the Government will, on an extra-statutory basis, pay to you the amounts which you

would receive as Widowed Mother's Allowance (WMA) if you were a bereaved widow. It will make such payments, backdated to 12 July 1999, at the relevant weekly rate for so long as you continue to meet the entitlement conditions for WMA. The payments will be made by the Benefits Agency ”

13. On 20 January 2000 the Court received from the applicant the following declaration:

“I am writing to confirm that the Government's proposals are acceptable to me and that I have received cheques for the arrears of benefits and details of the arrangements for on-going payments. I would therefore request that the case be struck out from the Court's list.”

14. The Court takes note of the agreement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 25 April 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President