



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

FOURTH SECTION

CASE OF RATHFELDER v. THE UNITED KINGDOM

(Application no. 63507/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

9 January 2007

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

In the case of Rathfelder v. the United Kingdom,

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

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr G. BONELLO,

Mr M. PELLONPÄÄ,

Mr K. TRAJA,

Mr S. PAVLOVSKI,

Mr J. ŠIKUTA, *judges*,

and Mrs F. ELEN-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 6 May 2003 and on 5 December 2006,

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

PROCEDURE

1. The case originated in an application (no. 63507/00) 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 Mr Martin Rathfelder on 21 June 2000.

2. The applicant was not represented before the Court. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office.

3. The applicant complained under Articles 8 and 14 of the Convention and Article 1 of Protocol No. 1 that, because he was a man, he was denied social security benefits equivalent to those received by widows.

4. On 6 May 2003, after obtaining the parties’ observations, the Court declared the applications admissible in so far as this complaint concerned Widowed Mother’s Allowance and declared inadmissible a further complaint concerning future pension claims. It also decided to join this application to other applications (applications nos. 5837/00, 60274/00, 60940/00, 61019/00, 61394/00, 61398/00, 61781/00, 62966/00, 63471/00, 63476/00, 63478/00, and 63481/00).

THE FACTS

5. The applicant was born in 1952 and lives in Manchester.

6. His wife died on 28 December 1992. His claim for widows' benefits was made on 26 April 2000 and was rejected on 8 May 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. The applicant did not appeal further as he was advised that such a remedy would be bound to fail since no security benefits were payable to widowers under United Kingdom law.

THE LAW

7. By a letter of 11 May 2005 the respondent Government informed the Court that the House of Lords had decided, in relation to the claims for Widowed Mother's Allowance (WMA) and Widow's Payment (WPt), that there was in principle no objective justification at the relevant time for not paying these benefits to widowers as well as widows, but that the Government had a defence under section 6 of the Human Rights Act 1998 (the HRA). It noted that, in view of this, the multitude of cases before the Court and the fact that the HRA defence was only applicable in the domestic arena, the Government were prepared, in principle, to settle all claims made by widowers against the United Kingdom arising out of the arrangements applicable prior to April 2001 for the payment of WMA and WPt.

8. In October 2005 the respondent Government sent a table setting out the list of applicants who had been proposed a settlement of their claims, including the present applicant.

9. The Government notified the Court that Mr Rathfelder had been offered GBP 23,433.88 and had accepted payment on 26 September 2005. Mr Rathfelder was sent a letter on 23 March 2006 and asked whether he was content that his case be struck off the Court's case list. He was warned that, if he did not contact the Court by 13 April 2006, his case would be struck off. The applicant did not reply.

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).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to disjoin this application from the applications to which it was joined;
2. *Decides* to strike the case out of the list.

Done in English, and notified in writing on 9 January 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Josep CASADEVALL
President