



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

FOURTH SECTION

**CASE OF OLIVER and BRITTEN v. THE UNITED KINGDOM**

*(Applications nos. 61604/00 and 68452/01)*

JUDGMENT  
*(Friendly settlement)*

STRASBOURG

25 April 2006

*This judgment is final but it may be subject to editorial revision.*



**In the case of Oliver and Britten v. the United Kingdom,**

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

Chamber composed of:

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr G. BONELLO,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Mr J. BORRERO BORRERO, *judges*,

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

Having deliberated in private on 28 March 2006,

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

## PROCEDURE

1. The case originated in two applications (nos. 61604/00 and 68452/01) 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 two British nationals, Mr Ian E Oliver and Mr Colin Britten ("the applicants"), on 31 May 2000 and 26 February 2001 respectively.

2. The applicants were represented by David Gray and Co, solicitors practising in Newcastle-upon-Tyne and Ms Gerry Smalley, a Welfare Rights Specialist for East Cornwall Citizens Advice Bureau. The United Kingdom Government ("the Government") were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office, London.

3. The cases were joined and communicated to the respondent Government for observations on 12 March 2002. By a decision of 4 November 2003 the Court declared the applications partly admissible and decided to adjourn its further examination of them until the completion of the proceedings before the House of Lords in the related case, *R. v. Secretary of State for Work and Pensions ex parte Hooper and Others*.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

4. Mr Oliver was born in 1951 and lives in Newcastle-upon-Tyne. His wife died on 22 April 1994. He has one child. On 6 October 1997 he applied to the Benefits Agency for the payment of widow's benefits. On 22 October 1997 he was informed that he was not entitled to such benefits because he was not a woman. His statutory appeal and his appeal to the Social Security Appeal Tribunal were rejected, the Tribunal deciding on 27 April 1998 that he was not entitled since statutory provisions only referred to women who had been widowed. The applicant continued to receive child benefit, including single parent allowance.

On 14 May 2000 the applicant made a second claim for Widowed Mother's Allowance. He was informed by the Department of Social Security that the reforms concerning widowed parents would affect future widowers and that retrospective payments were not envisaged.

5. Mr Britten was born in 1957 and lives in Pensilva, Cornwall. His wife died on 7 April 1993. He has four children for whom he receives child benefit. He claims that, in 1993, shortly after his wife's death, he attempted to claim widow's benefits but was refused as he was not a woman. On 12 May 2000 he submitted a claim for widow's benefits (Widow's Payment and Widowed Mothers' Allowance) which was rejected on the ground that it had been made too late, i.e. more than three months after the death of his wife. His appeal was rejected by the Appeal Tribunal on 1 September 2000 on the ground that the applicant was not a woman.

### II. RELEVANT DOMESTIC LAW AND PRACTICE

6. The relevant domestic law and practice is described in the Court's judgment in the case of *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV.

## THE LAW

7. On 30 August 2005 the Government informed the Court that, following the House of Lords' judgment in *R. v. Secretary of State for Work and pensions ex parte Hooper and Others* ([2005] UKHL 29: see paragraph 3 above), the Government was prepared to settle claims made by widowers against the United Kingdom arising out of the arrangements applicable prior to April 2001 for the payment of Widowed Mothers'

Allowance and Widow's Payment. The Court informed the parties on 31 August 2005 that it was at their disposal for any friendly settlement proposals they might have.

8. By letter of 28 September 2005 Mr Oliver's representative informed the Court that the parties in his case had reached a friendly settlement. Enclosed with the letter was the following declaration, signed on 28 September 2005 by the applicant:

"I, Mr Ian Oliver, hereby acknowledge receipt of payment of £27,222.21 (twenty seven thousand pounds, two hundred and twenty two pounds and twenty one pence) being the full and final settlement of all or any claims I may have against the UK Government in respect of Widow's Payment and/or Widowed Mother's Allowance."

9. By letter of 20 October 2005 Mr Britten's representative informed the Court that the parties in his case had reached a friendly settlement. Enclosed with the letter was the following declaration, signed on 13 October 2005 by the applicant:

"I, Mr Colin Britten, note that the Government of the United Kingdom are prepared to pay the sum of £8,787.51 to the applicant with a view to securing a friendly settlement of the applicant's claims concerning widowed mother's allowance pending before the European Court of Human Rights. ...

The payment will constitute the final resolution of the case [and] the final resolution of the applicant's claims to a widowed mother's allowance."

10. 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 or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

FOR THESE REASONS, THE COURT UNANIMOUSLY

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

Done in English, and notified in writing on 25 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE  
Registrar

Josep CASADEVALL  
President