



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

FOURTH SECTION

**CASE OF LOFFELMAN v. THE UNITED KINGDOM**

*(Application no. 44585/98)*

JUDGMENT  
(Friendly Settlement)

STRASBOURG

26 March 2002



**In the case of Loffelman v. the United Kingdom,**

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

Mr M. PELLONPÄÄ, *President*,

Sir Nicolas BRATZA,

Mr A. PASTOR RIDRUEJO,

Mr J. MAKARCZYK,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSKI, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 5 March 2002,

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

## PROCEDURE

1. The case originated in an application (no. 44585/98) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a United Kingdom national, Joseph M. Loffelman (“the applicant”), on 10 November 1998.

2. The applicant was represented before the Court by Mr S. Smith, a lawyer practising in Edinburgh. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C.A. Whomersley, Foreign and Commonwealth Office, London.

3. The applicant complained that the lack of provision for widowers' benefits under 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.

4. On 7 March 2000, after obtaining the parties' observations, the Court declared the application admissible.

5. On 14 March 2000, after an exchange of correspondence, the 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 30 November 2001 and on 20 December 2001 the applicant's representative and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

6. The applicant and his wife were married in 1987 and had two children, born in 1988 and 1990. The applicant's wife died in 1998, aged 37 years. The applicant is the administrator of his wife's estate.

7. The applicant's wife was employed from 1976, most recently as a receptionist, and thus contributed to the joint income of the marriage. She paid full social security contributions as an employed earner until her death. The applicant, a lorry driver, continues in full-time work and has to meet the expense of childcare from the existing family income.

8. On 8 May 1998, the applicant applied to the Benefits Agency for the payment of social security benefits. He applied for benefits equivalent to those 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 ("the 1992 Act").

9. By a letter dated 22 May 1998, the Benefits Agency informed the applicant that:

"There is currently no legislation which provides an equivalent to Widows' Benefit for a widower ... . The UK currently provides only for Widows' Benefit and clearly you cannot qualify for this benefit as you are a man. ..."

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. A widow in a similar situation could claim Widow's Payment and Widowed Mother's Allowance, which are payable regardless of income and savings. He would also have received a one-off Widow's Payment of GBP 1,000.

## THE LAW

12. On 20 December 2001 the Court received from the Government the following declaration:

"I declare that the Government of the United Kingdom offer to pay GBP 19,744.53 to Joseph M. Loffelman with a view to securing a friendly settlement of the application registered under no. 44585/98. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the judgment by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after the Court's judgment has been delivered."

13. On 30 November 2001 the Court received from the applicant's representative the following declaration signed by the applicant's representative:

"I note that the Government of the United Kingdom are prepared to pay the sum of GBP 19,744.53 covering pecuniary and non-pecuniary damage and costs to Mr Loffelman with a view to securing a friendly settlement of application no. 44585/98 pending before the Court.

I accept the proposal and waive any further claims against the United Kingdom in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after the Court's judgment has been delivered."

14. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention and 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

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 26 March 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE  
Registrar

Matti PELLONPÄÄ  
President